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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 316

RIN 3206–AF55

Temporary and Excepted Service Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is revising its regulations governing use of temporary appointments (i.e., appointments limited to 1 year or less) to set a uniform service limit for such appointments in both the competitive and the excepted service at 1 year with no more than one 1-year extension (24 months total service). This change is intended to ensure that temporary appointments, under which employees receive no benefits, are used to meet truly short-term needs.

EFFECTIVE DATE: November 14, 1994.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer, (202) 606–0960, or fax (202) 606–2329.

SUPPLEMENTARY INFORMATION: On February 1, 1994 (59 FR 4601), OPM published proposed regulations to reduce the time limit for temporary appointments, curtail use of temporary hiring for extended seasonal work, and prohibit successive temporary appointments to the same or successor jobs. We developed those regulations in response to Congressional and employee concerns and evidence that some employees were, indeed, serving for years under a succession of temporary appointments with no benefits and no job security.

The proposed regulations generated numerous comments from agencies, individual managers and employees, and local employee organizations. Many of the commenters took opposite positions. Many anticipated changes that will be proposed in legislation implementing the recommendations of the National Performance Review (NPR). We could not adopt all of their suggestions, which are summarized below. We have, however, attempted to balance their various concerns and to provide reasonable operating flexibility.

Relationship to NPR

Many of the commenters felt that the proposal did not go far enough. They stated that the issue of benefits for temporary employees should be addressed directly by affording benefits and within-grade increases to temporary employees, that long-term temporaries who have demonstrated their abilities on the job should not have to compete with the public for permanent vacancies, and that agencies should be able to set the length of temporary appointments based on mission needs, not arbitrary regulations.

OPM supports all of those goals. These regulations are *not* intended to be the final solution to all of the problems of temporary employment. Rather, they are an interim measure to address those issues within our control pending more comprehensive reform. We expect that legislation implementing the human resource recommendations of the NPR will be proposed within the next few months. Until such legislation is passed, however, OPM has no authority to establish those provisions by regulation.

We expect that the forthcoming legislative proposal would also allow agencies to determine the maximum duration of temporary appointments, subject to collective bargaining or consensus building procedures. In the meantime, however, we believe that stricter service limits are needed to ensure that employees who serve for extended periods are not denied benefits because of their temporary status. We note that the report of the National Performance Review recommended that temporary employees should serve no more than 2 years (24 months) without benefits.

Effect on Current Employees

Many commenters feared that tightening limits on temporary service could hurt, not help, employees, especially those who have limited skills, whose conversion to permanent or term appointments would be blocked by candidates on an agency's reemployment list, or who work in locations where there are few employment opportunities. We share this concern. We recognize that some employees may be terminated under the new limits. On balance, however, we believe that a greater number would be hurt if we withdrew these regulations.

Employees serving under temporary appointments—even those who have been reappointed or extended many times—have no guarantee of continued employment. Contacts with agencies and employees indicate that some installations are not renewing temporary appointments as readily as in the past because of reduced funding. Installations facing severe budget cuts or downsizing are likely to reduce their temporary workforce even without changes in regulation.

In installations that do not face such severe difficulties, use of term appointments, which afford benefits, to fill longer-lasting nonpermanent jobs would provide more stability for both the agency and the employees. Some agencies expressed concern about losing their investment in training if employees had to be terminated after 2 years (24 months total service). Use of term appointments should reduce turnover and its attendant recruiting and training costs, partially offsetting the cost of providing benefits for the employees.

Converting Current Employees to Term Appointments Outside the Register

To facilitate transition from temporary to term appointments, agencies are authorized to give their current competitive service temporary employees term appointments outside the register in accordance with the following conditions:

Duration of Authority

This authority is effective *immediately upon publication* of these regulations and will remain in effect for 6 months. (Please note that this is different from the effective date of the regulations.)

Eligibility

This authority applies to any employee who is serving in the agency under a temporary appointment in the competitive service on the *publication* date and whose service is needed for more than 1 additional year. Several

agencies expressed concern that some positions now filled by temporary appointments would not meet the conditions for term appointment. As long as the positions will last for more than 1 year, that is not true. OPM's current instructions permit term appointments to be used in the same situations as temporary appointments. The only difference is the service limit. (Those instructions, provisionally retained in the Federal Personnel Manual Sunset Document, will be incorporated in 5 CFR part 316 in a separate regulation implementing FPM sunset.)

Procedures

Appointments under this authority are subject to the procedures set out in 5 CFR part 333, except for the public notice requirement in § 333.102. (Public notice is required by law only when jobs will be filled from outside the Federal Government.) An agency that will not convert all eligible temporaries holding identical jobs in the same location must apply veterans' preference in accordance with part 333 in selecting the employees to receive term appointment.

Position to Which Converted

Employees converted under this authority must be given term appointments to positions in the same series, grade, and location as their temporary positions. Thereafter, they may be reassigned or promoted to other term positions in accordance with their agency's merit promotion policies. The appointments may be made for any period of more than 1 but no more than 4 years, depending on the agency's need for the employee's services.

Employees Not Converted

Employees who are not converted to term appointments will become subject to the time limits set out in these regulations when they reach the expiration date of their current appointments. Their appointments may be further extended only in accordance with these regulations.

Impact of Downsizing and Need for Flexibility

Several commenters expressed concern that imposing more restrictive limits now could inhibit agencies' ability to deal with significant budget reductions and downsizing. They suggested either that authority to extend temporary appointments beyond 2 years be delegated to agencies or that OPM consider mission needs and downsizing when acting on extension requests. One commenter also asked whether agencies would have to request each extension separately.

Under the regulations, OPM may approve extensions beyond 2 years (24 months total service) in response to major reorganization, downsizing, or other unusual circumstances. While normal workload fluctuations would not meet this condition, an unusual degree of fluctuation resulting from governmentwide staffing changes and resource reductions may justify extensions. We will entertain requests on that basis and consider each agency's situation on its merits.

Requests based on agencywide restructuring downsizing would be submitted by the agency's headquarters, specifying the conditions, locations, and timeframe for the extensions. OPM approval would cover all extensions meeting the agreed upon conditions during the authorized time period so there would be no need for individual requests. Agencies would submit individual extension requests to the appropriate OPM service center to meet one-time needs (e.g., to complete construction work delayed by unusually severe weather).

Technical Issues

Tracking and Documentation

Several agencies stated that their personnel record systems might not provide specific information needed to administer the new requirements (particularly the prohibition against making a new temporary appointment to a position that had been filled by temporary appointment for an aggregate of 2 years, or 24 months, of the preceding 3 years). They stated that their systems may not clearly identify "same or successor" positions as defined in the regulations. One agency suggested that the supervisory certification required by the regulations be accepted as documentation that time limits are met. Another agency suggested dropping the certification requirement in line with the NPR recommendation to reduce unproductive paperwork. Some agencies asked how the limits would apply when an agency has several identical jobs in the same commuting area.

We have adopted the suggestion to use the supervisory certification to document compliance with time limits. This suggestion is consistent with the NPR recommendation to make managers and supervisors accountable for personnel actions. It is also practical a personnel officer or higher level official may not have enough information to determine compliance. The supervisor or manager filling a job knows, or should know, whether it has previously been filled temporarily and whether its duties are substantially the same as a previous temporary position. The supervisory certification is not unproductive paperwork, but is an alternative to more burdensome tracking requirements.

Under the regulations the time limits apply to positions within the same local commuting area and major subdivision of the agency. We believe each agency can and should identify its own major subdivisions. Often, we expect that these will coincide with the competitive areas established by the agency for RIF. However, in applying these regulations, an agency may use any objective criteria that clearly distinguish separate functional areas.

When an agency has identical positions within a major subdivision and commuting area, *successive* temporary appointments to those positions would be subject to the 2-year (24 month) aggregate limitation. However, the limit would be calculated separately for *simultaneous* temporary appointments to the positions. The difference is that recurring needs could potentially be met through permanent or term appointments with a less-than-full-time work schedule. Purely temporary needs—regardless of the number of jobs involved—could not.

Seasonal Positions

The proposal to permit unlimited extensions of temporary appointments to jobs involving less than 6 months (1,040 hours) of seasonal or intermittent work a year raised some practical concerns among managers and employees in agencies with substantial seasonal or intermittent hiring. They believe that managers should not be forced to terminate experienced employees who work more than 6 months in a season to meet emergency or uncontrollable workload demands.

When employees are regularly needed for 6 months or more in a year, the seasonal jobs are not truly temporary and should be filled by term or permanent appointments. However, we agree that flexibility is needed when an employee who normally works less than 6 months a year exceeds the limit in a single season. Therefore, the final regulations provide that OPM may approve exceptions to the 6-month limit. We expect that most such exceptions will be requested on a case-by-case basis from the appropriate OPM service center. However, we would consider requests to use an alternative method of calculation (e.g., averaging service over several seasons) if an

agency demonstrates that its system and its tracking capacity will produce long-term compliance with the regulation. Requests for approval of alternate methods should be submitted through the agency's headquarters.

Some comments also noted the need to train employees for seasonal work during the off-season. To accommodate this need, the regulations provide an exception to the 6-month limit for up to 120 days of training following initial appointment and up to 2 weeks a year thereafter.

We did not adopt suggestions to exclude all excepted appointments from the regulatory time limits. The conditions justifying exception from competitive hiring procedures do not always dictate that appointments be limited to 1 year. In fact, the situation most commonly cited as requiring employment longer than 2 years (24 months) was for research projects. Most excepted authorities covering research positions provide for appointments in increments longer than 1 year. Such appointments are not covered by these regulations.

Continuing Authority for Appointments Outside the Competitive Examining Process

As several commenters noted, the authority to make temporary appointments for most positions using applicant supply file procedures is currently set out only in Chapter 316 of the Federal Personnel Manual. That chapter will be terminated on December 31, 1994, as part of FPM sunset. We are incorporating the authority in the revised regulations. We are also adopting an agency's suggestion to remove all grade level limitations. (The current authority does not apply to positions at GS–13 through GS–15.)

We did not adopt suggestions to authorize term appointments outside the register or to permit temporary appointments to be converted to term appointments without further competition whenever the need for an employee's services exceeds original expectations. These suggestions are outside the scope of our regulatory proposal. OPM service centers may, however, continue to authorize term appointments outside registers when there are insufficient eligibles on an appropriate register. Agencies that have delegated examining authority may also elect to fill temporary and/or term positions through those registers. If the same register is used for both temporary and term appointments, applicants who would have been within reach for term appointments may be converted without further competition. We have clarified this provision in the regulations. This provision will not apply when positions are publicized and applications are solicited solely for temporary appointment.

Reemployed Annuitants

We have not incorporated in the regulations the authority, now contained in provisionally retained FPM Chapter 316, for unlimited extensions of temporary employment of reemployed annuitants. That authority is no longer needed. When the FPM provision was established, certain annuitants (e.g., those over age 70) could be employed only on a temporary basis. That is no longer true. Annuitants may now be employed under any type of authority—permanent, term, or temporary—that is appropriate for the job being filled. However, under 5 U.S.C. 3323, reemployed annuitants serve at the will of the agency. Therefore, agencies need not designate their appointments as temporary in order to retain flexibility.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects

5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

5 CFR Part 316

Government employees.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR parts 213 and 316 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for Part 213 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h), and 8457; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

2. Section 213.102 is revised to read as follows:

§ 213.102 Identification of positions in Schedule A, B, or C.

(a) The Office of Personnel Management will decide whether the duties and requirements of any particular position justify exception from the competitive service. Upon favorable determination, OPM will authorize the position to be filled by excepted appointment under Schedule A, B, or C. Unless otherwise specified in a particular appointing authority, an agency may make Schedule A, B, or C appointments on either a permanent or nonpermanent basis, with any appropriate work schedule (i.e., full-time, part-time, seasonal, on-call, or intermittent).

(b) When OPM establishes eligibility requirements (e.g., residence, family income) for appointment under particular Schedule A or B exceptions, an individual's eligibility for appointment must be determined before appointment and without regard to any conditions that will result from the appointment.

3. A new § 213.104 is added to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

(a) When OPM specifies that appointments under a particular Schedule A, B, or C authority must be temporary, intermittent, or seasonal, or when agencies elect to make temporary, intermittent, or seasonal appointments in Schedule A, B, or C, those terms have the following meanings:

(1) *Temporary appointments*, unless otherwise specified in a particular Schedule A, B, or C exception, are made for a specified period not to exceed 1 year and are subject to the time limits in paragraph (b) of this section.

(2) *Intermittent positions* are positions in which work recurs at sporadic or irregular intervals so that an employee's tour of duty cannot be scheduled in advance of the administrative workweek.

(3) *Seasonal positions* involve annually recurring periods of employment lasting less than 12 months each year.

(b) Temporary appointments, as defined in paragraph (a)(1) of this section, are subject to the following limits:

(1) *Service limits.* Agencies may make temporary appointments for a period not to exceed 1 year, unless the applicable Schedule A, B, or C authority specifies a shorter period. Except as provided in paragraph (b)(3) of this section, agencies may extend temporary appointments for no more than 1 additional year (24 months of total service). Appointment to a successor position (i.e., a position that replaces and absorbs the original position) is considered to be an extension of the original appointment. Appointment to a

position involving the same basic duties, in the same major subdivision of the agency, and in the same local commuting area is also considered to be an extension of the original appointment.

(2) *Restrictions on refilling positions under temporary appointments.* Except as provided in paragraph (b)(3) of this section, an agency may not fill any position (or its successor) by a temporary appointment in Schedule A, B, or C if that position had previously been filled by temporary appointment(s) in either the competitive or excepted service for an aggregate of 2 years, or 24 months, within the preceding 3-year period. This limitation does not apply to programs established to provide for systematic exchange between a Federal agency and nonfederal organizations.

(3) *Exceptions to the general limits.* The service limits and restrictions on refilling positions set out in this section do not apply when:

(i) Positions involve intermittent or seasonal work, and employment in the same or a successor position under one or more appointing authorities totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment in the agency. Should employment in a position filled under this exception total 6 months or more in any service year, the general limits set out in this section will apply to subsequent extension or reappointment unless OPM approves continued exception under this section. An individual may be employed for training for up to 120 days following initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.

(ii) Positions are filled under an authority established for the purpose of enabling the appointees to continue or enhance their education, or to meet academic or professional qualification requirements. Such authorities include those set out in paragraphs (p), (q), (v), (w), and (jj) of section 213.3102 of this part and authorities granted to individual agencies for use in connection with internship, fellowship, residency, or student programs.

(iii) OPM approves extension of specific temporary appointments beyond 2 years (24 months total service) when necessitated by major reorganizations or base closings or other rare and unusual circumstances. Requests based on major reorganization, base closing, restructuring, or other unusual circumstances that apply agencywide must be made by an official at the headquarters level of the Department or agency. Requests involving extension of appointments to a specific position or project based on other unusual circumstances may be submitted by the employing office to the appropriate OPM service center.

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for Part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; § 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585 and E.O. 12721.

5. In § 316.302, paragraph (c)(3) is revised and paragraph (c)(7) is added to read as follows:

§ 316.302 Selection of term employees.

* * * * *

(c) * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.608, 315.609, or 315.703 of this chapter;

* * * * *

(7) A temporary employee who was within reach for term appointment to the same position from an appropriate register at the time of his/her temporary appointment, or during subsequent service in the position, provided that the register was being used for term appointments at the time the employee was reached and he or she has been continuously employed in the position since being reached.

6. Section 316.401 is revised to read as follows:

§ 316.401 Purpose and duration.

(a) *Appropriate use.* An agency may make a temporary limited appointment—

(1) To fill a short-term position (i.e., one that is not expected to last longer than 1 year);

(2) To meet an employment need that is scheduled to be terminated within the timeframe set out in paragraph (c) of this section for such reasons as abolishment, reorganization, or contracting of the function, anticipated reduction in funding, or completion of a specific project or peak workload; or

(3) To fill positions on a temporary basis when the positions are expected to be needed for placement of permanent employees who would otherwise be displaced from other parts of the organization.

(b) *Certification of appropriate use.* The supervisor of each position filled by temporary appointment must certify that the employment need is truly temporary and that the proposed appointment meets the regulatory time limits. This certification may constitute appropriate documentation of compliance with the limits set out in paragraph (c) of this section. The reason(s) for making a temporary limited appointment must be stated on the form documenting each such appointment.

(c) *Time limits—general.* (1) An agency may make a temporary appointment for a specified period not to exceed 1 year. The appointment may be extended up to a maximum of 1 additional year (24 months of total service). Appointment to a successor position (i.e., to a position that replaces and absorbs the position to which an individual was originally appointed) is considered to be an extension of the original appointment. Appointment to a position involving the same basic duties and in the same major subdivision of the agency and same local commuting area as the original appointment is also considered to be an extension of the original appointment.

(2) An agency may not fill a position by temporary appointment if that position has previously been filled by temporary appointment(s) for an aggregate of 2 years, or 24 months, within the preceding 3-year period.

(d) *Exceptions to general time limits.* (1) Agencies may make and extend temporary appointments to positions involving intermittent or seasonal work without regard to the requirements in paragraph (c) of this section, *provided* that:

(i) Appointments and extensions are made in increments of 1 year or less.

(ii) Employment in the same or a successor position under this and any other appointing authority totals less than 6 months (1,040 hours), excluding overtime, in a service year. The service year is the calendar year that begins on the date of the employee's initial appointment in the agency. Should employment in a position filled under this exception total 6 months or more in any service year, the provisions of paragraph (c) of this section will apply to subsequent extension or reappointment unless OPM approves continued exception under this section. An individual may be employed for training for up to 120 days following initial appointment and up to 2 weeks a year thereafter without regard to the service year limitation.

(2) OPM will authorize exceptions to the limits set out in paragraph (c) of this section only when necessitated by major reorganizations or base closings or other

unusual circumstances. Requests based on major reorganization, base closing, restructuring, or other unusual circumstances that apply agencywide must be made by an official at the headquarters level of the Department or agency. Requests involving extension of appointments to a specific position or project based on other unusual circumstances may be submitted by the employing office to the appropriate OPM service center.

7. In § 316.402, the heading and paragraphs (a) and (b)(3) are revised to read as follows:

§ 316.402 Procedures for making temporary appointments.

(a) *General rule.* Except as provided in paragraph (b) of this section, agencies must make temporary limited appointments either by selection from a register or outside a register, in accordance with the procedures set out in 5 CFR part 333.

(b) * * *

(3) A former temporary employee of the agency who was originally appointed from a register or under the provisions of part 333 of this chapter and whose service meets the time limits for reappointment set out in § 316.401;

* * * * *

[FR Doc. 94–22447 Filed 9–12–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 94–059–1]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the list of generally infested areas under the gypsy moth quarantine and regulations by removing and adding areas in Ohio and Virginia. These changes affect 7 areas in Ohio and 5 areas in Virginia. These actions are necessary in order to impose certain restrictions on the interstate movement of regulated articles to prevent the artificial spread of gypsy moth and delete unnecessary restrictions on the interstate movement of regulated articles.

DATES: Interim rule effective September 13, 1994. Consideration will be given only to comments received on or before November 14, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 94–059–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Terry McGovern, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6365.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45–12, and referred to below as the regulations), quarantine certain States because of the gypsy moth, and restrict the interstate movement of certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In accordance with § 301.45–2 of the regulations, generally infested areas are, with certain exceptions, those areas in which a gypsy moth general infestation has been found by an inspector, or each portion of a State which the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles; and, (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Designation of Areas as Generally Infested Areas

We are amending § 301.45–3(a) of the regulations, which lists generally infested areas, by adding Carroll, Cuyahoga, Jefferson, Lucas, Portage, Stark, and Summit Counties in Ohio, and Bath, Greensville and Highland Counties and the city of Emporia in Virginia to the list of generally infested areas.

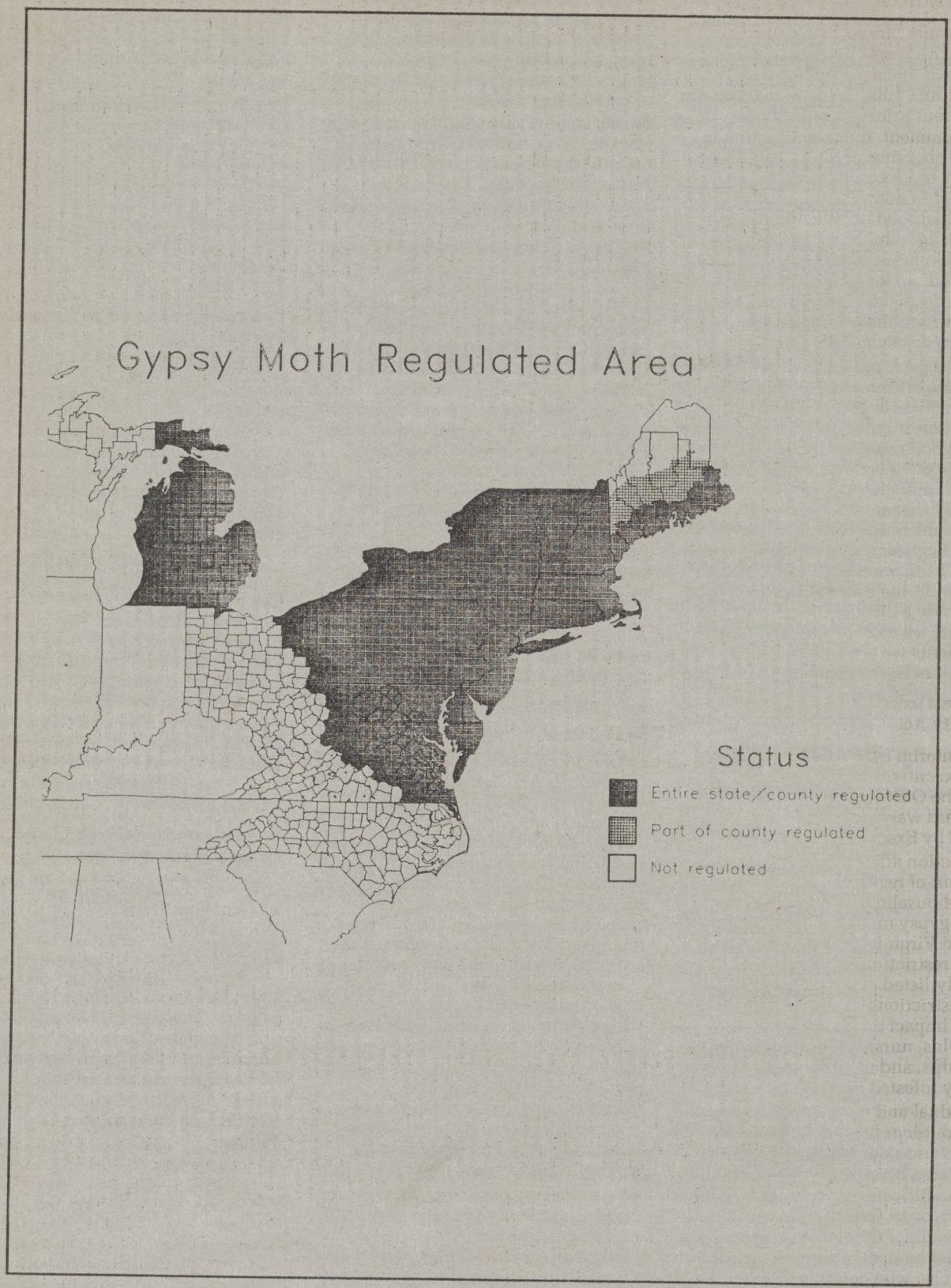
We are taking this action because surveys conducted by the United States Department of Agriculture (USDA) resulted in the detection of all life stages of the gypsy moth and the determination that reproducing populations do exist at significant levels in these areas. Eradication of these populations is not considered feasible because these areas are immediately adjacent to areas currently recognized to be generally infested and therefore subject to continued reinfestation.

Removal of Areas From List of Generally Infested Areas

We are also amending § 301.45–3(a) by removing Franklin County in Virginia from the list of generally infested areas.

We are taking this action because Franklin County was previously listed in error. There is no basis for listing this area as a generally infested area. This action removes unnecessary restrictions on the interstate movement of regulated articles from this area. A map designating the regulated areas is as follows:

BILLING CODE 3410–34–P



BILLING CODE 3410-34-C

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary because of the possibility that the gypsy moth could be spread artificially to noninfested areas of the United States, where it could cause economic loss due to defoliation of susceptible forest areas. Also, where gypsy moth no longer occurs, immediate action is needed to delete unnecessary restrictions on the interstate movement of regulated articles.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action affects the interstate movement of regulated articles and outdoor household articles from and through gypsy moth regulated areas in Ohio and Virginia. There are several types of restrictions that will apply to the newly-listed areas in these States. These restrictions will have their primary impact on persons moving households, nursery stock, logs and wood chips, and mobile homes out of a generally infested area.

Individual and commercial movers moving outdoor household articles (OHA) to areas outside the generally infested area must attach to the articles either a certificate issued by an inspector, or an OHA document issued by the owner of the articles. Most individual homeowners moving their own articles who comply with the regulations choose to self-inspect and issue an OHA document. This takes a few minutes and involves no monetary cost. Individuals may also have State certified pesticide applicators, trained by the State or USDA, inspect and issue certificates.

Persons moving regulated articles from a generally infested area (significant examples include logs, pulpwood and wood chips; mobile homes; and nursery stock) must obtain a certificate or limited permit to move the articles. There is one exception to this requirement, for logs, pulpwood and wood chips. This exception allows the person moving such articles to self-certify on the waybill that he or she has inspected the articles. This exception minimizes costs with regard to logs, pulpwood, and wood chips.

Persons moving mobile homes and nursery stock must obtain a certificate or limited permit. They may obtain one from an inspector, or a qualified certified applicator. Inspectors will issue these documents at no charge, but costs may result from delaying the movement of commercial articles while waiting for the inspection. Documents self-issued under a compliance agreement avoid this delay costs, but result in costs associated with salary and recordkeeping for the self-inspections.

When inspection of regulated articles or outdoor household articles reveals gypsy moth, treatment is often necessary. Treatment is done by qualified certified applicators, which are private businesses that charge, on the average, $50 to $100 to treat a shipment of articles. Most qualified certified applicators are small businesses. By declaring an area as a generally infested area, the regulations may increase business for the qualified certified applicator located in generally infested areas. It is estimated that these businesses will average $50 to $150 per month in additional income per business. Since the seven counties in Ohio to be regulated contain the metropolitan areas of Akron, Cleveland, and Toledo, we expect that several hundred shipments containing outdoor household articles will require inspection to move out of the generally infested area. We anticipate training up to 24 qualified certified applicators to perform these inspections.

The majority of direct costs from this rule would be incurred by establishments moving trees or shrubs with roots, such as nurseries. We estimate that approximately 130 such establishments move approximately 1,050 shipments of trees and shrubs each year to areas outside the generally infested areas. All of these establishments are believed to be small entities. These establishments would need to be inspected, either by an inspector or through self-inspection under a compliance agreement. If the inspection reveals signs of gypsy moth, the establishment would have to be treated in order to ship regulated articles outside the generally infested area. We estimate that annually, approximately 10 percent of these establishments (13 establishments) will be required to treat the establishment, and that the average area to be treated will be 17 acres. At an average treatment cost of $10 per acre, the average total annual cost to each establishment would be $170.

The Christmas tree industry would also be impacted by this rule change, since Christmas trees moved interstate from generally infested areas to areas not generally infested would have to be moved under a certificate or permit. We estimate that there are about 5 Christmas tree producers in the generally infested areas who ship approximately 100 trees each year to nonregulated areas. All of these establishments are believed to be small entities. Services of an inspector will be available without charge to inspect the premises and issue certificates and permits. We estimate that 10 percent of these premises will be found to contain gypsy moth, and will require treatment in order to ship trees. The average area to be treated is estimated to be 80 acres, and treatment costs are estimated to average $10 per acre. Therefore, we estimate that the total annual treatment costs for one Christmas tree producer would be approximately $800.

It is expected that, in most cases, Christmas tree growers would meet the requirements for certification by having inspectors determine that the plantations where the trees are grown are free from gypsy moth. This alternative would be less costly than inspecting or treating individual shipments of trees and would minimize the economic impact of the change to the regulations.

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

Executive Order 12372

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

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice

Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in §§ 301.45 through 301.45–12 have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0088.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

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

§ 301.45 [Amended]

2. In § 301.45–3(a), the list of generally infested areas in Virginia is amended by removing "*Franklin County*. The entire county."

3. In § 301.45–3(a), the list of generally infested areas in Ohio and Virginia is amended by adding, in alphabetical order, the following entries:

§ 301.45–3 Generally infested areas.

* * * * *

Ohio

* * * * *

Carroll County. The entire county.

* * * * *

Cuyahoga County. The entire county.

* * * * *

Jefferson County. The entire county.

* * * * *

Lucas County. The entire county.

* * * * *

Portage County. The entire county.
Stark County. The entire county.
Summit County. The entire county.

* * * * *

Virginia

* * * * *

City of Emporia. The entire city.

* * * * *

Bath County. The entire county.

* * * * *

Greensville County. The entire county.

* * * * *

Highland County. The entire county.

* * * * *

§§ 301.45–5, 301.45–6, 301.45–8, and 301.45–12 [Amended]

4. Sections 301.45–5, 301.45–6, 301.45–8, and 301.45–12 are amended by revising the OMB control number citation at the end of each of these sections to read as follows: "(Approved by the Office of Management and Budget under control number 0579–0088)".

Done in Washington, DC, this 7th day of September 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–22610 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket Nos. FV94–916–1–FIR and FV94–916–2–FIR]

Nectarines and Peaches Grown in California; Finalize Revised Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes without change two interim final rules which revised the handling requirements for California nectarines and peaches by expanding the regulatory periods and by modifying the grade, maturity, size, container, and pack requirements for fresh shipments of these fruits, beginning with 1994 season shipments. This finalization will enable handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

EFFECTIVE DATE: October 13, 1994.

FOR FURTHER INFORMATION CONTACT: Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–5127; or Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 [7 CFR Parts 916 and 917] regulating the handling of nectarines and peaches grown in California, hereinafter referred to as the orders. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of

these fruits in California. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

The Nectarine Administrative Committee (NAC) recommended revision of the handling requirements for California nectarines, and the Peach Commodity Committee (PCC) recommended revision of the handling requirements for California peaches. These committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. These committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

This rule finalizes two interim final rules that revised the handling requirements for nectarines in § 916.350 California Nectarine Container and Pack Regulation [7 CFR 916.350], and in § 916.365 California Nectarine Grade and Size Regulation [7 CFR 916.365], and for peaches in § 917.442 California Peach Container and Pack Regulation [7 CFR 917.442] and in § 917.459 California Peach Grade and Size Regulation [7 CFR 917.459]. The first interim final rule was issued on March 29, 1994, and published in the **Federal Register** [59 FR 15835, April 5, 1994], and the second interim final rule was issued on June 9, 1994, and published in the **Federal Register** [59 FR 31118, June 17, 1994].

The first interim final rule provided a 30-day comment period ending May 5, 1994, and two comments were received. The first comment received was from John Kovacevich, Jr., a California peach grower and shipper, requesting a change in the peach grade requirements to permit handlers to ship peaches with additional amounts of open sutures. The change requested by this commentor was included in the first interim final rule.

The second comment received was from Harold McClarty of The HMC Group of Kingsburg, California, supporting the weight-count revisions made in the handling requirements for fresh nectarines and peaches by the first interim final rule, since such revisions will be beneficial when they packed fruit in volume-filled containers.

The second interim final rule provided a 30-day comment period ending July 18, 1994, and one comment was received. The comment was received from Gary W. Van Sickle, Field Director for the PCC and the NAC, reaffirming the PCC's and the NAC's support of the revised pack requirements contained in the second interim final rule.

Regulatory Periods (Nectarines)

The first interim final rule amended paragraph (a) in § 916.350 and paragraph (a) in § 916.356 to change the regulatory periods in each of these sections to April 1 through October 31 each year, so that all nectarine shipments made each season are covered by these regulatory requirements. Correspondingly, paragraph (a)(7) of § 916.356 was revised to change the beginning date of the regulatory requirements to April 1 from April 15 each year. Handlers ship fresh nectarines during the April 1–April 15 period when the harvest season begins early. The NAC unanimously recommended this change. Prior to amendment, §§ 916.350 and 916.356 were effective for the period April 15 through October 31 each year.

Container and Pack Requirements (Nectarines)

Section 916.350 specifies container and pack requirements for fresh nectarine shipments. Paragraph (a)(4)(iv) of § 916.350 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of nectarines in a 16-pound sample for each tray-pack size designation. The first interim final rule revised paragraph (a)(4)(iv) of § 916.350 by modifying Table I to specify weight-count standards for early-season and mid-season nectarine varieties, and by adding a new Table 2 to specify weight-count standards for late-season nectarine varieties.

The NAC recommended these revised container marking requirements for nectarines after a comprehensive review of the appropriate size pack-count relationships between the tray-pack containers and loose-filled or tight-filled containers for all nectarine varieties. The revised provisions more precisely reflect the characteristics of different varieties of fruit during the course of the season.

The first interim final rule also revised § 916.350 by adding a proviso to paragraph (a)(4)(iv), and revises § 916.356 by redesignating current paragraph (b) as (c) and adding a new paragraph (b) to that section. These revisions specify the procedure to be used in determining whether nectarines meet the minimum size requirements specified for each size category in this section when applying the 16-pound sample requirements. Under this procedure, a sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least 8 pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit is used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a full 16-pound sample must be used to determine if the fruit meets minimum size requirements.

The NAC recommended this sampling procedure change after determining that the size of nectarines could be adequately determined by using an 8-pound sample in most instances, and finding that application of this procedure would reduce inspection time and inspection costs.

The second interim final rule further revised § 916.350 by adding a new proviso to paragraph (a)(1) specifying that the nectarines in any volume-filled container need only be filled to within one inch of the top of the container. The second interim final rule also removed the proviso in paragraph (a)(1) of § 916.350 reading "That nectarines in any container shall be fairly uniform in size", because such requirements are included within the definition of "standard pack" in the United States Standards for Grades of Nectarines, and therefore are not needed in this paragraph.

The NAC recommended these revised pack requirements for fresh nectarines in volume-filled containers after a comprehensive review of changes in the nectarine industry packing practices over the years, and the need to make appropriate changes in the pack requirements to reduce bruising of the fruit due to excessively tight packs. The revision provided handlers with more flexibility in packing their nectarines and selecting the appropriate size container for certain volume-filled packs to help prevent fruit bruising.

Maturity Requirements (Nectarines)

Section 916.356 specifies maturity guides for fresh nectarines in paragraph

(a)(1)(i), including Table I, for fruit being inspected and certified as meeting the maturity requirements for "well matured" fruit. Such maturity guides (e.g., color chips) are specified in Table I of § 916.356 for nectarines. The first interim final rule revised Table I of paragraph (a)(1)(i) of § 916.356 for nectarines to add maturity guides for 18 nectarine varieties and to change the maturity guide for two nectarine varieties.

The NAC recommended these maturity guide changes for these nectarine varieties based on a continuing review of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such varieties.

Size Requirements (Nectarines)

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). The first interim final rule revised § 916.356 to establish variety-specific size requirements for seven nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1993 season. Paragraph (a)(3) was revised to include the May Kist variety; and paragraph (a)(6) of § 916.356 was revised to include the Arctic Rose, Del Rio Rey, Kay Diamond, Late Red Jim, Prima Diamond, and Red Glen varieties.

The first interim final rule also revised § 916.356 to remove five nectarine varieties from the variety-specific size requirements specified in the section, because less than 5,000 packages of each of these varieties were produced during the 1993 season. Paragraph (a)(4) of that section was revised to remove the Apache and Early May Grande nectarine varieties; and paragraph (a)(6) was revised to remove the Nectarine #4, Tasty Free, and 9–86–04–87 nectarine varieties. The nectarine varieties removed from the nectarine variety-specific list became subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The first interim final rule also lowered the minimum size requirement for the Zee Grand variety by permitting as many as 88 nectarines to be packed in a lug box rather than 84 nectarines, and as many as 83 nectarines when packed otherwise rather than 75 nectarines. This was accomplished by reassigning that variety to paragraph (a)(4) from paragraph (a)(5) in § 916.356. The NAC recommended this change based on a more accurate evaluation of this variety's sizing and maturity characteristics.

Further, in § 916.356, paragraphs (a)(6)(i) and (a)(9)(i) were revised to permit as many as 84 nectarines to be packed in a No. 22D standard lug box if they are "well matured", and paragraphs (a)(6)(ii) and (a)(9)(ii) were revised to permit as many as 75 nectarines in a 16-pound sample if they are "well matured". These changes permit late-season nectarine varieties to be shipped to the fresh market at a slightly smaller size than in past seasons, if they meet the higher "well matured" maturity standard. The higher maturity standard is important for such smaller size fruit, because it will assure that the smaller fruit is of acceptable maturity and quality to be shipped to the fresh market in the interest of growers, handlers, and consumers.

In addition, the first interim final rule changed the minimum size requirements for several varieties of nectarines packed in loose-filled and tight-filled containers by revising the count-size for nectarines specified in paragraphs (a)(2)(ii), (a)(3)(ii), (a)(4)(ii), (a)(5)(ii), (a)(7)(ii), and (a)(8)(ii). These size changes correspond to the weight-count changes made in column 2 of both Table I for early-season and mid-season nectarine varieties, and Table 2 for late-season nectarine varieties cited in paragraph (a)(4)(iv) of § 916.350.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. The first interim final rule was designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Regulatory Periods (Peaches)

The first interim final rule amended paragraph (a) in § 917.442 and paragraph (a) in § 917.459 to change the regulatory periods in each of these sections to April 1 through November 23 each year, so that all peach shipments made each season are covered by these regulatory requirements. Correspondingly, paragraph (b) of § 917.459 was revised to change the beginning date of the regulatory requirements to April 1 from April 15 each year. Handlers ship fresh peaches during the April 1–April 15 period when the harvest season begins early. The PCC unanimously recommended this change. Prior to amendment, §§ 917.442 and 917.459 were effective for the period April 15 through November 23 each year.

Container and Pack Requirements (Peaches)

Section 917.442 currently specifies container and pack requirements for fresh peach shipments. Paragraph (a)(4)(iv) of § 917.442 specifies the tray-pack size designations which must be marked on loose-filled or tight-filled containers, depending on the size of the fruit. The size designations specify the maximum number of peaches in a 16-pound sample for each tray pack size designation. The first interim final rule revised paragraph (a)(4)(iv) of § 917.442 by modifying Table I to specify weight-count standards for early-season and mid-season peach varieties, and by adding a new Table 2 to specify weight-count standards for late-season peach varieties.

The PCC recommended these revised container marking requirements for peaches after a comprehensive review of the appropriate size pack-count relationships between the tray-pack containers and loose-filled or tight-filled containers for all peach varieties. The revised provisions more precisely reflect the characteristics of different varieties of fruit during the course of the season.

The first interim final rule also revised § 917.442 by adding a proviso to paragraph (a)(4)(iv), and revised § 917.459 by redesignating current paragraph (d) as (e) and by adding a new paragraph (d) to that section. These revisions specify the procedure to be used in determining whether peaches meet the minimum size requirements specified for each size category in this section when applying the 16-pound sample requirement. Under this procedure a sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least 8 pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit is used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a full 16-pound sample must be used to determine if the fruit meets the minimum size requirements.

The PCC recommended this sampling procedure change after determining that the size of peaches could be adequately determined by using an 8-pound sample in most instances, and finding that application of this procedure would reduce inspection time and inspection costs.

The second interim final rule further revised § 917.442 by adding a new proviso to paragraph (a)(1) specifying

that the peaches in any volume-filled container need only be filled to within one inch of the top of the container. The PCC recommended these revised pack requirements for fresh peaches in volume-filled containers after a comprehensive review of changes in the peach industry packing practices over the years, and the need to make appropriate changes in the pack requirements to reduce bruising of the fruit due to excessively tight packs. The revision provided handlers with more flexibility in packing their peaches and selecting the appropriate size container for certain volume-filled packs to help prevent fruit bruising.

Grade Requirements (Peaches)

Section 917.459 specifies grade requirements for peaches in paragraph (a)(1), requiring peaches shipped fresh to meet the requirements of the U.S. No. 1 grade. The first interim final rule revised paragraph (a)(1) of § 917.459 to provide an additional 25 percent tolerance for fruit damaged by open sutures, but not seriously damaged, in addition to the 10 percent general lot tolerance currently permitted under the U.S. No. 1 grade.

The PCC recommended this change to permit handlers to ship peaches with additional amounts of open sutures. Open sutures are not considered to be a serious grade defect since they affect only the appearance of the fruit. The open suture condition occurs infrequently in peaches and is most likely due to unusual weather and climatic conditions. However, this condition can cause considerable economic loss to growers when it does occur, because it sometimes affects a large portion of their crop.

Maturity Requirements (Peaches)

Section 917.459 specifies maturity guides for fresh peaches in paragraph (a)(1)(i), including Table I, for fruit being inspected and certified as meeting the maturity requirements for "well matured" fruit. Such maturity guides (e.g., color chips) are specified in Table I of § 917.459 for peaches. The first interim final rule revised Table I of paragraph (a)(1)(i) of § 917.459 for peaches to add maturity guides for 19 peach varieties and to change the maturity guide for one peach variety.

The PCC recommended these maturity guide changes for these peach varieties based on a continuing review of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the "well matured" level of maturity for such varieties.

Size Requirements (Peaches)

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). The first interim final rule revised § 917.459 by redesignating current paragraph (a)(6) as paragraph (a)(3) and current paragraphs (a)(3), (a)(4), and (a)(5) as paragraphs (a)(4), (a)(5), and (a)(6), respectively, so that the size regulations are in sequential order. The first interim final rule also revised § 917.459 to establish variety-specific size requirements for five peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1993 season. In § 917.459 redesignated paragraph (a)(5) was revised to include the Crimson Lady and Rich May peach varieties; and redesignated paragraph (a)(6) was revised to include the Fancy Lady, Snow Ball, and Sugar Lady peach varieties.

The first interim final rule also revised § 917.459 to remove four peach varieties from the variety-specific size requirements specified in that section, because less than 5,000 packages of each of these varieties were produced during the 1993 season. In § 917.459 redesignated paragraph (a)(5) of § 917.459 was revised to remove the Flavor Red peach variety; and redesignated paragraph (a)(6) was revised to remove the July Lady, Red Cal, and Redglobe peach varieties. The peach varieties removed from the variety-specific list became subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The first interim final rule also amended § 917.459 by revising paragraph (b) to change the ending date of the regulatory requirements for the non-listed peach varieties referred to in that paragraph to June 30 from July 2, and paragraph (c) to change the beginning date of the regulatory requirements for the non-listed peach varieties referred to in that paragraph to July 1 from July 3. These changes reflect the sizing characteristics of such peach varieties.

Further, in § 917.459 redesignated paragraph (a)(6)(i) was revised to permit as many as 80 peaches to packed in a No. 22D standard lug box if they are "well matured", and redesignated paragraph (a)(6)(iii) was revised to permit as many as 73 peaches in a 16-pound sample if they are "well matured". These changes permit certain late-season peach varieties to be shipped to the fresh market at a slightly smaller size than in past seasons, if they meet the higher "well matured" maturity standard. The higher maturity standard is important for such smaller size fruit, because it will assure that the smaller fruit is of acceptable maturity and quality to be shipped to the fresh market in the interest of growers, handlers, and consumers.

In addition, the first interim final rule changed the minimum size requirements for several varieties of peaches packed in loose-filled and tight-filled containers by revising the count-size for peaches specified in paragraphs (a)(3)(iii), (a)(4)(iii), and (a)(5)(iii). These size changes correspond to the weight-count changes made in column 2 of both Table I for early-season and mid-season peach varieties, and Table 2 for late-season peach varieties cited in paragraph (a)(4)(iv) of § 917.442.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various sizes of fruit. The first interim final rule was designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to finalize the revised handling requirements for California nectarines and peaches, as specified. The Department's determination is that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule finalizes the revised handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will continue to meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries continue to provide fruit desired by consumers. This rule is designed to maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

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

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that the finalization, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. Accordingly, the interim final rules amending 7 CFR Part 916 which were published at 59 FR 15835 on April 5, 1994, and at 59 FR 31118 on June 17, 1994, are each adopted as a final rule without change.

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

2. Accordingly, the interim final rules amending 7 CFR Part 917 which were published at 59 FR 15835 on April 5, 1994, and at 59 FR 31118 on June 17, 1994, are each adopted as a final rule without change.

Dated: September 8, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–22614 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 929

[FV94–929–1FIR]

Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Changes to the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule changing the rules and regulations under the cranberry marketing order. The marketing order regulates the handling of cranberries grown in 10 States and is administered locally by the Cranberry Marketing Committee (Committee). This rule revises or deletes language in the order's rules and regulations to reflect amendatory changes to the marketing order completed in 1992. This rule makes the order's rules and regulations consistent with the current marketing order language.

EFFECTIVE DATE: October 13, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Mark Hessel, Marketing Specialists, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 929 [7 CFR Part 929], as amended, regulating the handling of cranberries grown in 10 States, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C 601–674], hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers of cranberries who are subject to regulation under the order and approximately 1,050 producers of cranberries in the regulated area. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of handlers and producers of cranberries may be classified as small entities.

This rule finalizes revisions or deletions to the language in the order's rules and regulations to reflect amendatory changes to the order completed in 1992. This rule makes the order's rules and regulations consistent with current order language. These changes were unanimously recommended by the Cranberry Marketing Committee (Committee) at its March 1, 1994, meeting.

The interim final rule was issued on July 11, 1994, and published in the **Federal Register** [59 FR 36021, July 15, 1994], with an effective date of July 15, 1994. That rule amended §§ 929.107, 929.108, 929.110, 929.148, 929.150, and 929.153 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended August 15, 1994. No comments were received.

In 1992, the cranberry marketing order was amended [57 FR 38748, August 27, 1992] to change, among other provisions, the volume control features of the order. Prior to the amendment, the order authorized a base quantity program in which each producer received a base quantity calculated by the Committee from a representative period in the order. Base quantity was annually distributed to existing producers and new producers based on a formula in the order. The 1992 order amendments authorized a volume control program to be based on the sales history of each producer. The Committee now calculates a sales history for each producer based on the average of sales for a specified period for each producer or, in the case of a new producer, sales history is based on a State's average yield per acre. Other order amendments were made to reflect current industry practices.

The first change revises section 929.107 which currently provides the basis for determining established cranberry acreage. The section is revised by deleting various terms, dates, and section references. The term "established" cranberry acreage and the reference to section 929.16 are no longer applicable since they were removed by the 1992 amendment. The reference to growing cranberries during a specified period of time (i.e., 1965–66 through 1967–68) and other similar date references are removed since producers are no longer required to produce during this period to have a commercial crop of cranberries. Other modifications are made in the section for clarity.

The second change deletes section 929.108 which provides for procedures to substantiate a firm and substantial commitment for use in determining base quantities. This section is no longer applicable since the order amendments authorize a sales history to be computed for every producer. New or existing producers no longer have to show a firm and substantial commitment to receive base quantity.

The third change revises section 929.110 which provides for transfers or sales of cranberry acreage during the representative period. This section is revised by deleting the term "representative period." This term is no longer applicable since all reference to a representative period for computing base quantities was removed by the 1992 amendment. Producers must inform the Committee at any time when transfers or sales of acreage are made. Also, the term "base quantity" is deleted and replaced with the term "sales history." Other minor changes are made to the section to make it consistent with the order amendment.

The fourth change deletes section 929.148 which provides factors to be considered when assigning or adjusting base quantities for producers. This section is no longer applicable since the order amendment authorizes the computation of a sales history for each producer. These factors are not used when calculating sales history.

The fifth change revises section 929.150(a) which provides for the transfer or assignment of base quantities. This section is revised by deleting the term "base quantity" and replacing it with the term "sales history." The term base quantity is no longer applicable since the order amendment authorizes a sales history to be calculated for each producer.

The last change deletes section 929.153 which provides for the establishment and distribution of a base quantity reserve. This section is no longer applicable since the 1992 order amendment provides for a volume control program to be based on sales histories of producers. A producer's sales history is updated annually based on the highest four out of six years' sales. Therefore, a base quantity reserve is not necessary for updating producers' sales histories or for allowing entry of new growers.

The information collection requirements contained in the referenced sections have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0581–0103.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** [59 FR 36021, July 15, 1994] will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Accordingly, the interim final rule amending 7 CFR Part 929 which was published at 59 FR 36021 on July 15, 1994, is adopted as a final rule without change.

Dated: September 8, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–22617 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 932 and 944

[Docket No. FV94–932–1IFR]

Olives Grown in California and Imported Olives; Establishment of Limited Use Olive Requirements During the 1994–95 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes the use of smaller sized olives in the production of limited use styles for California olives during the 1994–95 crop year. This action is intended to allow more olives into fresh market channels and is consistent with current market demand for olives. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this action also changes the import regulation so that it conforms with the requirements established under the California olive marketing order.

DATES: Effective September 16, 1994; comments received by October 13, 1994 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, or by facsimile at 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, D.C. 20090–6456; telephone (202) 720–5127, or Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, CA 93721, telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932 [7 CFR Part 932], as amended, regulating the handling of olives grown in California, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule is also issued under section 8e of the Act, which requires the

Secretary of Agriculture to issue grade, size, quality, or maturity requirements for certain listed commodities, including olives, imported into the United States that are the same as, or comparable to, those imposed upon the domestic commodities regulated under the Federal marketing orders.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are 5 handlers of California olives that will be subject to regulation under the order during the current season, and there are about 1,200 olive producers in California. There are approximately 25 importers of olives subject to the olive import regulation. Small agricultural producers have been defined by the Small Business Administration [13 CFR § 121.601] as those whose annual receipts are less than $500,000, and small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration as those having annual receipts of less than $5,000,000. None of the domestic olive handlers may be classified as small entities. The majority of olive producers and importers may be classified as small entities.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California with most of the commercial production coming from inland valleys. The majority of olives are produced in central California. California olives are primarily used for canned ripe whole and whole pitted olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. A few shipments of California olives are exported.

Olive production has fluctuated from a low of 24,200 tons during the 1972–73 crop year to a high of 163,023 tons during the 1992–93 crop year. The California Olive Committee (committee) indicated that 1993–94 production totalled about 120,049 tons. Total production for the 1994–95 crop year is estimated to be 95,000 tons. Because olive trees need to restore their nutrients from one season to the next, various varieties of olives produced in California have alternate bearing tendencies. This results in high production one year and low the next, which usually causes the total crop to vary greatly from year to year. This crop year's estimated production is expected to be smaller than last year due to weather conditions early in the season which resulted in poor fruit pollination. However, based on past production and marketing experience, the committee believes that handlers will need smaller sized olives during the 1994–95 crop year to meet market demand for limited use styles of canned olives. Limited use olives are too small to meet the minimum size requirements established for whole and whole pitted canned ripe olives. However, they are large enough to be suitable for processing into limited use styles such as wedges, halves, slices, or segments. Absent this action, olives which are smaller than those authorized for whole and whole pitted canning uses would have to be disposed of by handlers into non-canning uses such as crushing into oil.

Paragraph (a)(3) of § 932.52 of the order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. Until October 1, 1991, paragraph (a)(3) also prescribed minimum sizes, by variety group, which could be authorized for use in the production of limited use styles by the Secretary.

Effective October 1, 1991, certain non-canning size disposition requirements specified in § 932.51(a)(3) and minimum sizes authorized for limited use specified in § 932.52(a)(3) of the marketing order were suspended. The committee may now recommend the use of olives for limited uses that are smaller than those previously permitted under the order. Minimum size and grade requirements may be recommended annually by the committee and approved by the Secretary. During the past three crop years, 1991–92, 1992–93, and 1993–94, the committee recommended sizes smaller than those previously authorized.

The minimum sizes which could previously be authorized for limited uses were established in a 1971 amendment to the marketing order. Olives smaller than the prescribed minimum sizes which could be authorized for limited uses had to be disposed of through less profitable non-canning uses such as crushing for oil. Returns to producers are lower on fruit used for such purposes. The use of smaller sized olives for limited use styles has been authorized in all but two crop years since the order was promulgated in 1965.

This action will help growers and handlers to meet the growing market demand for limited use style olives based upon current conditions. The limited use size requirements allow the use of sizes which would otherwise have to be disposed of for less profitable, non-canning uses. Permitting the use of such smaller olives for limited use styles would therefore improve grower returns.

On July 13, 1994, the committee recommended by a vote of 15–1, to establish grade and size regulations for limited use size olives during the 1994–95 crop year pursuant to paragraph (a)(3) of § 932.52 of the order. The one

handler member who dissented was concerned that approval of limited use size olives would be detrimental to handlers, due to already large inventories of such olives from the two previous seasons. The recommended grade and size requirements are the same as those established during the 1990–91 crop year, which means slightly larger minimum sizes than were in effect during the 1991–92, 1992–93, and 1993–94 crop years.

The specified sizes for the different olive variety groups are the minimum sizes which are deemed desirable for use in the production of limited use styles at this time. As in past years, permitting the use of the smaller olives in the production of limited use styles allowed handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Handlers will be able to market more olives than would be permitted in the absence of this relaxation in size requirements.

The committee also based its decision on certain production and market factors. The last three crop years were the first crop years that limited use olives were authorized at sizes below the 1990–91 crop year minimum size requirements. Prior to the 1990–91 crop year, the committee investigated limited use olives that were below permitted minimum sizes. From investigations and surveys within the industry, the committee determined that limited use olives below 1990–91 minimum sizes could be efficiently sliced using current technology. However, consumer interest in and need for such olives also had to be determined, specifically for smaller sliced olive rings. Thus, minimum size requirements below the 1990–91 crop year were recommended and became effective for limited use olives.

During the following three seasons, the industry experienced a higher percentage of broken pieces in the smaller olives than with the slightly larger sizes. The U.S. Standards for Grades of Canned Ripe Olives (Standards) define a broken piece as any piece of olive that is less than three quarters of a full unit. This situation had a negative impact on the California olive market as the extra broken pieces caused customers to complain about the lack of uniformity and poorer quality of product from these smaller sizes. Such olives also had to compete with imported sliced olives that had fewer broken pieces. Therefore, the committee recommended slightly larger minimum size requirements for limited use olives in order to improve the quality of and enhance the market for California limited use olives.

Also, the committee estimates that production for this crop year is expected to be at 95,000 tons, which is smaller than the previous two seasons. Weather conditions early in the crop year caused poor pollination resulting in a smaller crop with an uneven distribution of sizes. The 1992–93 and 1993–94 crop years produced large crops of 163,023 tons and 120,049 tons, respectively. During years with large olive crops, the ratio of limited use olives to other sizes tends to be higher; there are more limited use size olives in proportion to the other sizes. During years with small olive crops, the ratio of smaller olives to other sizes is smaller; there tends to be fewer limited use size olives in proportion to the other sizes. The increased availability of limited use sized fruit could be reflected in handler processing for the last three seasons. For example, during the 1992–93 crop year, 19 percent of the olives (163,024 tons) processed by handlers were limited use, and during the 1991–92 crop year, 11 percent of total olives (63,259 tons) processed by handlers were limited use. Although limited use minimum sizes were larger during the 1990–91 season, limited use olive processed by handlers were 16 percent of total olives (126,879 tons) purchased by handlers. Thus, unlike the two previous seasons, fewer small limited use olives are expected to be harvested this season. The percentage of limited use olives is expected to be smaller. The slight increase in minimum limited use size requirements being established for the 1994–95 season is therefore not expected to greatly impact available supplies.

Thus, it is found that permitting limited use olives as recommended by the committee is expected to improve market conditions, and grower returns, and meet market needs for limited use style olives.

Section 8(e) of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for olives under a domestic marketing order, imported olives must meet the same or comparable requirements. This action allows smaller olives for limited use styles under the marketing order. Therefore, a corresponding change is needed in the olive import regulation.

Canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum grade and size requirements specified in *Olive Regulation 1* [7 CFR § 944.401]. All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Custom Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the Standards. The term does not include Spanish-style green olives.

Any lot of olives failing to meet the import requirements may be exported, disposed of, or shipped for exempt uses. Exportation or disposal of such olives would be accomplished under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Exempt olives are those imported for processing into oil or donation to charity. Any person may also import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

This interim final rule modifies paragraph (b)(12) of the olive import regulation to authorize the importation of bulk olives which do not meet the minimum size requirements established for olives for whole and whole pitted uses to be used in the production of limited use styles during the 1994–1995 crop year. This rule also establishes size regulations for such olives in paragraph (b)(12).

The committee recommended to authorize establishment of minimum sizes for use in the production of limited use styles during the 1994–95 crop year. The sizes are specified in terms of minimum weights for individual olives in various variety groups and are the same for both domestic and imported olives. An extra category is continued in the import regulation to apply comparable requirements for varieties not grown domestically. The minimum sizes for import requirements are as follows:

Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties.	1/90 pound.
Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties.	1/140 pound.
Variety Group 2, except the Obliza variety.	1/180 pound.
Variety Group 2 of the Obliza variety.	1/140 pound.
Olives not identifiable as to variety or variety group.	1/180 pound.

Each of the categories includes a 35 percent tolerance for olives weighing less than the specified minimum size.

Permitting the use of smaller olives in the production of limited use styles will allow importers to take better advantage of the strong market for halved,

segmented, sliced, and chopped canned ripe olives. Importers will be able to import and market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supply and facilitate market expansion. In the absence of this action, the smaller fruit could not be imported for limited uses, and would have to be disposed of through less profitable, non-canning uses under the supervision of the inspection service, exported, or utilized in exempt outlets.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this interim final rule.

After consideration of all relevant material presented, including the committee's recommendation, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1994–95 crop year began August 1, 1994; (2) this rule relaxes minimum size requirements; (3) California olive handlers are aware of this rule as it was discussed and recommended at a public meeting; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble 7 CFR Parts 932 and 944 are amended as follows:

1. The authority citation for 7 CFR Parts 932 and 944 continue to read as follows:

Authority: 7 U.S.C. 601–674.

PART 932—OLIVES GROWN IN CALIFORNIA

2. Table II of § 932.152 is revised to read as follows:

§ 932.152 Outgoing Regulations.

* * * * *

(g) * * *

(1) * * *

TABLE II.—LIMITED USE SIZE OLIVES

Variety	Average count range (per pound)
Group 1, except Ascolano, Barouni, and St. Agostino.	76–90, inclusive.
Group 1, Ascolano, Barouni, and St. Agostino.	106–140, inclusive.
Group 2, except Obliza.	141–180, inclusive.
Group 2, Obliza	128–140, inclusive.

* * * * *

3. Section 932.153 is revised to read as follows:

§ 932.153 Establishment of grade and size requirements for processed 1994–95 crop year olives for limited uses.

(a) *Grade.* On and after August 1, 1994, any handler may use processed olives of the respective variety group in the production of limited use styles of canned ripe olives if such olives were processed after July 31, 1994, and meet the grade requirements specified in paragraph (a)(1) of § 932.52 as modified by § 932.149.

(b) *Sizes.* On and after August 1, 1994, any handler may use processed olives in the production of limited use styles of canned ripe olives if such olives were harvested during the period August 1, 1994, through July 31, 1995, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives harvested before August 1, 1994, or after July 31, 1995.

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh at least 1/90 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/90 pound.

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh at least 1/140 pound: *Provided,* That no more than 35 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh at least 1/180 pound: *Provided,* That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/180 pound.

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh at least 1/140 pound: *Provided,* That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

PART 944—FRUITS; IMPORT REGULATIONS

4. Section 944.401 is amended by revising paragraph (b)(12) to read as follows:

§ 944.401 Olive Regulation 1.

* * * * *

(b) * * *

(12) Imported bulk olives when used in the production of canned ripe olives must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported during the period August 1, 1994, through July 31, 1995, for limited use, but any such olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/90 pound (5 grams) each.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/140 pound (3.2 grams) each.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 35 percent of the olives, by count, may be smaller that 1/140 pound (3.2 grams) each.

(v) Whole ripe olives not identifiable as to variety or variety group of size that not more than 35 percent of olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

* * * * *

Dated: September 8, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–22616 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 980

[FV94-980-1FR]

Vegetables; Import Regulations Modification of Regulatory Time Periods for Imported Onions and Establishment of Requirements for Red Variety Onions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies the time periods when imported onions are regulated based on the grade, size, quality and maturity requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders. This rule also establishes import requirements for red variety onions based on South Texas requirements. The changes are needed to make the onion import requirements consistent with changes to the South Texas onion marketing order, as required by section 8e of the Agricultural Marketing Agreement Act of 1937 (Act).

EFFECTIVE DATE: October 13, 1994.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456: telephone: (202) 690-0464, Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is effective under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this final rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 75 importers of onions who will be affected by this final rule. Small agricultural service firms, which include onion importers, have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000. The majority of onion importers may be classified as small entities.

Import regulations issued under the Act are based on regulations established under Federal marketing orders to regulate domestically produced products. Thus, this final rule has small entity orientation, and impact on both small and large business entities in a manner comparable to rules issued under marketing orders. This rule modifies the dates when imported onions, including red variety onions, are regulated based on requirements of the South Texas onion and Idaho-Eastern Oregon onion marketing orders.

Section 8e provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity. The Act further provides that when two or more marketing orders covering the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition.

Marketing Order No. 958 regulates onions grown in certain counties of Idaho and Eastern Oregon and Marketing Order No. 959 regulates onions grown in South Texas. Fresh onion shipments from Idaho-Eastern Oregon are regulated throughout the year, while onion shipments from South Texas were regulated from March 1 through May 20 each year. On the basis of past shipment data, the Secretary of Agriculture (Secretary) had determined that onions imported during the March 10 through May 20 period were in most direct competition with onions grown in South Texas and found that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for South Texas onions under Marketing Order No. 959. The Secretary further determined that onions imported during the May 21 through March 9 period were in most direct competition with onions grown in Idaho-Eastern Oregon and that the minimum grade, size, quality, and maturity requirements for onions imported during that period should be the same as those established for Idaho-Eastern Oregon onions under Marketing Order No. 958.

Based on a recommendation of the South Texas Onion Committee (committee), the agency responsible for local administration of Marketing Order No. 959, the Department has extended the end of the South Texas regulatory period from May 20 to June 15. The Fruit and Vegetable Division's Market News Service has reported no onion shipments of commercial quantities from the Idaho-Eastern Oregon production area during June from the 1990 through 1993 period, and only one year during this period, 1993, were onion shipments recorded during May. Therefore, onions imported during the period March 10 through June 15 are in most direct competition with those produced in South Texas.

Thus, now that the change in the regulatory period for South Texas onions is effective, a corresponding change must be made in the onion import regulation so that the requirements established under the South Texas marketing order will be the determining requirements for onions imported during the May 21 through June 15 period. Currently, imports of onions during that period are required to meet minimum requirements based on those established under the Idaho-Eastern Oregon marketing order. This rule changes onion import requirements to be the same as the South Texas requirements during that period. With that adjustment, the onion import requirement will be based on the requirements for South Texas onions during the period March 10 through June 15, and will be based on the requirements for Idaho-Eastern Oregon onions during the June 16 through March 9 period.

Red onion varieties are subject to minimum grade, size, quality, and maturity requirements under the Idaho-Eastern Oregon marketing order, but those requirements are not in effect for imported red onions during the South Texas regulatory period. However, based on a recommendation of the committee, the Department has established minimum requirements for red onion varieties grown in the South Texas production area. Since South Texas red onion varieties are regulated, red onions, imported from March 10 to June 15 shall be required to grade at least U.S. No. 1 with a 20 percent defect allowance and 1 and 3/4 inch minimum diameter. This requirement will be in effect through June 15 as the South Texas regulatory period has been extended to June 15.

A Notice of this rule was published in the June 29, 1994, issue of the Federal

Register [59 FR 33453]. Interested persons were invited to file written comments with respect to the proposal until July 29, 1994. No comments were received.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

In accordance with section 8e of the Act, the U.S. Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant material presented, including the proposal submitted by the committee, and other information, it is hereby found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR Part 980 is amended as follows:

1. The authority citation for 7 CFR Part 980 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 980—VEGETABLES; IMPORT REGULATIONS

§ 980.117 [Amended]

2. In § 980.117, paragraph (a)(2) is amended by removing the words "May 21" and adding in its place "June 16" and by removing the words "May 20" and adding in its place "June 15"; paragraph (b)(1) is amended by removing the words "May 21" and adding in its place "June 16"; and paragraph (b)(2) is amended by removing the words "May 20" and adding in its place "June 15".

Dated: September 8, 1994.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 94–22613 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 998

[Docket No. FV94–998–2FIR]

Clarification of Requirements Established Under Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts for 1994 and Subsequent Crop Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that clarifies that peanut handlers signatory to Peanut Marketing Agreement No. 146 (agreement) may store and shell certain Segregation 2 seed peanut lots with Segregation 1 seed peanut lots when such lots are produced under the auspices of a State agency, which regulates or controls their production. This rule also provides that the unchanged portions of the incoming, outgoing, and indemnification regulations currently in effect under the agreement for 1993 crop peanuts will be established for 1994 and subsequent crop peanuts.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (813) 299–4770, or FAX: (813) 299–5169; or Jim Wendland, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2170, or FAX: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 146 [7 CFR part 998] regulating the quality of domestically produced peanuts, hereinafter referred to as the agreement. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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

There are about 75 handlers of peanuts subject to regulation under the agreement, and about 47,000 peanut producers in the 16 States covered under the program. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the producers may be classified as small entities.

In 1993, the reported U.S. production, mostly covered under the agreement, was approximately 3.33 billion pounds of peanuts, a 22 percent decrease from 1992 and the lowest level since 1983. The preliminary 1993 peanut crop value is $991.65 million, 77 percent of the 1992 crop value.

The objective of the agreement, in place since 1965, is to ensure that only wholesome peanuts enter edible market channels. About 70 percent of U.S. shellers (handlers), handling approximately 95 percent of the crop, have voluntarily signed the agreement. Under the agreement, farmers' stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to non-edible uses. Each lot of milled peanuts must be sampled and the samples chemically analyzed for aflatoxin contamination. Signatory handlers who comply with these requirements may be eligible for indemnification of losses for individual lots of their peanuts which test positive to aflatoxin. Indemnification and administrative costs are paid by assessments levied on handlers signatory to the agreement.

The Committee, which is composed of growers and handlers of peanuts, meets to review the rules and regulations effective on a continuous basis for peanuts regulated under the agreement. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations will tend to effectuate the declared policy of the Act.

The Committee met on March 15 and 16, 1994, and unanimously recommended clarifying changes to § 998.100 Incoming quality regulation.

Section 998.34 of the agreement provides authority for the modification

of the incoming quality regulation by the Secretary of Agriculture, if the Secretary finds that such modification would tend to effectuate the objectives of the agreement.

After considerable discussion, the Committee unanimously recommended amending paragraph (e) *Seed peanuts* of § 998.100 to clarify that Segregation 2 seed peanuts meeting certain quality requirements may be stored and shelled with Segregation 1 seed peanut lots. Currently, paragraph (e) specifies that Segregation 3 seed peanut lots with visible *Aspergillus flavus* mold must be stored and shelled separate and apart from other peanuts. The regulation does not specifically state that Segregation 2 seed peanuts containing up to three percent damaged kernels and no visible *Aspergillus flavus* mold can be stored and shelled with Segregation 1 seed lots if the seed peanuts were produced under the auspices of a State agency. The Committee believes that the current provisions authorize such commingling but believe that the authority should be expressly stated to avoid confusion.

The Committee noted that requiring Segregation 2 seed peanuts to be stored separately from Segregration 1 seed peanuts would increase the number of storage bins handlers needed to maintain separation. This would increase handler costs. It also noted that requiring the Segregation 2 seed peanuts to be shelled separate and apart from Segregation 1 seed peanuts would increase handler shelling costs with no apparent benefits.

Therefore, the Committee recommended adding a sentence to paragraph (e) clarifying that seed peanut lots may be stored and shelled with Segregation 1 lots if: (1) The seed peanuts do not exceed 3 percent total damage and have no visible *Aspergillus flavus* mold; and (2) both the Segregation 2 seed peanut lot and the Segregation 1 seed peanut lot are produced under the auspices of a State agency which regulates or controls the production of seed peanuts.

This rule also provides that the unchanged portions of the incoming, outgoing, and indemnification regulations currently in effect under the agreement for 1993 crop peanuts be established for 1994 and subsequent crop peanuts.

Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the Committee, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** on July 18, 1994, [59 FR 36353] will tend to effectuate the declared policy of the Act. That rule provided that interested persons could file comments through August 17, 1994. No comments were received.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action clarifies requirements currently in effect for peanut handlers who are signatory to the agreement; and (2) the interim final rule provided that interested persons could file comments through August 17, 1994. No comments were received and the Department is adopting a final rule, without change, the provisions of the interim final rule.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

Accordingly, the interim final rule amending 7 CFR part 998 which was published at 59 FR 36353 on July 18, 1994, is adopted as a final rule without change.

Dated: September 8, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–22615 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 650

RIN 3052–AB49

Federal Agricultural Mortgage Corporation; Conflicts of Interest; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 650 on March 1, 1994 (59 FR 9622). The final regulation adds 12 CFR part 650 to require the Federal Agricultural Mortgage Corporation to adopt a conflict-of-interest policy that defines the types of relationships, transactions, or activities that might reasonably be expected to give rise to a potential conflict of interest. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is September 13, 1994.

EFFECTIVE DATE: The regulation adding 12 CFR part 650 published on March 1, 1994 (59 FR 9622) is effective September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Suzanne J. McCrory, Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4280, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: September 8, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–22599 Filed 9–12–94; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–SW–22–AD; Amendment 39–9023; AD 94–19–02]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, and 206L–3 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. Model 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, and 206L–3 series helicopters. This action requires initial and repetitive inspections of the swashplate for cracks in the swashplate support assembly fillet radius area and replacement, if necessary. This amendment is prompted by reports of cracks found in the swashplate support assembly fillet radius area near the base. The actions specified in this AD are intended to prevent failure of the swashplate support assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

DATES: Effective on September 28, 1994.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of September 28, 1994.

Comments for inclusion in the Rules Docket must be received on or before October 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–22–AD, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aviation Safety Engineer, Rotorcraft Certification Office, FAA, Rotorcraft Directorate, ASW–170, Fort Worth, Texas 76193–0170, telephone (817) 222–5177, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: This amendment adopts a new airworthiness directive (AD) applicable to Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, and 206L–3 series helicopters, equipped with swashplate support assembly, part number (P/N) 206–010–452–001, –005, or –109. BHTI has received three reports of swashplate support assemblies with cracks in the fillet radius area near the base. The cracks originated on the aft section of the swashplate support assembly. The total time-in-service (TIS) on each of the reported swashplate support assemblies exceeded 1,500 hours. The swashplate support assembly is a critical, non-rotating, rotor system component that supports the rotating swashplate. Through the swashplate support assembly and subsequently the swashplate, the pilot control movements that are necessary to maintain rotorcraft control are transferred to the main rotor system. Therefore, a crack in a swashplate support assembly creates an unsafe condition. This condition, if not corrected, could result in failure of the swashplate support assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

The FAA has reviewed and approved Bell Helicopter Textron, Inc. Alert Service Bulletin No. 206–93–74, Revision B, and 206L–93–89, Revision B, both dated April 4, 1994, which describe procedures for an initial visual inspection for cracks within the next 25 hours TIS using a 10-power magnifying glass, and thereafter, repetitive visual inspections for cracks at intervals not to exceed 50 hours TIS from the last inspection. The inspections are for swashplate support assemblies that have more than 1,500 hours TIS. If a crack is suspected, the Alert Service Bulletins provide for a dye penetrant inspection. If a crack is found, the applicable Alert Service Bulletin specifies replacement of the swashplate support assembly with an airworthy swashplate support assembly prior to the next flight. Neither BHTI Alert Service Bulletin No. 206–93–74, Revision B, nor 206L–93–89, Revision B, both dated April 4, 1994, shows the Model 206A–1 as being an affected model helicopter. However, this model helicopter uses the same swashplate support assembly as the Model 206A helicopter. Therefore, for purposes of this AD, Alert Service Bulletin No. 206–93–74, Revision B, dated April 4, 1994, will also apply to the Model 206A–1 helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other Bell Helicopter Textron, Inc. Model 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, and 206L–3 series helicopters of the same type design, this AD is being issued to prevent failure of the swashplate support assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter. For swashplate support assemblies that have 1,500 hours or more total TIS, this AD requires an initial visual inspection for cracks using a 10-power or higher magnifying glass within 25 hours TIS. Also, for swashplate support assemblies with less than 1,500 hours total TIS, this AD requires an initial visual inspection for cracks using a 10-power or higher magnifying glass prior to attaining 1,525 hours total TIS. Thereafter, repetitive inspections of the affected swashplate support assemblies are required at intervals not to exceed 50 hours TIS from the last inspection. If a crack is suspected, a dye penetrant inspection is required. Replacement of cracked swashplate support assemblies with airworthy swashplate support assemblies is required. Installation of an airworthy swashplate support assembly, P/N 206–010–452–113, constitutes a terminating action for the requirements of this AD. The actions are required to be accomplished in accordance with the service bulletins described previously. Due to the criticalness of the swashplate support assembly and the short compliance times, this rule must be issued immediately to correct an unsafe condition in aircraft.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–22–AD." The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) 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 a new airworthiness directive to read as follows:

AD 94–07–11 Bell Helicopter Textron, Inc. (BHTI): Amendment 39–8869. Docket Number 93–SW–22–AD.

Applicability: Model 206A, 206A–1, 206B, 206B–1, 206L, 206L–1, and 206L–3 series helicopters, equipped with swashplate support assembly, part number (P/N) 206–010–452–001, –005, or –109, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent failure of the swashplate support assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) For swashplate support assemblies with 1,500 hours or more total time-in-service (TIS), within the next 25 hours TIS, and thereafter at intervals not to exceed 50 hours TIS from the last inspection, visually inspect the swashplate support assembly in the fillet radius area for cracks using a 10-power or higher magnifying glass in accordance with the Accomplishment Instructions of the applicable BHTI Alert Service Bulletin (ASB) No. 206–93–74, Revision B, or 206L–93–89, Revision B, both dated April 4, 1994.

(b) For swashplate support assemblies with less than 1,500 hours TIS, prior to attaining 1,525 hours total TIS, and thereafter at intervals not to exceed 50 hours TIS from the last inspection, visually inspect the swashplate support assemblies in the fillet radius area for cracks using a 10-power or higher magnifying glass in accordance with the Accomplishment Instructions of the applicable ASB, dated April 4, 1994.

(c) ASB No. 206–93–74, Revision B, dated April 4, 1994, is applicable to BHTI Model 206A–1 helicopters in addition to the Model 206A, 206B and 206B–1 helicopters.

(d) If a crack is suspected, perform a dye penetrant inspection in accordance with the Accomplishment Instructions of the applicable ASB, dated April 4, 1994, before further flight.

(e) Replace any cracked swashplate support assembly with an airworthy assembly before further flight.

(f) Installation of a swashplate support assembly, P/N 206–010–452–113, constitutes a terminating action for the requirements of this AD.

Note: The swashplate support assembly, P/N 206–010–452–113, has a life limit of 4,800 hours TIS.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. 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.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(i) The inspections and replacement, if necessary, shall be done in accordance with BHTI ASB No. 206–93–74, Revision B, or 206L–93–89, Revision B, both dated April 4, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on September 28, 1994.

Issued in Fort Worth, Texas, on September 6, 1994.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–22414 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 93–ASW–52]

Establishment of Class D and Class E Airspace: Fort Sill, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action maintains the Class D airspace that was formerly a part of the Lawton, OK, Class D airspace, and establishes Class E airspace at Fort Sill, OK. Henry Post Army Airfield, Fort Sill, OK, was previously a satellite airport within the Lawton Class D airspace, Lawton, OK. The local aircraft operators requested and the FAA decided to divide the Lawton Class D airspace into two individual areas of Class D airspace; one area covering the Lawton Municipal Airport, Lawton, OK, and the other area covering Henry Post Army Airfield, Fort Sill, OK. Controlled airspace from the surface is needed at Fort Sill on a continuous basis for instrument flight rules (IFR) operations at Henry Post Army Airfield. Therefore, during the hours the Fort Sill airport traffic control tower (ATCT) is in operation, Class D airspace will be in effect, and during hours the ATCT is non-operational, Class E airspace will be in effect. This action is intended to provide for more flexibility in airspace utilization and to provide control over each individual area of airspace, particularly during times when the towers are non-operational.

EFFECTIVE DATE: 0901 UTC, December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Alvin DeVane, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 222–5595.

SUPPLEMENTARY INFORMATION:

History

On November 24, 1993, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to split the Class D airspace at Lawton, OK. into Lawton, OK, Class D airspace and Ft. Sill, OK, Class D airspace, and re-designate Lawton, OK, Class E airspace

as Fort Sill, OK, airspace, was published in the **Federal Register** (For Lawton, OK. at 58 FR 62057, for Fort Sill, OK. at 58 FR 62054). Prior to this action, Henry Post Army Airfield, Fort Sill, OK, was a satellite airport within the Lawton Class D airspace, Lawton, OK. Local aircraft operators requested and the FAA decided to divide the Lawton Class D airspace into two individual areas of Class D airspace; one area covering the Lawton Municipal Airport, Lawton, OK, and the other area covering Henry Post Army Airfield, Fort Sill, OK. This proposed action would provide for more flexibility and control of the airspace from the surface when it is needed at Fort Sill, OK, for instrument flight rules (IFR) operations at Henry Post AAF. This action will establish Class D airspace during hours the airport traffic control tower (ATCT) is operational and Class E airspace during hours the ATCT is non-operational.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The Notice of proposed rulemaking described extensions to the Class D airspace 4-mile radius as "within 1.3 miles each side of the 181° bearing from the Trail NDB extending from the 4-mile radius to 6.2 miles north of the Henry Post AAF and within 1.2 miles each side of the 003° radial of the Lawton VOR/DME extending from the 4-mile radius to 4.7 miles north of the Henry Post AAF". If any extension to a Class D airspace extends beyond 2 miles, all extensions for the Class D airspace area will be classified as Class E airspace. The airspace extensions as described in the NPRM would have lead to an incorrect classification of the airspace extensions as Class D airspace instead of Class E airspace. The proposal should not have included the extensions within the Class D description. Therefore, the narrative description of the Class D airspace has been corrected to exclude these extensions, and a separate Class E description has been added for this airspace. Other than these changes, this amendment is the same as that proposed in the notice. The FAA has determined that these changes will not increase the scope of this rule since they are relieving in nature, i.e., re-designating proposed Class D airspace to less restrictive Class E airspace.

The coordinate for this airspace docket are based on North American Datum 83. Class D airspace designations are published in paragraph 5000, Class E extensions to a Class D surface area are published in paragraph 6004, and Class E airspace designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes separate Class D and Class E airspace for Henry Post Army Airfield, Fort Sill, OK.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operational current. If, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000: General

* * * * *

ASW OK D Fort Sill, OK [New]

Henry Post Army Air Field, OK
(lat. 34°39'00" N, long. 98°24'07" W)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4-mile radius of Henry Post AAF excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated and excluding that airspace south of a line between lat. 34°36'18" N, long. 98°20'33" W, and lat. 34°37'16" N, long. 98°28'29" W. This Class D surface area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6004: Class E airspace areas designated as an extension to a Class D surface area

* * * * *

ASW OK E4 Fort Sill, OK [New]

Henry Post Army Air Field, OK
(lat. 34°39'00" N, long. 98°24'07" W)
Trail NDB
(lat. 34°46'53" N, long. 98°24'08" W)
Lawton VOR/DME
(lat. 34°29'46" N, long. 98°24'47" W)

That airspace extending upward from the surface within 1.3 miles each side of the 181° bearing from the Trail NDB extending from the 4-mile radius to 6.2 miles north of the Henry Post AAF and within 1.2 miles each side of the 003° radial of the Lawton VOR/DME extending from the 4-mile radius to 4.7 miles north of the Henry Post AAF excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6002: Class E airspace areas designated as a surface area for an airport

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ASW OK E2 Fort Sill, OK [New]

Henry Post AAF, OK
(lat. 34°39'00" N, long. 98°24'07" W)
Trail NDB
(lat. 34°46'53" N, long. 98°24'08" W)
Lawton VOR/DME
(lat. 34°29'46" N, long. 98°24'47" W)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4-mile radius of Henry Post AAF and within 1.3 miles each side of the 181° bearing from the Trail NDB extending from the 4-mile radius to 6.2 miles north of the Henry Post AAF and within 1.2 miles each side of the 003° radial of the Lawton VOR/DME extending from the 4-mile radius to 4.7 miles north of the Henry Post AAF excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated and excluding that airspace south of a line between lat. 34°36'18" N, long. 98°20'33" W, and lat. 34°37'16" N, long. 98°28'29" W. This Class E airspace area is effective during the specific

dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX, on August 26, 1994.

Helen Fabian Parke,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 94–22622 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ASW–51]

Modification of Class D: Lawton, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace at Lawton, OK. The current Lawton, OK, Class D airspace encompasses both the Lawton Municipal Airport, Lawton, OK, and Henry Post Army Airfield, Fort Sill, OK. The local aircraft operators requested and the FAA decided to divide the Lawton Class D airspace into two individual areas of Class D airspace; one area covering the Lawton Municipal Airport, Lawton, OK, and the other area covering Henry Post Army Airfield, Fort Sill, OK, as well as re-designate the former Lawton Class E airspace as Fort Sill, OK, Class E airspace. This action is intended to provide for more flexibility in airspace utilization and provide control over each individual area of airspace, particularly during times when the towers are non-operational.

EFFECTIVE DATE: 0901 UTC, December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Alvin DeVane, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone (817) 222–5595.

SUPPLEMENTARY INFORMATION:

History

On November 24, 1993, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace at Lawton, OK, was published in the **Federal Register** (58 FR 62057). A request was made by local aircraft operators to divide the Lawton Class D airspace, Lawton, OK, into two separate areas of Class D airspace; one area covering the Lawton Municipal Airport, Lawton, OK, and one covering Henry Post Army Airfield (AAF), Fort Sill, OK. This proposed modification would allow for more flexibility in controlling each individual area of airspace to the extent deemed necessary, particularly during the times when the towers are non-operational.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. The current Lawton Class D airspace has Class E extension's to the surface area. When Lawton Municipal Airport and Henry Post AAF were designated as separate Class D airspace areas, it became necessary to re-designate the Class E extension's to the previous Lawton Class D airspace area as Class E extension's to the Fort Sill Class D airspace because of their locations. The original proposal failed to address this situation. Therefore, this action corrects that oversight by revoking the Class E extension's to the Lawton Class D airspace. The Class E airspace extension's that have been revoked by this action have been re-instated in the rulemaking action that establishes the Class D airspace for Henry Post Army Airfield, Fort Sill OK. Except for this change, the amendment is the same as that proposed in the notice. The FAA has determined that this change will not increase the scope of this rule because it is relieving, i.e. it revokes previous Class E airspace making it less restrictive.

The coordinates for this airspace docket are based on North American Datum 83. Class D and Class E airspace designations are published respectively in paragraphs 5000 and 6004 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D airspace at Lawton, OK, to separate the Lawton Class D airspace into two separate Class D airspace; one area covering the Lawton Municipal Airport, Lawton, OK, and one covering Henry Post Army Airfield, Fort Sill, OK. This action also revokes the Class E extension's to the previous Lawton, OK, Class D airspace so it can be redesignated as Fort Sill, OK, Class E airspace.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000: General

* * * * *

ASW OK D Lawton, OK [Modify]

Lawton Municipal Airport, OK
(lat. 34°34′04″ N., long. 98°25′00″ W.)

That airspace extending upward from the surface to and including 3700 feet MSL within a 4.3-mile radius of the Lawton Municipal Airport excluding that airspace north of a line between lat. 34°36′18″ N., long. 98°20′33″ W. and lat. 34°37′16″ N., long. 98°28′29″ W. This Class D surface area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6004: Class E airspace areas designated as an extension to a Class D surface area

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ASW OK E4 Lawton, OK [Revoke]

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Issued in Fort Worth, TX, on August 25, 1994.

Helen Fabian Parke,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 94–22621 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 102]

Camp Counselors; Limitation of Program Participation

AGENCY: United States Information Agency

ACTION: Final rule.

SUMMARY: By this notice the Agency adopts as final, and without change, the Interim Rule published in the **Federal Register** on April 11, 1994 (59 FR 16983), which amended 22 CFR 514.30.

EFFECTIVE DATE: This rule became effective April 11, 1994.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 4th Street, SW., Washington, DC, 20547, (202) 619–6829.

SUPPLEMENTARY INFORMATION: On April 11, 1994, the Agency published in the **Federal Register** an interim rule with request for comments. The interim rule amended § 514.30, which governs the administration of camp counselor exchanges conducted under the auspices of the Exchange Visitor Program. Specifically, this amendment permits repeat participation, in excess of two summers, for no more than ten percent of each Agency-designated sponsor's camp counselor exchange participants for a particular exchange year.

Despite assertions received by the Agency to the contrary, the designation of exchange visitor sponsors and the administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the Untied States. The Administrative Procedure Act, 5 U.S.C. 553(a)(1)(1989) specifically exempts such functions from the requirements of the Act. Nevertheless, the Agency invited comments from the public on the matter.

Three comments were received, all of them favorable. One comment from Camp America noted that the ten percent rule would provide opportunities to the greatest number of participants while minimizing disruption of existing programs. Another, from the Alliance for International Educational and Cultural Exchange, noted that the interim rule adopted a "reasonable compromise" to the concerns raised by Alliance members and the American Camping Association, although it noted for the record that camp counselor sponsors did not support the participation limitation for counselors. The Alliance also expressed a reservation regarding the ability of sponsors to ascertain whether an individual has previously participated in any other camp counselor programs, and recommended that the rule be modified to require only that a sponsoring organization be responsible for reporting its own repeat participation rate.

Although the Agency is aware that sponsors may not have adequate resources to detect an outright fabrication about program participation by a prospective counselor, it is nevertheless incumbent upon sponsoring organizations to use every reasonable means at their disposal to ascertain that counselor's program participation history. This includes, but is not limited to, informing the counselor of the importance of the participation requirement and explicitly asking potential counselors about prior participation.

The information collection requirement of this regulation has been submitted to and approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. It is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

Accordingly, the Interim Rule which amended 22 CFR 514.30, published at 59 FR 16983 on April 11, 1994 is adopted as a Final Rule without change.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: September 7, 1994.

Les Jin,

General Counsel.

[FR Doc. 94–22629 Filed 9–12–94; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Paducah 94–001]

RIN 2115–AA97

Safety Zone; Upper Mississippi River, Mile 42.0 to Mile 43.7

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Upper Mississippi River. This regulation is needed to restrict vessel traffic in the regulated area to prevent an allision with the salvage equipment located mid-channel at mile 43.0, Upper Mississippi River. The regulation restricts general navigation in the regulated area for the safety of vessel traffic and the protection of life and property along the river.

EFFECTIVE DATE: This regulation is effective on August 24, 1994 and terminates on October 24, 1994.

FOR FURTHER INFORMATION CONTACT: LT Eric J. Mosher, Operations Officer, Captain of the Port, Paducah, Kentucky at (502) 442–1621.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LT Eric J. Mosher, Project Officer, Marine Safety Office, Paducah, Kentucky and LT Sanders Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent decreases in the river levels of the Upper Mississippi River have necessitated the removal and salvage of two sunken barges at miles 43.0 and 42.7 that have been determined to be a hazard to navigation in that area. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Background and Purpose

The situation requiring this regulation is the reduction of the channel width to 200 feet from below the Thebes Railroad Bridge at mile 43.7 to mile 42.0 due to the presence of salvage equipment. The

salvage equipment is on scene to refloat two sunken barges at miles 43.0 and 42.7 that have been determined to be a hazard to navigation in that area. The regulation is intended to restrict all vessels to the following provisions. Meeting, overtaking or passing in the safety zone is prohibited. Upbound tows transiting the safety zone are limited in size to twenty barges and not more than four wide. Downbound tows transitting the safety zone are limited in size to fifteen barges and not more than three wide. During daylight hours, all vessels approaching the safety zone must contact the Coast Guard representative on board the M/V CAPTAIN VAL on VHF–FM channels 6, 13 or 16 for passing instructions. Upbound vessels must call in when approaching mile 39.0 and downbound vessels must call in when approaching mile 58.0. During hours of darkness, all vessels must use all reasonable means to identify vessels transiting or approaching the safety zone and make safe passing arrangements. All vessels must transit the safety zone at their slowest safe speed and should expect delays. All vessels are urged to give the widest possible berth to salvage equipment and operations. All vessels transiting the area are urged to exercise extreme caution.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). Because the duration of this emergency situation is anticipated to be short, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port, Paducah, Kentucky will monitor river conditions and will authorize unrestricted entry into the restricted area as conditions permit. Changes will be announced by Marine Safety Information Radio broadcast (Broadcast Notice to Mariners) on VHF marine band radio, channel 22 (157.1 MHz). Mariners may also call the Marine Safety Office, Paducah, Kentucky for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism Assessment

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this regulation is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A temporary § 165.T02–064 is added, to read as follows:

§ 165.T02–064 Safety Zone: Upper Mississippi River mile 42.0 to 43.7.

(a) *Location.* The Upper Mississippi River between mile 42.0 and mile 43.7 is established as a safety zone.

(b) *Effective dates.* This section becomes effective on August 24, 1994 and terminates on October 24, 1994.

(c) *Regulations.* Under the general regulations of § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. The Captain of the Port will notify the maritime community of river conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22(157.1 MHz).

Dated: August 24, 1994.

Robert M. Segovis,

Commander, U.S. Coast Guard, Captain of the Port, Paducah, Kentucky.

[FR Doc. 94–22639 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–94–064]

RIN 2115–AA97

Safety Zone; Widmann Wedding Fireworks Display, Sheffield Island, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in Sheffield Harbor, around the fireworks barge C–33 located approximately 1200 feet northwest of the abandoned lighthouse on Sheffield Island, Norwalk, CT from 9:15 p.m. through 10 p.m. on September 17, 1994. This safety zone is needed to protect the maritime community from possible navigation hazards associated with a fireworks display. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

EFFECTIVE DATE: This rule is effective from 9:15 p.m. through 10 p.m. on September 17, 1994, unless extended or terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T.V. Skuby, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4464.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LCDR T.V. Skuby, project officer for Captain of the Port, Long Island Sound, and LCDR J. Stieb, project attorney, First Coast Guard District Legal Office.

Regulatory History

On July 13, 1994, the Coast Guard published a notice of proposed rulemaking entitled Safety Zone; Widmann Wedding Fireworks Display, Sheffield Island, CT in the Federal Register (59 FR 35661). The deadline for the submission of comments was August 12, 1994. Accordingly, there is insufficient time available to publish

this final rule 30 days in advance of the event. The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held. The Captain of the Port, Long Island Sound has decided to publish the final rule as proposed.

Background and Purpose

The sponsor, Jim Widmann, President of CT Pyro Display Company, South Norwalk, CT has requested that a fireworks display be permitted in the port of Norwalk in the vicinity of Sheffield Island, Norwalk CT. This safety zone is required to protect the maritime community from the dangers associated with this fireworks display. The zone covers all waters of Sheffield Harbor within a 1200 foot radius of the fireworks barge C–33.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The safety zone will last approximately 45 minutes. The area affected by this event receives infrequent commercial traffic. Because of the short duration of the event, and the extensive advisories which will be made, commercial entities will be able to adjust to any disruptions. The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons addressed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–064 is added to read as follows:

§ 165.T01–064 Safety Zone; Widmann Wedding Fireworks Display, Sheffield Island, CT.

(a) *Location.* The safety zone includes all waters of Sheffield Harbor within a 1200 foot radius of the barge C–33, the fireworks launching platform, which will be located approximately 1200 feet northwest of the abandoned lighthouse on Sheffield Island, Norwalk, CT in approximate position 41°03'N, 073°25.5'W.

(b) *Effective date.* This section is effective from 9:15 p.m. through 10 p.m. on September 17, 1994, unless extended or terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations covering safety zones contained in section 165.23 of this part apply.

Dated: August 31, 1994.

T.W. Allen,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 94–22638 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL63–1–5716a; FRL–5070–9]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) approves Illinois' 1990 base year ozone precursor emission inventories for certain ozone nonattainment areas as revisions to the Illinois ozone State Implementation Plan (SIP). The emission inventories were submitted by the State of Illinois to satisfy a Federal requirement that States containing ozone nonattainment areas submit inventories of actual ozone precursor emissions in accordance with USEPA guidance. The ozone nonattainment areas covered by the emission inventories addressed in this rulemaking are: Chicago (Cook, DuPage, Kane, Lake, McHenry, and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County); Metro-East St. Louis (Madison, Monroe, and St. Clair Counties); and Jersey County. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address the comments received in response to this final rule in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**.

DATES: This final rule will be effective November 14, 1994 unless an adverse comment is received by October 13, 1994. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–

18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision and USEPA's analyses are available for inspection at the following address: (It is recommended that you telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section (AR–18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION:

I. Emission Inventory Policy and Guidelines

Under the Clean Air Act (Act), as amended in 1990 (amended Act), States have the responsibility to inventory emissions contributing to the violation of National Ambient Air Quality Standard (NAAQS), to track these emissions over time, and to ensure that control strategies are implemented to reduce the emissions and move the areas towards attainment of the NAAQS. States containing ozone nonattainment areas are required, under section 182(a)(1) of the amended Act, to submit by November 15, 1992, a comprehensive, accurate and current inventory of actual ozone precursor emissions (emissions of Volatile Organic Compounds (VOC), Oxides of Nitrogen (NO_X), and Carbon Monoxide (CO)) for each ozone nonattainment area. This inventory must include base year (1990) emissions from point, area, on-road mobile, and non-road mobile anthropogenic (man-made) sources and biogenic (natural or plant generated) sources in the ozone nonattainment area(s) and the ozone precursor emissions from major stationary source (with VOC, NO_X, or CO emissions equal to or exceeding 100 tons per year) located within 25 miles of the nonattainment area(s). The emissions inventory must be established for the peak ozone season (those months when peak hourly ozone concentrations occur in excess of the primary ozone NAAQS, generally June through August in Illinois) and must represent typical weekday emissions. Available guidance for preparing and reviewing the emission inventories is provided in the General Preamble to title I of the Act. See 57 FR 13498 (April 16, 1992). Additional guidance is identified in the Technical Support Document (TSD) for this rulemaking.

The amended Act also requires States with ozone nonattainment areas classified as moderate, serious, severe, or extreme to submit a plan by November 15, 1993 to reduce VOC emissions by 15 percent by November 15, 1996. The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year emissions inventory to exclude biogenic emissions and certain emission reductions not creditable toward the 15 percent Reasonable Further Progress (RFP) requirement. The 1990 base year emissions inventory is the primary emissions inventory from which the RFP projection inventory, future period inventories, and attainment demonstration modeling inventories are derived. Further information on these inventories and their purposes can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991.

As a primary tool for the review of the quality of emission inventory submittals, the USEPA has developed three levels (I, II, and III) of emission inventory quality assurance review checklists. The Level I and II reviews are used to determine that all required components of the base year emission inventory and its associated documentation are present. These reviews also evaluate the level of quality of the supporting documentation and the data provided by the State and assess whether the emission estimates were developed according to current USEPA guidance. The Level III review evaluates 10 crucial aspects and the overall acceptability of the emission inventory submittal. Failure to meet one of these crucial aspects would lead to disapproval of the emission inventory submittal. The 10 crucial aspects of the emission inventory submittal are:

1. An Inventory Preparation Plan (IPP) must be submitted by the State and approved by the USEPA. In addition, a Quality Assurance (QA) plan contained within the IPP must have been implemented and documented.
2. The emission inventory submittal must contain adequate documentation showing the procedures and input data used and the input data sources.
3. The point source portion of the inventory must be complete.
4. The point source emissions must have been prepared or calculated in accordance with current USEPA guidance.
5. The area source portion of the inventory must be complete.
6. The area source emissions must have been calculated in accordance with current USEPA policy.
7. The biogenic emissions must have been calculated using USEPA's PC-Biogenic Emissions Inventory System (PC-BEIS) or other equivalent technique in accordance with current USEPA guidance.
8. The Vehicle Miles Travelled (VMT) estimates used in the calculation of on-road mobile source emissions must have been adequately documented in the inventory submittal.
9. The MOBILE emission factor model must have been correctly applied to produce emission factors for each of the vehicle classes.
10. Non-road mobile source emissions must have been prepared in accordance with current USEPA guidance for all of the non-road mobile source categories.

Detailed Level I and II review procedures and questions may be found in the "Quality Review Guidelines for 1990 Base Year Emission Inventories," United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, July 1992. Level III criteria are specified in a memorandum from David Mobley, Emission Inventory Branch, Office of Air Quality Planning and Standards, USEPA, to the Chief of the Regulation Development Branch, Region V, et al., titled "Final Emission Inventory Level III Acceptance Criteria," October 7, 1992.

The Act requires States to observe certain procedural requirements in development and submitting SIP revisions, including the base year emissions inventory submittal. Section 110(a)(2) of the Act provides that each SIP revision submitted by the State must be adopted after reasonable notice and public hearing. Final approval of the emissions inventory would not occur until the State revises the emissions inventory to address public comments. Future changes to the base year emission inventory (due to previously missed sources or to corrected source emission factors or activity levels) that impact the 15 percent RFP calculations or the demonstration of attainment or that require a revised emission control strategy will be required to be addressed in a SIP revision.

II. Illinois' Emission Inventory Submittals

On November 12, 1993, the Illinois Environmental Protection Agency (IEPA) submitted the final, adopted base year ozone precursor emission inventories for the Chicago, Metro-East

St. Louis (the Illinois portion of the St. Louis/Metro-East St. Louis ozone nonattainment area), and Jersey County ozone nonattainment areas. The emission inventory submittals cover the emissions of VOC, NO_X, and CO for each of the ozone nonattainment areas as well as the emissions from major stationary sources located within 25 miles of the ozone nonattainment areas.

Prior to developing the base year emission inventories, the IEPA developed an IPP as required by the USEPA. This IPP outlined the procedures that would be followed in preparing and documenting the emission inventories and defined the QA procedures that would be used to assure the accuracy and completeness of the emission inventories. The IPP was submitted to the USEPA in March 1992, and was approved by the USEPA in May 1992.

Emissions contained in the emission inventories cover the general source categories of stationary point sources (or simply point sources), area sources, on-road mobile sources, off-road mobile sources, and biogenic sources. Emission inventory summary tables in the submittals include more detailed source category breakdowns as requested by the USEPA. All emission summaries were accompanied by documentation covering the sources and values of input data and by sample calculations.

To determine point source emissions, the IEPA used permit-based data from the State's Emission Inventory System (EIS) for all process emission sources in the ozone nonattainment areas and for major sources located within 25 miles of the ozone nonattainment areas. This data base provided current documentation of the facility-specific and source type-specific emissions for all facilities with VOC, NO_X, or CO emissions to an accuracy of 0.1 pounds per hour. Data obtained from the EIS were cross-referenced with data from other databases, such as USEPA's Toxic Release Information System (TRIS) and the Illinois Manufacturers Directory to assure data accuracy and completeness of source coverage. Potentially missing sources were identified and were contacted concerning their ozone precursor emissions.

The point source portions of the emission inventories contain detailed facility-specific emission listings at the source segment level as well as facility emission totals. All facilities emitting VOC, NO_X, or CO at an actual rate of 10 tons per year or more are covered in the point source emission listings (many facilities with lower emissions are also included). Emissions were calculated using techniques outlined in the approved IPP and included the use of emission factors obtained from stack tests, the AP–42 Compilation of Air Pollution Emission Factors, and other publications containing current emission factors.

The point source inventory detailed listings identify the emission factors, source activity levels or throughputs, operating schedules, and control equipment efficiencies used for each facility and source segment. All emissions were adjusted in the facility emission totals to reflect weekday emissions for the June through August period. Where covered by emission controls, total facility emissions were adjusted to account for rule effectiveness and rule penetration. Sources subject to controls with emission control efficiencies equal to or greater than 95 percent were covered by facility-specific rule effectiveness studies. For these facilities, rule effectiveness values determined through the studies were applied to the facility emissions. For those facilities with emission control efficiencies equal to or greater than 95 percent but not covered specifically in the rule effectiveness studies, a median rule effectiveness level of 92.1 percent was assumed. For all other facilities, a default rule effectiveness of 80 percent was assumed. Using guideline emission profiles, the State has adjusted emissions to exclude compounds considered by the USEPA to be nonreactive.

Area source emissions were calculated using a variety of information sources and guidance from the USEPA. Where appropriate, point source emissions have been subtracted from the calculated area source emissions to account for source coverage overlap between the point source emissions and the area source emissions and to avoid double counting of emissions. For all source categories covered by emission control regulations, the IEPA has assumed a rule effectiveness level of 80 percent where sources are covered by emission control regulations.

To estimate the area source emissions, the IEPA primarily relied on the USEPA guidance documents, *Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone, Volumes I and II,* EPA–450/4–91–016 and EPA–450/4–91–014, May 1991. The documentation of the area source emissions covers the techniques used for each source category. Sample calculations are given for each source category and input data are documented for each source category by county. The data are well documented in both hard copy and in computer data files submitted as additional documentation.

On-road mobile source emissions were calculated using USEPA's *Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources* and USEPA's MOBILE5a emission factor model. Weekday average Vehicle Miles Travelled (VMT) and speed data by roadway link were obtained by the IEPA from the Chicago Area Transportation Study (CATS) for the Chicago urban area and from the East-West Gateway Coordinating Council (EWGCC) for the Metro-East St. Louis urban area. These VMT and speed data were produced by the application of transportation models in these urban areas. The Illinois Department of Transportation (IDOT) provided VMT data by county and roadway type for the roadways outside of the urban areas and for roadways in the urban areas not covered by the transportation models. The VMT data have been quality assured by comparison of modelled roadway link traffic levels with current traffic counts (the IDOT VMT estimates were derived directly from current traffic counts). All VMT data supplied by CATS, EWGCC, and IDOT were adjusted, based on monthly traffic data, to reflect VMT levels during the peak ozone season. To determine speeds for roadways not covered by the CATS and EWGCC urban transportation models, the IEPA developed tables of speeds by roadway type based on the averages of speeds by roadway types derived in the CATS and EWGCC urban transportation models. Speeds for both congested periods and for noncongested periods were considered in the calculation of average day emission levels. The IEPA, based on hourly averaged traffic data, assumed that 75 percent of the daily VMT occurred at congested period speeds and that 25 percent of the daily VMT occurred during noncongested periods. It should be noted that the vehicle speeds were generated by the traffic models rather than generated independently as inputs to the traffic models. The IEPA has reviewed the speed assignments by roadway type and county and asserts that the speeds generated by the model are conceptually sound and are viewed as being quality assured.

The IEPA used the modelled VMT and speed data along with other area-specific data, such as the areas' representative vehicle type distribution based on vehicle registration data, and default data and USEPA's MOBILE5a model to estimate the on-road mobile source emissions. These emission estimates were adjusted to account for the impacts of vehicle Inspection and

Maintenance (I/M) and the average minimum and maximum daily temperatures on the ten highest ozone days in each ozone nonattainment area. All input data used in the MOBILE5a modeling were described and documented in the emission inventory submittals.

Off-road mobile source emissions for railroad locomotives were based on the annual amount of fuel oil used by locomotives in the ozone nonattainment areas and AP–42 emission factors. County fuel oil usage rates were calculated by apportioning State total fuel oil usage based county track mileage. To calculate daily emission rates, locomotive usage was assumed to be uniform throughout the year and occurring over 6½ days per week. VOC emissions were multiplied by 0.98 to remove the emissions of methane.

Off-road mobile source emissions for aircraft were based on landing/takeoff rates for O'Hare and Midway Airports in the Chicago area accounting for the number and types of engines for each type of plane. Emissions by engine type were obtained from current Federal Aviation Administration (FAA) reports. Emissions for all other airports were determined considering annual operations (a landing or a takeoff) for each airport (landing/takeoff rates are assumed to equal one-half the number of annual operations). For these airports, annual emissions were determined using the derived landing/takeoff rates and default emission factors obtained from FAA reports. All aircraft emissions, calculated on an annual basis, were converted to daily emissions assuming uniform operations throughout the year and throughout the week.

Off-road mobile source emissions for commercial vessels were determined by considering distillate and residual fuel oil sales data and vessel movement data combined with AP–42 emission factors. Emissions were apportioned to counties by considering the county mileage of navigable waterways and tonnage of shipments.

Off-road mobile source emissions for all other off-road mobile source categories were determined as part of an USEPA off-road emission study. This 1991 study directly supplied emissions for the Chicago and St. Louis/Metro-East St. Louis ozone nonattainment areas. Off-road mobile source emissions for Jersey County were derived from the 1991 USEPA study by proportioning the study derived emissions for the St. Louis area to Jersey County on the basis of population ratios and other source activity levels.

Biogenic emissions for all three areas were determined using USEPA's PC–BEIS biogenic emissions calculation model. Information on land use, an input to the model, was obtained from several sources. Agricultural data for 1990 was obtained from the 1991 *Illinois Agricultural Statistics*. Information on the amount of land covered by forests was found in *Forest Resources in Illinois: An Atlas and Analysis of Spatial and Temporal Trends*. The area of water for each county was obtained from the *1987 Inventory of Illinois Surface Water Resources*. Other land use data were taken from the database supplied with the PC–BEIS model. Meteorological data used with PC–BEIS were determined by following USEPA guidance on the use of PC–BEIS and considering the ten days (1988 through 1990) with the highest peak hourly ozone concentrations in each ozone nonattainment area. The representative day (from a meteorological standpoint) was selected as the day with the fourth highest daily maximum ozone concentration for each ozone nonattainment area. All data considered in the modeling of biogenic emissions were documented in the emission inventory submittals and included in associated computer-based data files.

The emissions in units of tons/day for an average summer weekday are summarized for each ozone nonattainment area below:

CHICAGO OZONE NONATTAINMENT AREA

Source type	VOC	CO	NO_x
Point Sources	313.05	704.06	263.42
Area Sources	268.01	22.46	23.83
On-Road Mobile Sources	491.22	2924.41	540.26
Off-Road Mobile Sources	144.28	1086.60	167.51
Biogenic Sources	109.81	N.A.	N.A.
Totals	1326.37	4737.53	995.02

METRO-EAST ST. LOUIS OZONE NONATTAINMENT AREA

Source category	VOC	CO	NO_x
Point Sources	74.05	113.93	95.85
Area Sources	33.84	3.46	1.66
On-Road Mobile Sources	43.27	281.89	45.13
Off-Road Mobile Sources	23.49	108.20	23.99
Biogenic Sources	53.59	N.A.	N.A.
Totals	228.24	507.48	166.63

JERSEY COUNTY

Source category	VOC	CO	NO_x
Point Sources	0.08	0.00	0.00
Area Sources	2.79	0.56	0.06
On-Road Mobile Sources	1.51	9.74	1.50
Off-Road Mobile Sources	1.41	5.93	2.76

JERSEY COUNTY—Continued

Source category	VOC	CO	NO_x
Biogenic Sources	14.65	N.A.	N.A.
Totals	20.44	16.23	4.32

III. Final Rulemaking Action

The USEPA has conducted Level I, II, and III quality assurance reviews of the Illinois emission inventory submittals and has concluded that the State of Illinois has met the requirements of section 182(a)(1) of the Act by submitting an ozone precursor emission inventory that includes comprehensive, accurate, and current actual emissions from all identified sources in the subject ozone nonattainment areas. In particular, the Illinois submittals meet the 10 crucial criteria contained in the Level III quality assurance review. The emissions inventory is, therefore, approved for incorporation in the SIP as satisfying the requirements of section 182(a)(1) of the amended Act. This approved SIP revision and the emission levels contained within it will form the basis for subsequent SIP revisions dealing with RFP and attainment of the ozone standard.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the requested SIP revision should adverse or critical comments be filed. This action will be effective on November 14, 1994, unless adverse or critical comments are received by October 13, 1994.

If the USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 14, 1994.

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), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

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 any 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., 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 economic 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.

The SIP approvals under section 110 and subchapter I, part D, of the Act 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 small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 307(b)(1)of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose 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, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 2, 1994.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraph (i) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(i) The base year ozone emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for the following Illinois ozone nonattainment areas: the Chicago nonattainment area—Cook, Du Page, Kane, Lake, Will and McHenry Counties, Aux Sable and Gooselake Townships in Grundy County and Oswego Township in Kendall County—, the Metro-East St. Louis nonattainment area—Madison, Monroe, and St. Clair Counties—, and Jersey County.

[FR Doc. 94–22640 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OH57–2–6367; FRL–5054–5]

Approval and Promulgation of Implementation Plans; Ohio

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

ACTION: Final rule.

SUMMARY: The USEPA is partially approving and partially 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 emissions monitoring (CEM) and reporting. The revision request consists of CEM requirements contained in operating permits. USEPA is disapproving the CEM requirements contained in expired permits and approving the CEM requirements that are contained in unexpired permits. Additionally, there are no NO_x sources in the specified category. Therefore, USEPA is also approving Ohio's negative declaration for NO_x sources.

USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act.

EFFECTIVE DATE: This final rule becomes effective on October 13, 1994.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Maggie Greene, at (312) 886–6088, before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604.

A copy of this requested revision to the Ohio SIP is also available for inspection at the following address: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

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:

I. Summary of State Submittal

On January 5, 1987, the Ohio Environmental Protection Agency (OEPA) submitted to the USEPA a request for a revision to the Ohio SIP for particulate matter and nitrogen oxides for sources within specified source categories that require continuous emissions monitoring (CEM) and reporting. The revision request consisted of CEM requirements contained in operating permits for 116 associated sources at 37 facilities.

The revision was submitted to satisfy the requirements of 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 source categories identified in 40 CFR part 51, appendix P.

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.

On March 11, 1994, the USEPA published a rulemaking action in the **Federal Register** (59 FR 11569) proposing to disapprove the requested revision because the CEM requirements were contained in expired permits and were no longer enforceable. USEPA stated in the proposed rulemaking action that if the OEPA submitted up-to-date permits containing approvable CEM requirements for the facilities covered by the revision, USEPA would approve the revision request through the effective dates of such permits.

On April 11, 1994, the OEPA submitted a new revision request to USEPA in response to the March 11, 1994 proposed rulemaking, along with its comments on the rulemaking. Comments were also received from Dayton Power and Light Company (DP&L), and Fuller & Henry on behalf of the Environmental Committee of the Ohio Electric Utility Institute and the following member companies: Buckeye Power, Inc., Columbus Southern Power Company, Dayton Power and Light Company, Ohio Edison Company, Ohio Power Company, Ohio Valley Electric Corporation, The Cleveland Electric Illuminating Company, The Cincinnati Gas & Electric Company, and The Toledo Edison Company (Ohio Utilities).

II. Public Comments and USEPA Responses

USEPA's evaluation of the comments is summarized below.

OEPA Comment: On May 5, 1987, USEPA approved Ohio EPA's SIP revision based on permits to operate which incorporated the appendix P sulfur dioxide monitoring requirements for Coulton Chemical Plant in Toledo, Ohio and the E. I. duPont de Nemours and Company facility in Miami, Ohio that were issued on January 3, and March 25, 1986, respectively.

USEPA Response: This rulemaking action involves CEM requirements for particulate matter and nitrogen oxide emissions. As stated in the proposed rulemaking action, this revision request does not apply to the monitoring of sulfur dioxide emissions at fossil fuel-fired steam generators and sulfuric acid plants. The sulfur dioxide CEM requirements for the above facilities were discussed in a separate **Federal Register** rulemaking (54 FR 1693), dated January 17, 1989.

OEPA Comment: Failure on the part of USEPA to act on the opacity monitoring provisions of the SIP in a timely manner has adversely affected the State since it is required to resubmit additional documentation and be subject to changes in USEPA policy.

USEPA Response: This Agency is limited to taking action on the revision request that has been formally submitted to it, and has no choice except to disapprove CEM, recording, and reporting requirements contained in unenforceable expired permits.

OEPA Comment: As late as April 8, 1994, Ohio EPA staff has been told that even if OEPA filed the required information in accordance with the March 11, 1994 **Federal Register**, the SIP submittal may not be approvable.

USEPA Response: This comment seems to be the result of a misconception on the part of OEPA. USEPA stated in the March 11, 1994 **Federal Register** that if the OEPA submitted up-to-date permits, containing approvable CEM requirements, the USEPA would then approve the revision request in the final rulemaking action. In an April 5, 1994, discussion regarding furnishing OEPA example CEM rule language, it was mentioned that USEPA was exploring the possibility of conditionally approving the SIP revision request in the final action. It was further stated that conditionally approving the revision might not be possible and the issue would be discussed further with OEPA. No statement was made that the revision might not be approved if up-to-date permits were submitted to USEPA.

Ohio Utilities Comment: The Ohio Utilities' stated concern with USEPA's proposed disapproval action is OEPA's proposed incorporation of the CEM program into Ohio's SIP on a permit-by-permit basis. This method of adopting approvable CEM requirements creates an unnecessary burden on Ohio EPA and the regulated community, fails to recognize the flexibility needed to operate a successful CEM program, and

does not allow for due process as in the case of rulemaking. USEPA should instead require Ohio EPA to go through rulemaking procedures and adopt 40 CFR part 51, appendix P to satisfy CEM requirements.

The Ohio Utilities also expressed concern that permit specific CEM requirements place unnecessary burdens on OEPA and the regulated community and that there is little or no opportunity for public comment.

USEPA Response: The USEPA has requested that the OEPA go through rulemaking procedures and adopt the CEM requirements in 40 CFR part 51, appendix P by revising language in existing Ohio Administrative Code rules or by adopting new rules. OEPA's promulgation of rules will resolve the problems associated with incorporating the CEM requirements into the SIP on a permit-by-permit basis. The rules would require that all sources in a category listed in 40 CFR part 51, appendix P install, calibrate, maintain and operate equipment for continuously monitoring, recording and reporting emissions in accordance with appendix P's minimum monitoring requirements. Section 119.03 of the Ohio Revised Code requires OEPA to provide public notice and hold a public hearing when rules are adopted, amended or rescinded. Written or oral comments may be presented at the public hearing. The rules would then be submitted to the USEPA as a SIP revision request. Thus, all interested parties would have an opportunity to comment before the revision to the SIP becomes final.

Ohio Utilities Comment: The Ohio Utilities expressed concern about the fact that circumstances at a facility may change requiring a change in the CEM monitoring requirements and the facility would have to follow existing permit requirements, even though inapplicable, until OEPA revises the SIP. Additionally, Ohio Utilities expressed concern that the OEPA may have erroneously incorporated CEM requirements into permits for sources not covered by appendix P.

USEPA Response: The USEPA understands the concerns of the Ohio Utilities. Instead of incorporating CEM requirements on a permit-by-permit basis, USEPA has requested that the OEPA revise existing rules or adopt new rules to incorporate the CEM requirements, for specified source categories, into the Ohio SIP. Any revised rules adopted by the State to establish its CEM program must meet all of the requirements of section 110(a)(2)(F)(i), (ii) and (iii) of the Clean Air Act and the specific provisions contained in 40 CFR part 51, appendix P. As to the point regarding erroneous incorporation of CEM requirements into permits, it is not clear to USEPA which sources are being referred to by the Ohio Utilities. However, before the new rules are incorporated in the Ohio SIP, the regulated community will be given an opportunity to comment regarding the appropriateness of CEM requirements being applied to sources. Also, see USEPA's response below that addresses concerns about CEM requirements for two facilities. Adherence to the State and the Federal administrative procedure acts will ensure that the regulated community is afforded the due process associated with rulemaking actions. The CEM requirements being approved by this rulemaking action will be effective through the expiration date of the permits.

Dayton Power and Light Company (DP&L) Comment: DP&L objects to USEPA including and/or identifying DP&L's Longworth andHutchings Stations as being required to comply with the requirements of appendix P.

USEPA Response: The OEPA submitted a SIP revision request, consisting of Permits to Operate to USEPA on January 5, 1987, and requested that USEPA rulemake only on those portions of the permits pertaining to the CEM requirements. The Longworth Station, Application No. 0857040016 B004, was identified in OEPA's January 5, 1987, submittal as a fossil fuel-fired steam generator with greater than 250 million BTU per hour heat input that requires CEM. The Permit to Operate for Longworth Station, Application Number 0857040016 B004 in OEPA's April 11, 1994, revised submittal does not contain CEM requirements, but instead provides for visible emission readings. Therefore, USEPA is not rulemaking on the Longworth Station Permit to Operate.

DP&L Comment: DP&L's Hutchings Station has demonstrated to the State that it has an annual average capacity factor of less than 30 percent for its boilers and, pursuant to 40 CFR part 51, appendix P, paragraph 2.1 is not subject to CEM requirements. Because of the low annual average capacity factor, neither Ohio EPA nor the Regional Air Pollution Control Agency have required Hutchings Station to install opacity monitors.

USEPA Response: 40 CFR part 51, appendix P, paragraph 2.1 requires CEM for fossil fuel-fired steam generators with an annual average capacity factor of greater than 30 percent as reported to the Federal Power Commission, or as otherwise demonstrated to the State by the owner or operator. The Special Terms and Conditions contained in the Permits to Operate submitted to USEPA by OEPA on April 11, 1994 for DP&L, Hutchings Station, Application Numbers 0857780013 B001 through 0857780013 B006, require that Hutchings Station undergo an annual review to determine if continuous opacity monitors must be installed. As requested by OEPA, USEPA is rulemaking only on the portions of the permits that contain CEM requirements. Therefore, USEPA is not rulemaking on the DP&L, Hutchings Station, Permits to Operate.

DP&L Comment: DP&L expressed its concern about the CEM requirements being approved only through the effective dates of the permits and about the fact that the OEPA has not adopted rules to incorporate the CEM program requirements into the Ohio SIP.

USEPA Response: As stated previously in USEPA's response to the Ohio Utilities comment, USEPA has requested that OEPA adopt new or revised rules for incorporating the CEM requirements of 40 CFR part 51, appendix P into the Ohio SIP. As to the limited duration of the approval, 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. In this instance, USEPA can only approve the CEM requirements through the effective date of the permits, because expired permits are not legally enforceable and would, therefore, not meet the requirements of 40 CFR part 52, appendix P.

III. Rulemaking Action

USEPA is approving the CEM requirements through the expiration dates of the up-to-date Permits to Operate and disapproving the CEM requirements as to permits that have expired. CEM recording and reporting requirements are approved for sources at the following facilities:

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 "C"
CEI Lakeshore Plant
Columbus Southern Power Company (CSPC)–Conesville Station
Dayton Power and Light (DP&L) Company–J. M. Stuart Station
Ohio Edison (OE), R.E. Burger Plant
OE Toronto Plant
OE W. H. Sammis Plant
OE Edgewater Station
Ohio Power (OP) Company–Gavin Plant
OP Cardinal Operating Company
OP Buckeye Power, Inc.
OP Muskingum River Plant

Orrville Municipal Power Plant
Piqua Municipal Power Plant
American Municipal Power-Ohio, Inc.
Procter and Gamble Company
Champion International, Hamilton Mill
British Petroleum Oil Company–Toledo Refinery
Ashland Petroleum

Nitric acid plants of greater than 300 tons per day production capacity must be monitored for nitrogen oxides. The State of Ohio does not have any nitric acid plants that exceed the 300 ton per day production capacity. Therefore, USEPA is approving the State of Ohio's negative declaration for nitrogen oxide emissions at applicable nitric acid plants.

USEPA is disapproving the CEM requirements contained in expired permits for the following sources:

Cincinnati Gas and Electric Company, W. C. Beckjord Station, Application Nos. 1413100008 B001 and 1413100008 B04.
Cleveland Electric Illuminating (CEI) Company, Ashtabula, Application Nos. 0204000211 B002 and 0204000211 B004.
CEI Ashtabula A and B Plant, Application No. 0204010000 B008.
CEI Avon Lake Plant, Application Nos. 0247030013 B010 through 0247030013 B012, and Application No. 02470300013 B014.
CEI Eastlake Plant, Application Nos. 0243160009 B001 through 0243160009 B005.
Columbus Southern Power, Picway Station, Application No. 0165000006 B004.
Ohio Edison, Niles Station, Application Nos. 0278060023 B001 and 0278060023 B002.
Ohio Edison, W. H. Sammis Plant, Application No. 1741160017 B011 and 1741160017 B012.
Mead Corporation, Application Nos. 0671010028B001 B001 through 0671010028 B003.
Toledo Edison (TE) Company, Acme Station, Application Nos. 0448010086 B005 through 0448010086 B010.
TE, Bay Shore Station, Application Nos. 0448020006 B001 through 0448020006 B004.
American Municipal Power-Ohio, Inc., Application No. 0684020038 B004.
Goodyear Tire & Rubber Company, Application Nos. 1677010192 B001 and 1677010192 B002.
Procter and Gamble Company, Application No. 1431390903 B021.
Champion Intenational, Hamilton Mill-Champion Papers, Application No. 1409040212 B020.
British Petroleum Oil Company, Lima Refinery, Application No. 0302020012 P010.
Hamilton Municipal Elecric Plant, Application No. 1409040243 B008.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light 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), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the 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. OMB has exempted this regulatory action from Executive Order 12866 review.

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.

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 USEPA 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).

USEPA's disapproval of a portion of the State request under section 110 and subchapter I, part D of the CAA 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 a portion of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this 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 November 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: August 8, 1994.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(88) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(88) On April 11, 1994, the Ohio Environmental Protection Agency submitted a request for a revision to the Ohio State Implementation Plan for particulate matter and nitrogen oxides for specified source categories that require continuous emissions monitoring, recording, and reporting.

(i) Incorporation by reference.

(A) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1413100008 B002 and 1413100008 B005 for Cincinnati Gas and Electric (CG&E) Company, W. C. Beckjord Station. The dates of issuance are July 16, 1992. These permits are approved through the expiration date of July 15, 1995.

(B) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1413100008 B003 and 1413100008 B006 for Cincinnati Gas and Electric Company, W. C. Beckjord Station. The dates of issuance are November 13, 1992. These permits are approved through the expiration date of November 12, 1995.

(C) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1431350093 B005 and 1431350093 B006 for Cincinnati Gas and Electric Company, Miami Fort. The dates of issuance are September 3, 1993. These permits are approved through the expiration date of September 1, 1996.

(D) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1431350093 B007 for Cincinnati Gas and Electric Company, Miami Fort. The date of issuance is November 19, 1993. This permit is approved through the expiration date of November 18, 1996.

(E) Special Terms and Conditions No. 3 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0204000211 B001 and 0204000211 B003 for Cleveland Electric Illuminating Company, Ashtabula Plant "C". The dates of issuance are April 24, 1992. These permits are approved through the expiration date of April 23, 1995.

(F) Special Terms and Conditions No. 6 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1318000245 B006 for Cleveland Electric Illuminating Company, Lakeshore Plant. The date of issuance is December 7, 1993. This permit is approved through the expiration date of December 6, 1996.

(G) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0616000000 B004 for Columbus Southern Power Company, Conesville Station. The date of issuance is December 4, 1992. This permit is approved through the expiration date of December 3, 1995.

(H) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0616000000 B001 and 0616000000 B002 for Columbus Southern Power Company, Conesville Station. The dates of issuance are June 22, 1993. These permits are approved through the expiration date of June 21, 1996.

(I) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0616000000 B003 for Columbus Southern Power Company, Conesville Station. The date of issuance is June 29, 1993. This permit is approved through the expiration date of June 28, 1996.

(J) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0701000007 B001 through 0701000007 B004 for Dayton Power and Light Company, J. M. Stuart Station. The dates of issuance are July 6, 1993. These permits are approved through the expiration date of July 5, 1996.

(K) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1707130015 B005 for Ohio Edison Company, R. E. Burger Plant. The date of issuance is July 30, 1993. This permit is approved through the expiration date of July 29, 1996.

(L) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1707130015 B006 through 1707130015 B008, and Application Numbers 1707130015 B011 and B012 for Ohio Edison Company, R. E. Burger Plant. The dates of issuance are August 3, 1993. These permits are approved through the expiration date of August 2, 1996.

(M) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1707130015 B009 and 1707130015 B010 for Ohio Edison Company, R. E. Burger Plant. The dates of issuance are October 8, 1993. These permits are approved through the expiration date of October 7, 1996.

(N) Special Terms and Conditions No. 6 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741180018 B001 for Ohio Edison Company, Toronto Plant. The date of issuance is March 5, 1993. This permit is approved through the expiration date of March 4, 1996.

(O) Special Terms and Conditions No. 6 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741180018 B001 for Ohio Edison Company, Toronto Plant. The date of issuance is March 5, 1993. This permit is approved through the expiration date of March 4, 1996.

(P) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741180018 B002 for Ohio Edison Company, Toronto Plant. The date of issuance is October 15, 1993. This permit is approved through the expiration date of October 24, 1996.

(Q) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741180018 B003 for Ohio Edison Company, Toronto Plant. The date of issuance is November 23, 1992. This permit is approved through the expiration date of November 22, 1995.

(R) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 1741160017 B007 and B008, 1741160017 B010 and 1741160017 B013 for Ohio Edison Company, Sammis Plant. The dates of issuance are March 10, 1993. These permits are approved through the expiration date of March 9, 1996.

(S) Special Terms and Conditions No. 3 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741160017 B009 for Ohio Edison Company, Sammis Plant. The date of issuance is June 25, 1993. This permit is approved through the expiration date of June 24, 1996.

(T) Special Terms and Conditions No. 6 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0247080049 B003 for Ohio Edison Company, Edgewater Plant. The date of issuance is February 25, 1994. This permit is approved through the expiration date of February 25, 1997.

(U) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0627010056 B003 and 0627010056 B004 for Ohio Power Company, General James M. Gavin

Plant. Thes date of issuance are May 2, 1992. These permits are approved through the expiration date of April 30, 1995.

(V) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741050002 B001 for Ohio Power Company, Cardinal Operating Company. The date of issuance is March 30, 1993. This permit is approved through the expiration date of March 29, 1996.

(W) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741050002 B002 for Ohio Power Company, Cardinal Operating Company. The date of issuance is November 12, 1993. This permit is approved through the expiration date of November 11, 1996.

(X) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1741050129 B002 for Ohio Power Company, Buckeye Power, Inc. The date of issuance is October 10, 1992. This permit is approved through the expiration date of October 19, 1995.

(Y) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0684000000 B002, 0684000000 B003, 0684000000 B004, and 0684000000 B005 for Ohio Power Company, Muskingum River Plant. The dates of issuance are May 12, 1993. These permits are approved through the expiration date of May 11, 1996.

(Z) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0684000000 B006 for Ohio Power Company, Muskingum River Plant. The date of issuance is April 20, 1993. This permit is approved through the expiration date of April 19, 1996.

(AA) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0285010188 B001 for Orrville Municipal Power Plant. The date of issuance is November 13, 1991. This permit is approved through the expiration date of November 14, 1994.

(BB) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source. Application Number 028501018 B004 for Orrville Muniticpal Power Plant. The date of issuance is January 22, 1993. This permit is approved through the expiration date of January 21, 1996.

(CC) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0855100041 B001 and 0855100041 B002 for Piqua Municipal Power Plant. The dates of issuance are April 10, 1992. These permits are approved through the expiration date of April 9, 1995.

(DD) Special Terms and Conditions No. 5 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0855100041 B003 for Piqua Municipal Power Plant. The date of issuance is April 12, 1993. This permit is approved through the expiration date of April 11, 1996.

(EE) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permits to Operate an Air Contaminant Source, Application Numbers 0684020037 B001 and 0684020037 B003 for American Municipal Power-Ohio, Inc. The dates of issuance are October 12, 1993. These permits are approved through the expiration date of October 11, 1996.

(FF) Special Terms and Conditions No. 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 0684020037 B002 for American Municipal Power-Ohio, Inc. The date of issuance is November 30, 1993. This permit is approved through the expiration date of November 29, 1996.

(GG) Special Terms and Conditions No. 8 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Application Number 1431390903 B022 for Procter and Gamble Company. The date of issuance is December 4, 1992. This permit is approved through the expiration date of December 3, 1995.

(HH) Special Terms and Conditions No. 6 of State of Ohio Environmental Protection Agency Permit to Operate Number 1409040212 B010 for Champion International, Hamilton Mill. The date of issuance is November 8, 1991. This permit is approved through the expiration date of November 7, 1994.

(II) Special Terms and Conditions Nos. 3 and 4 of State of Ohio Environmental Protection Agency Permit to Operate an Air Contaminant Source, Appplication Number 0448020007 P007 for BP Oil Company–Toledo Refinery. The date of issuance is March 27, 1992. This permit is approved through the expiration date of March 26, 1995.

(JJ) Special Terms and Conditions No. 3 of State of Ohio Environmental Protection Agency Permit to Operate Number an Air Contaminant Source, Application Number 1576000301 P002 for Ashland Petroleum Company. The date of issuance is January 21, 1993. This permit is approved through the expiration date of January 21, 1996.

(ii) Additional material.

(A) Letter dated April 11, 1994 from Donald R. Schregardus, Director, Ohio Environmental Protection Agency to Valdas V. Adamkus, Regional Administrator, United States Environmental Protection Agency, Region 5. The letter states that the public hearing for the SIP revision which was held on November 13, 1986 included the negative declaration regarding existing nitric acid plants (Section 2.2 of Appendix P).

* * * * *

[FR Doc. 94–22526 Filed 9–12–94; 8:45 am]
BILLING CODE 6560–50–F

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40 CFR Part 52

[OR11–1–5527; FRL–5063–7]

Withdrawal Notice for State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Due to an adverse comment, EPA is removing approval of a moderate nonattainment area state implementation plan (SIP) revision for La Grande, Oregon, submitted by the State of Oregon for the purpose of bringing about attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The original action was published in the **Federal Register** on July 1, 1994, as a direct final rule. 59 FR 33914. As stated in the **Federal Register** notice, if adverse or critical comments were received by August 1, 1994, the effective date would be delayed and timely notice would be published in the **Federal Register**. Therefore, due to receiving an adverse comment within the comment period, EPA is removing approval of the SIP revision and will address all public comments received in a subsequent final rule based on the proposed rule also published on July 1, 1994. 59 FR 33941. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This final rule becomes effective September 13, 1994.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final

rule located in the final rules section of the July 1, 1994 **Federal Register**, and in the short informational notice located in the proposed rule section of the July 1, 1994 **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Air Programs Section (AT–082), EPA, Region 10, 1200 6th Avenue, Seattle, WA 98101, (206–553–0180).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: August 24, 1994.

Jerry A. Emison,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

§ 52.1970 [Amended]

2. Section 52.1970 is amended by removing paragraph (c)(107).

[FR Doc. 94–22528 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

Uniform System of Accounts for Telecommunications Companies; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations, which were published Tuesday, December 2, 1986 (51 FR 43498). The regulations related to a single new uniform system of accounts for all telephone companies subject to the Commission's jurisdiction.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Virginia Brockington (202) 634–1861.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, superseded Parts 31 and 33 on January 1, 1988 and affect telephone companies required to follow the accounting rules (Part 32) of the Commission. Part 32 implements sections 4(i), 4(j) and 220 of the Communications Act of 1934, as amended.

Need for Correction

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

List of Subjects in 47 CFR Part 32

Communications common carrier, Telephone, Uniform system of accounts.

Accordingly, 47 CFR Part 32 is corrected by making the following correcting amendments:

PART 32—UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 4(i), 4(j) and 220 as amended; 47 U.S.C. 154(i), 154(j) and 220.

§ 32.23 [Corrected]

2. In § 32.23, paragraph (c), the sentence "Nonregulated revenue items not qualifying for incidental treatment, as provided in § 32.4999(1), shall be recorded in separate subsidiary record categories of Account 5280, Nonregulated operating revenue." is revised to read "Nonregulated revenue items not provided for elsewhere in this system of accounts and not qualifying for incidental treatment as provided in § 32.4999(1), shall be recorded in separate subsidiary record categories of Account 5280, Nonregulated operating revenue."

§ 32.2000 [Corrected]

3. In § 32.2000, paragraph (a)(4), in the first sentence, the word "if" is revised to read "of", a comma is replaced with a semicolon after the phrase "Special Purpose Vehicles", and a comma is placed after the number "2123".

4. In § 32.2000, paragraph (b)(2) introductory text, a comma is placed after the word "property".

§ 32.2220 [Corrected]

5. In § 32.2220, the section heading, "Operator system" is revised to read "Operator systems".

§ 32.2231 [Corrected]

6. In § 32.2231, the section heading, "Radio system" is revised to read "Radio systems".

§ 32.2311 [Corrected]

7. In § 32.2311, paragraph (d), the phrase "Account 2221" is revised to read "Account 2220".

§ 32.2341 [Corrected]

8. In § 32.2341, paragraph (g), the word "Large" is revised to read "large".

§ 32.3000 [Corrected]

9. In § 32.3000, paragraph (b), in the chart under the column entitled "Class A account", the figure "$3100" is revised to "3100".

§ 32.3300 [Corrected]

10. In § 32.3300, paragraph (b), the number "7460" is revised to read "7360".

§ 32.4999 [Corrected]

11. In the first sentence of paragraph (e) of § 32.4999, the word "underying" is revised to read "underlying".

§ 32.5060 [Corrected]

12. In § 32.5060, in the second sentence, the word "competition" is revised to read "completion".

§ 32.6410 [Corrected]

13. In § 32.6410, the number "6426" in each instance is revised to read "6441".

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–22081 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–24; RM–8440]

Radio Broadcasting Services; Bozeman, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278C1 to Bozeman, Montana, in response to a petition filed by William R. Reier, Jr. *See* 59 FR 13920, March 24, 1994. The coordinates for Channel 278C1 at Bozeman are 45–40–47 and 111–02–16. With this action, this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications for Channel 278C1 at Bozeman, Montana, will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 94–24, adopted August 30, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The

complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 278C1 at Bozeman.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22518 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 92–157; RM–7462, RM–8184]

Radio Broadcasting Services; Cleveland, Belzoni and Durant, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Delta Radio, Inc., substitutes Channel 225C2 for Channel 224A at Cleveland, Mississippi, and modifies Station WDTL–FM's license accordingly. In order to accommodate the upgrade, we substitute Channel 292A for vacant Channel 225A at Belzoni, Mississippi (RM–7462). *See* 57 FR 34285, August 4, 1992. We also allot, as requested by Radio Cleveland, Inc., Channel 266A at Durant, Mississippi, as its first local aural transmission service (RM–8184). In addition, we open a filing window for vacant Channel 292A at Belzoni, Mississippi. *See* Supplementary Information, *infra.*

DATES: Effective October 21, 1994. The window period for filing applications for Channel 292A at Belzoni, Mississippi, and for Channel 266A at Durant, Mississippi, will open on October 24, 1994, and close on November 21, 1994.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–157, adopted August 24, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, N.W. Suite 140, Washington, D.C. 20037.

Channel 225C2 can be substituted at Cleveland in compliance with the Commission's minimum distance separation requirements at petitioner's licensed site. The coordinates for Channel 225C2 at Cleveland are North Latitude 33–45–12 and West Longitude 90–42–45. Channel 292A can be substituted at Belzoni in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.4 kilometers (5.2 miles) southeast. The coordinates for Channel 292A at Belzoni are North Latitude 33–08–06 and West Longitude 90–24–58. Additionally, Channel 266A can be allotted to Durant in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.0 kilometers (0.6 miles) north. The coordinates for Channel 266A at Durant are North Latitude 33–05–00 and West Longitude 89–51–00, With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 224A and adding Channel 225C2 at Cleveland; removing Channel 225A and adding Channel 292A at Belzoni; and adding Durant, Channel 266A.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–22521 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–17; RM–8437]

Radio broadcasting Services; Jefferson City, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 281A to Jefferson City, Missouri, as that community's third FM broadcast service in response to a petition filed by Richard L. Billings. *See* 59 FR 11574, March 11, 1994. The coordinates for Channel 281A are 38–34–00 and 92–11–00. There is a site restriction 1.5 kilometers southwest of the community. With this action, this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 94–17, adopted August 31, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037 (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended

by adding Channel 281A at Jefferson City.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22517 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–49; RM–8446]

Radio Broadcasting Services; Commerce, Oklahoma and Neosho, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 259A to Neosho, Missouri, and deletes Channel 259A at Commerce, Oklahoma, in response to a petition filed by KBTN, Inc. *See* 59 FR 30891, June 16 1994. The coordinates for Channel 259A are 36–46–56 and 94–23–17. There is a site restriction 10 kilometers (6.2 miles) south of the community. Since no comments were filed in response to the *Notice* supporting retention of a channel in Commerce, Oklahoma, we shall delete Channel 259A at Commerce to accommodate the allotment of Channel 259A at Neosho. With this action this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications for Channel 259A at Neosho, Missouri, will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 94–49, adopted August 31, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Channel 259A at Neosho.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 259A at Commerce.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22520 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–39; RM–8452]

Radio Broadcasting Services; Roseau, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 278C2 to Roseau, Minnesota, as that community's second FM broadcast service in response to a petition filed by Robert M. Obie. *See* 59 FR 25874, May 18, 1994. The coordinates for Channel 278C2 are 48–50–46 and 95–45–45. Canadian concurrence has been received for this allotment. With this action, this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications for Channel 278C2 at Roseau, Minnesota, will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 94–39, adopted August 30, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding [Roseau] Channel 278C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22519 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–228; RM–8295]

Radio Broadcasting Services; Tawas City, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 291A for Channel 297A at Tawas City, Michigan, and modifies the license for Station WHST(FM) in response to a petition filed by Ives Broadcasting, Inc. *See* 58 FR 42714, August 11, 1993. The coordinates for Channel 291A are 44–16–27 North Latitude and 83–39–42 West Longitude. In response to comments filed by Patricia Mason, we shall allot Channel 277A to Tawas City at coordinates 44–18–40 North Latitude and 83–31–00 West Longitude. There is a site restriction 4.8 kilometers (3 miles) north of the community. Canadian concurrence has been obtained for the allotment of Channels 277A and 291A at Tawas City. With this action, this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications for Channel 277A at Tawas City, Michigan, will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 93–228, adopted August 30, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal

business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [AMENDED]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 297A and adding Channels 291A and 277A at Tawas City.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22522 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–283; RM–8374]

Radio Broadcasting Services; Pillager, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 240A to Pillager, Minnesota, as that community's first local broadcast service in response to a petition filed by NorMin Broadcasting Co. *See* 58 FR 62318, November 26, 1993. Canadian concurrence has been received for this allotment at coordinates 46–14–59 and 94–26–33. There is a site restriction 9.2 kilometers (5.7 miles) southeast of the community. With this action, this proceeding is terminated.

DATES: Effective October 21, 1994. The window period for filing applications for Channel 240A will open on October 24, 1994, and close on November 21, 1994.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 93–283, adopted August 30, 1994, and released September 7, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Pillager, Channel 240A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–22523 Filed 9–12–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 920538–4252; I.D. 082594A]

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Final rule; technical amendment.

SUMMARY: This document corrects a table in regulations related to closure of certain portions of the exclusive economic zone (EEZ) around Hawaii and Guam to longline fishing to reflect the correct coordinates.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, (310) 980–4034.

SUPPLEMENTARY INFORMATION: Portions of the EEZ around Hawaii and Guam are closed to longline fishing in order to prevent conflicts with users of other types of fishing gear. In § 685.23, the listing of coordinates for the waters around Guam that are closed to longline fishing contains an error that was made in a final rule document published October 6, 1992 (57 FR 45989). This technical amendment corrects that error in order to provide the public and enforcement entities the proper coordinates.

Classification

Because this technical amendment makes only a minor correction to an existing rule, notice and public comment thereon and a delay in effective date would serve no purpose. Accordingly, under 5 U.S.C. 553(b) and (d), notice and public comment thereon and a delay in the effective date are unnecessary.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 685

American Samoa, Fisheries, Fishing, Guam, Hawaiian natives, Northern Mariana Islands.

For the reasons set out in the preamble, 50 CFR part 685 is amended as follows:

PART 685—WESTERN PACIFIC PELAGIC FISHERIES

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.23(d), the table in paragraph (d) is amended by revising the entry for point C to read as follows:

§ 685.23 Longline fishing prohibited area management.

* * * * *

(d) * * *

Point	Latitude	Longitude
* *	*	* *
C	13°41′ N	143°33′33″ E
* *	*	* *

Dated: September 7, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94–22603 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 176
Tuesday, September 13, 1994

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 RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Methods of Withdrawing Funds From the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board is proposing to revise regulations on spousal rights in accordance with changes made to the Federal Employees' Retirement System Act of 1986 (FERSA) by Public Law 103–226 to delete all references to former spouses and to accord all spouses of TSP participants covered by the Federal Employees' Retirement System (FERS) the right to a survivor annuity, unless they waive that option.

DATES: Comments must be submitted on or before October 13, 1994.

ADDRESSES: Comments may be sent to Robert Bloom, Assistant General Counsel (Administration), Federal Retirement Thrift Investment Board, 1250 H Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert Bloom at (202) 942–1662, FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: Public Law 103–226, 108 Stat. 111 (March 30, 1994), amends FERSA, 5 U.S.C. chapter 84 and section 8351, to give all TSP participants, regardless of their eligibility for basic retirement benefits, the same withdrawal options upon separation that have previously been available only to participants who separate with eligibility for basic retirement benefits. As a result, spouses of all TSP participants, regardless of the participant's eligibility for basic retirement benefits, have been provided with the same rights as those previously available to spouses of participants who were eligible for basic retirement benefits. This means that spouses of FERS participants who were previously only entitled to notice (if the participant separated without eligibility for basic retirement benefits) now have the right to a survivor annuity, unless the spouse waives that right. The required annuity is a joint life annuity with the spouse with 50 percent survivor benefits, level payments, and a no cash refund feature. As a result of this statutory change, 5 CFR 1650.17 has been revised to delete the requirement to notify the spouse with the TSP participant who is covered by FERS lacks eligibility for basic retirement benefits.

Spouses of Civil Service Retirement System (CSRS) participants are entitled to notice whether or not the participant separated from Federal service with eligibility for basic retirement benefits. This notice requirement was not affected by Public Law 103–226.

Public Law 103–226 also eliminates the requirement to notify former spouses of FERS and CSRS participants who separate from Federal service without eligibility for basic retirement benefits that the participant is withdrawing his or her TSP account. Accordingly, all references to former spouse have been eliminated from 5 CFR part 1650, subpart G. (Because there are no longer any references to "former spouses," the word "current" has also been eliminated wherever it appeared to describe the spouse to whom a participant is married.) This means that participants are no longer required to provide the TSP Service Office with an address for a former spouse, or, if a former spouse cannot be located, to obtain an exception to the requirement to notify a former spouse.

In addition to the changes made by Public Law 103–226, other changes explain or clarify spousal rights and exceptions to those rights. Section 1650.19 is revised to delete language stating that the employee and spouse may jointly waive the survivor annuity. The participant waives the survivor annuity by electing a different withdrawal option, while it is the spouse who must explicitly sign a waiver statement.

Section 1650.21 provides that the Executive Director may grant an exception to the requirement to obtain the spouse's signature or the spouse notice requirement where the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. The requirement to obtain the spouse's signature on the appropriate form to waive the joint and survivor annuity is referred to as the signature requirement. The notice requirement refers to the entitlement of the spouse of a CSRS participant to notice of the participant's withdrawal election. This section is being revised to allow participants who are seeking an exception to the signature or the notice requirement based on whereabouts unknown to submit statements in lieu of affidavits or declarations in support of their requests. These statements must be made pursuant to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

To ensure that the persons making the statements are aware of the possible penalty, § 1650.21(c) requires inclusion of the following on each statement: I understand that a false statement or willful misrepresentation is punishable under Federal Law (18 U.S.C. 1001) by a fine or imprisonment or both.

To ease the burden on participants further, §§ 1650.21 and 1650.22 are being revised to delete the requirement that the participant obtain and provide only documents bearing an original signature or which are embossed or which bear the imprint of a seal. Participants may now submit photocopies of documents.

Sections 1650.21(d) and 1650.22(c) are added to explain that a withdrawal form received within one year of approval of the exception may be processed without a new exception. An exception is valid only for the spouse for whom the exception has been approved.

Sections 1650.21(e) and 1650.22(d) are added to explain that the requirements for establishing an exception in a loan application in 5 CFR 1655.18 are the same as those for establishing an exception in a

withdrawal application. It is for this purpose that the loan provisions are cross-referenced.

Finally, § 1650.22 provides that the Executive Director may grant an exception to the requirement that the participant obtain his or her spouse's signature where there are exceptional circumstances that warrant such an exception. In § 1650.22(b)(2)(iii) the example of an acceptable court order which would relieve a participant of the obligation to obtain his or her spouse's signature is revised.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect Board procedures relating to the processing of requests for exceptions to spouse signature and notice requirements applicable to certain requests to withdraw account balances.

E.O. 12291

I certify that this is not a major rule.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

List of Subjects in 5 CFR Part 1650

Employment benefit plans, Government employees, Retirement, Pensions.

Dated: September 6, 1994.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, part 1650 of chapter VI of title 5 of the Code of Federal Regulations is amended as set forth below.

PART 1650—[AMENDED]

1. The authority citation for part 1650 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434(a)(2)(E), 8434(b), 8435, 8436(b), 8467, 8474(b)(5) and 8474(c)(1).

2. Section 1650.16 is amended by revising the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 1650.16 General.

(a) Pursuant to 5 U.S.C. 8435, 8351, and 8467, spouses of participants are entitled under certain circumstances to:

* * * * *

(b) This subpart enumerates the circumstances under which such spousal rights arise and prescribes the procedures which must be followed by participants, spouses, and the Board to implement such rights.

3. Section 1650.17 is revised to read as follows:

§ 1650.17 Withdrawal elections requiring notification to spouses.

No election of benefits, change of election of benefits, or modification of the commencement date of an annuity can be made effective for a CSRS participant prior to notice to the spouse of the participant in accordance with the requirements of § 1650.20.

4. Section 1650.18 is revised to read as follows:

§ 1650.18 Withdrawal elections requiring spousal waiver.

No withdrawal election may be made or changed by a FERS participant which would defeat the spouse's entitlement to a survivor annuity unless the affected spouse has signed the appropriate TSP form waiving his or her right to the survivor annuity.

5. Section 1650.19 is revised to read as follows:

§ 1650.19 Spouse's waiver of survivor annuity.

(a) The right of the spouse to a survivor annuity may be waived in writing by the spouse on the appropriate TSP form.

(b) When required by the regulations in this subpart, the appropriate survivor annuity waiver shall be filed with the TSP Service Office prior to the date the participant's election of benefits is effective.

6. Section 1650.20 is amended by revising paragraph (a) to read as follows:

§ 1650.20 Notice to spouse.

(a) Wherever in the regulations in this subpart it is required that the Executive Director provide notice of an action affecting a participant's account to the spouse of a participant prior to taking the action, such requirements may be satisfied by the TSP Service Office's sending a notice describing the action by first class mail to the last address of the spouse on file with the Plan.

* * * * *

7. Section 1650.21 is revised to read as follows:

§ 1650.21 Executive Director's exception to requirement to notify the spouse.

Whenever in the regulations in this subpart it is required that the Executive Director give notice of an action to the spouse of a participant, an exception to this requirement may be granted in cases in which the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception based on whereabouts unknown must be submitted to the Executive Director on the appropriate TSP form accompanied by either—

(a) A judicial determination (court order) which states that the spouse's whereabouts cannot be determined; or

(b) A police or Governmental agency determination that is signed by the appropriate department or division head which states that the spouse's whereabouts cannot be determined; or

(c) Statements by the participant and two other persons. Each statement must be signed and dated and must state the following: I understand that a false statement or willful misrepresentation is punishable under Federal Law (18 U.S.C. 1001) by a fine or imprisonment or both.

(1) The participant's statement must give the full name of his or her spouse, declare the inability to locate the spouse, and state the efforts made to locate the spouse. Negative statements such as "I have not seen or heard from him/her" or "I have had no contact with him/her" are not sufficient. Examples of attempting to locate the spouse include checking with relatives and mutual friends or using telephone directories or directory assistance for the city of last known address.

(2) The statements from two other persons must support the participant's statement that the participant does not know the whereabouts of his or her spouse.

(d) A withdrawal election received within one year of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

(e) The requirements for establishing an exception for a withdrawal and the one-year period of validity of an approved exception apply to exceptions for loans under 5 CFR 1655.18.

8. Section 1650.22 is revised to read as follows:

§ 1650.22 Executive Director's exception to the requirement to obtain the spouse's signature.

Wherever in the regulations in this subpart the spouse's signature is required, the Executive Director may grant an exception to this requirement if the participant can show that:

(a) The spouse's whereabouts cannot be determined in accordance with the provisions of § 1650.21; or

(b) Due to exceptional circumstances, requiring the spouse's signature would otherwise be inappropriate.

(1) An exception to the spousal signature requirement may be granted

based on exceptional circumstances only when the participant presents a judicial determination (court order) or a governmental agency determination signed by the appropriate department or division head. A court order or a determination must contain a finding or a recitation of such exceptional circumstances regarding the spouse as would warrant an exception to the signature requirement.

(2) Exceptional circumstances is narrowly construed and includes such circumstances as when a court order:

(i) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(ii) Indicates that the spouse abandoned the participant but, for religious or similarly compelling reasons, the parties chose not to divorce; or

(iii) Expressly states that the participant may obtain a loan from his or her Thrift Savings Plan account or withdraw his or her thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(c) A withdrawal election received within one year of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

(d) The requirements for establishing an exception for a withdrawal and the one-year period of validity of an approved exception apply to exceptions for loans under 5 CFR 1655.18.

[FR Doc. 94–22482 Filed 9–12–94; 8:45 am]
BILLING CODE 6760–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1250

[Docket No. PY–94–004]

Referendum on Amendment to Egg Research and Promotion Order To Increase the Rate of Assessment

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Proposed rule and notice of referendum.

SUMMARY: This proposed rule would amend the Egg Research and Promotion Order to increase the assessment rate from 5 cents to 10 cents per 30-dozen case of commercial eggs. This proposal would also make a conforming amendment to regulations. Notice also is hereby given that the Agricultural Marketing Service will conduct a referendum to determine whether egg producers favor an increase in the assessment rate under the egg research and promotion program. Ballots and instructions will be mailed directly to all known egg producers owning over 75,000 laying hens.

DATES: The representative period for purposes of the referendum is May 1 through July 31, 1994. The referendum will be conducted between September 26 and October 14, 1994.

FOR FURTHER INFORMATION CONTACT: Angela C. Clonts at 202–720–3506.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778

This rule is exempt from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 14 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, any provisions of such order or any obligations imposed in connection with such order are not in accordance with law; and requesting a modification of the order or an exemption therefrom. Such person is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint is filed within 20 days after date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Currently, 618 egg producers pay assessments to the American Egg Board (AEB). A proposed rule to increase the exemption level from 30,000 to 75,000 laying hens was published in the **Federal Register** on March 22, 1994 (59 FR 13460). The increased exemption level would exempt 253 small egg producers who represent 41 percent of the egg producers currently paying assessments, but only 4 percent of AEB's total assessment income. It is anticipated that the 75,000-hen exemption level would be in place before the referendum on the assessment rate increase. Therefore, a change in the assessment rate would affect only egg producers owning more than 75,000 laying hens.

There are an estimated 365 producers who own more than 75,000 hens. Currently, egg producers must pay a mandatory assessment of 5 cents per 30-dozen case of eggs marketed to fund the research and promotion activities authorized by the Act. The present 5-cent assessment is equivalent to approximately 0.231 percent of the wholesale price of a 1-dozen carton of Large eggs. An assessment rate of 10 cents per 30-dozen case would be equivalent to approximately 0.463 percent of the wholesale price of a 1-dozen carton of Large eggs. This is based on the Economic Research Service's 3-year average wholesale price for New York City Grade A Large cartoned eggs (1991–93) of 72 cents per dozen. AEB collects approximately $7.5 million annually from the 5-cent assessment, and it is estimated that it would collect $14 million for a 10-cent assessment. It is estimated that any additional costs would be offset by the benefits to be derived from strengthened research and promotion programs.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR Part 1250 have been previously approved by the Office of Management and Budget and assigned OMB Control No. 0581–0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements would be imposed as a result of this proposed rule. It has been estimated that it will take an average of about 30 minutes for each of the approximately 380 egg producers to participate in the voluntary referendum balloting.

Background and Proposed Changes

The Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) was amended December 14, 1993 (Pub. Law 103–188. The amendments raised the maximum rate of assessment paid by egg producers to the American Egg Board (AEB) from 10 cents to 20 cents per 30-dozen case of commercial eggs. The actual rate is prescribed by the Egg Research and Promotion Order and is currently 5 cents per case. Any increase from the 5 cents must be approved by producers voting in a referendum.

A proposed rule to increase the assessment rate in the Order from 5 cents to 10 cents per case was published in the **Federal Register** on June 17, 1994 (59 FR 31174). Comments were solicited from interested persons through August 16, 1994. Two comments were received; one from a major egg producer organization in support and one from an egg producer in opposition to the increase.

The commenter who opposed the increase cited the decline in number of egg producers from 10,000 to 400 since AEB has been in existence and that AEB programs have not halted the decline. However, the decrease in the number of producers paying assessments is the result of several factors. First, when AEB was first implemented in 1976, more than 6,000 producers owning over 3,000 laying hens were on record. By 1989, the number had decreased to approximately 2,000 due to consolidations and bankruptcies during a time when the economic situation was poor. In 1990, the exemption level was changed to 30,000 laying hens, decreasing the number of producers by 36 percent. The exemption level was changed again on August 1, 1994, to 75,000 hens, reducing the number to just under 400 producers.

The commenter also expressed disapproval that a large percentage of the proposed increase in funds might be used for advertising, resulting in a temporary boost in demand and that such demand would be quickly swallowed up by expanded production. The commenter also noted that AEB has a function in the industry but must remain lean to ensure funds are spent wisely. The commenter expressed concern that AEB not look for budget expenditures to justify the increased assessment. AEB's administrative costs have steadily remained at approximately 3 percent. Further, as required by the 1993 amendments to the Act, AEB submitted to the Department a marketing analysis showing the need for an assessment increase.

The commenter was also opposed to the referendum voting rules. The commenter indicated that the rules allow the number of hens owned to give more weight to the vote, thereby granting larger producers more voting power. The Act provides that a referendum vote will pass if approved by not less than two-thirds of the producers voting *or* by a majority of producers voting if they represent not less than two-thirds of the commercial eggs produced.

The commenter further was of the view that the assessment rate should remain at its current level of 5 cents, that producers should be allowed to voluntarily give an extra 5 or 10 cents, and that refunds should be available. The Act was amended in 1993 to provide that AEB may recommend an increased assessment rate to the Secretary. In accordance with the provisions of the Act, AEB has done so, and the assessment increase as proposed herein will be subject to a referendum vote.

It is directed that, in accordance with the procedures for the conduct of referenda (7 CFR 1250.200 et seq.), a referendum will be held beginning September 26, 1994, and ending on October 14, 1994, to determine whether producers favor the increase to 10 cents per case as proposed.

Section 9 of the Act requires approval by eligible egg producers engaged in commercial egg production during the representative period and at the time of voting. The representative period for the conduct of the referendum is determined to be May 1, 1994, through July 31, 1994.

For the Order amendment to be approved, it must be favored by at least two-thirds of the producers voting in this referendum *or* by a majority of the producers voting if such majority represents not less than two-thirds of the commercial eggs produced by those voting.

The agents of the Secretary to conduct the referendum are hereby designated to be Janice L. Lockard and Angela C. Clonts, both of the Poultry Division, Agricultural Marketing Service, USDA. The agents may appoint subagents to assist them in performing their duties.

Ballots, instructions, eligibility requirements, and other information pertinent to the referendum will be mailed to all known eligible egg producers. In accordance with Public Law 103–188 and recent amendments to the implementing Order (59 FR 38875), producers owning 75,000 or fewer laying hens are exempt from paying assessments under the Act and are therefore not eligible to vote in the referendum.

If any eligible voter does not receive a ballot by September 26, the beginning date of the referendum period, such individual may obtain a ballot from the Chief, Standardization Branch, Poultry Division, AMS, USDA, Room 3944-South, P.O. Box 9456, Washington, D.C. 20090–6456. Copies of the complete text of the Egg Research and Promotion Order, as amended, may also be obtained from the Poultry Division.

List of Subjects in 7 CFR Part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and egg products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, CFR Part 1250 is proposed to be amended as follows:

PART 1250—EGG RESEARCH AND PROMOTION

1. The authority citation of Part 1250 continues to read as follows:

Authority: Pub. L. 93–428, 88 Stat. 1171, as amended, 7 U.S.C. 2701–2718.

2. Section 1250.347 is revised to read as follows:

§ 1250.347 Assessments.

Each handler designated in § 1250.349 and pursuant to regulations issued by the Board shall collect from each producer, except for those producers specifically exempted in § 1250.348, and shall pay to the Board at such times and in such manner as prescribed by regulations issued by the Board an assessment at a rate of not to exceed 10 cents per 30-dozen case of eggs, or the equivalent thereof, for such expenses and expenditures, including provisions for a reasonable reserve and those administrative costs incurred by the Department of Agriculture after this subpart is effective, as the Secretary finds are reasonable and likely to be incurred by the Board and the Secretary under this subpart, except that no more than one such assessment shall be made on any case of eggs.

3. In section 1250.514, the first sentence is revised to read as follows:

§ 1250.514 Levy of assessments.

An assessment rate of 10 cents per case of commercial eggs is levied on each case of commercial eggs handled for the account of each producer. * * *

Dated: September 8, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–22611 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Parts 1413 and 1421

RIN 0560–AD38

1995 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations to set forth the acreage reduction percentage, if any, and the national average price support

rate for the 1995 crop of rice. This action is required by section 101B of the Agricultural Act of 1949 (1949 Act), as amended. This proposed rule outlines a range of acreage reduction percentage options proposed for the 1995 crop of rice and requests comments regarding price support rate adjustments for different types and grades of rice.

DATES: Comments must be received on or before October 24, 1994 in order to be assured of consideration.

ADDRESSES: Comments must be mailed to Director, Fibers and Rice Analysis Division (FRAD), Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), P.O. Box 2415, room 3090-S, Washington, DC 20013–2415.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, FRAD, ASCS, USDA, room 3758–S, P.O. Box 2415, Washington, DC 20013-2415 or call 202–720–6734.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is applicable to this proposed rule since the Commodity Credit Corporation (CCC) is required by section 105B(o) of the 1949 Act to request comments with respect to the subject matter of this rule. A Preliminary Regulatory Impact Analysis was prepared that determined that this regulation will have no significant impact on a substantial number of small entities because the particular acreage reduction percentages considered will not affect the paperwork, reporting, or compliance burdens of the small entities in the program. CCC thus certifies that the rule will have no significant impact on a substantial number of small entities. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of the implementation of each option is available on request from the above-named individual.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this proposed rule applies, are: Rice Production Stabilization—10.065.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule do not preempt State laws, are not retroactive, and do not require the exhaustion of any administrative appeal remedies.

Executive Order 12372

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

Paperwork Reduction Act

The amendments to 7 CFR part 1413 set forth in this proposed rule do not contain information collections that require clearance by OMB under the provisions of 44 U.S.C. 35.

Request for Public Comment

Comments are requested with respect to this proposed rule and such comments shall be considered in developing the final rule.

Background

In accordance with section 101B of the 1949 Act, an acreage reduction program (ARP) may be implemented for the 1995 rice crop if it is determined that the total supply of rice, in the absence of such a program, would be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices, and to meet a national emergency.

Land diversion payments also may be made to producers if needed to adjust the total national acreage of rice to desirable goals. A paid land diversion program is not considered because, given the considered program options, it is not needed to achieve the statutory stocks-to-use levels of rice.

If an ARP is announced, the reduction shall be achieved by applying a uniform percentage reduction (from 0 to 35 percent) to the rice crop acreage base for the crop for each rice producing farm. In making such a determination, the number of acres placed into the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985, as amended, must be taken into consideration.

Producers who knowingly produce rice in excess of the permitted acreage for the farm plus any rice acreage planted in accordance with the flexibility provisions are ineligible for loans and purchases and all payments with respect to that crop on the farm.

The Secretary is required to carry out an acreage limitation program in a manner that will result in carry-over stocks equal to 16.5 to 20.0 percent of the simple average of the total disappearance (including domestic, export, and residual disappearance) of rice for each of the 3 marketing years preceding the year for which the announcement is made. The 1995-crop options considered are:

Option 1. 0-percent ARP.
Option 2. 2.5-percent ARP.
Option 3. 5.0-percent ARP.

The estimated impacts of these options are shown in this table.

ESTIMATED IMPACTS OF 1995 ARP OPTIONS

	Option 1	Option 2	Option 3
ARP (%)	0.0	2.5	5.0
Participation (%)	97	97	97
Planted Acres (1,000 Acres)	3,180	3,100	3,020
Production (Million Hundredweight)	176.0	171.8	167.6
Domestic/Residual Use (Million Hundredweight)	103.8	103.6	103.4
Exports (Million Hundredweight)	83.0	81.0	79.0
Ending Stocks (Million Hundredweight)	32.8	30.7	28.7
Ratio of Ending Stocks to Prior 3 Years' Use (%)	18.3	17.2	16.0

ESTIMATED IMPACTS OF 1995 ARP OPTIONS—Continued

	Option 1	Option 2	Option 3
Season Average Price ($ per hundredweight)	6.04	6.16	6.30
Net Outlays (Million $)	897.9	872.7	847.5

Accordingly, comments are requested whether to establish an ARP for the 1995 rice crop, and if so, at what reduction percentage.

The final determination of this percentage will be set forth at 7 CFR 1413.54(a)(4)(iv) and (v).

In accordance with section 403 of the 1949 Act, appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors.

A difference of $1.00 per hundredweight between the support rates for milled whole kernels of long and medium/short grain has been effective since the 1987 crop year. Comments are requested regarding an appropriate difference between price support rates for milled whole kernels of long grain and medium/short grain for the 1995 crop of rice.

Discounts for price support rates for lower grades of rice have been established for prior crop years at levels reflecting the lower market value of such rice. Rice price support loan rates are currently subject to discounts that have been effective since 1983. These discounts are $0.30 per hundredweight for U.S. Grade #3, $0.60 per hundredweight for U.S. Grade #4, $1.00 per hundredweight for U.S. Grade #5, and $2.00 per hundredweight for U.S. Grade #6. Accordingly, comments are requested as to the level of premiums and discounts that would be appropriate for any grade of 1995-crop rice.

List of Subjects

7 CFR part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

7 CFR 1421

Grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, it is proposed that 7 CFR parts 1413 and 1421 be amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441-2, 1444-2, 1444f, 1445b-3a, 1461-1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended as follows by:

A. Revising paragraph (a)(4)(iv),
B. Adding paragraph (a)(4)(v),
C. Adding paragraph (d)(5), reserving paragraphs (d)(5)(i) through (d)(5)(iv) and adding paragraph (d)(5)(v).

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(4) * * *

(iv) 1994 rice, 0 percent;

(v) 1995 rice, within the range of 0 to 35 percent, if supplies are excessive, as determined and announced by CCC.

* * * * *

(d)* * *

(5) For the 1995 crop:

(i) – (iv) [Reserved]

(v) Shall not be made available to producers of rice.

* * * * *

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

3. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f-1, 1445b-3a, 1445c-3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

4. In § 1421.7, paragraph (b)(7)(v) is added to read as follows:

§ 1421.7 Adjustment of basic support rates.

* * * * *

(b) * * *

(7) * * *

(v) 1995 Rice—$6.50 per hundredweight;

* * * * *

Signed at Washington, DC, on September 2, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–22494 Filed 9-12-94; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–53; Notice No. SC–94–3–NM]

Special Conditions: Jetstream Aircraft Limited Model 4100 Series Airplanes, Main Cabin Aisle Arrangement

AGENCY: Federal Aviation Administration; DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes to amend special conditions issued to British Aerospace Public Limited Company (BAe) (Currently Jetstream Aircraft Limited) for the BAe Model 4100 airplane. This airplane has a novel or unusual design feature associated with the main cabin aisle arrangement. Special Conditions No. 25–ANM–45 were issued on July 9, 1991, addressing this unusual arrangement, and included a limitation on passenger capacity. The applicant has requested that the special conditions be amended to increase the passenger capacity limit from 29 to 30 passengers. Since the special conditions were issued the applicant has changed the company name and revised the model number of the airplane. This amendment of the special conditions should also reflect these changes. Since the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this particular design feature, this notice contains the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards for transport category airplanes.

DATES: Comments must be received on or before October 3, 1994.

ADDRESSES: Comments on this proposal may be mailed in triplicate to: Federal Aviation Administration, Transport Airplane Directorate (ANM–100), Attn: Docket No. NM–53, 1601 Lind Avenue SW, Renton, Washington 98055–4056; or delivered in triplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM–53. Comments may be inspected in the Rules Docket

weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2136.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–53." The postcard will be date/time stamped, and returned to the commentor.

Background

On May 24, 1989, BAe Public Limited Company (currently Jetstream Aircraft Ltd.) applied for a type certificate for the BAe Model 4100 (currently Jetstream Model 4101) airplane in the transport airplane category. The Model 4100 was to be a derivative of the Model 3100, which is a small airplane and is certificated under the provisions of part 23. Like the Model 3100, the Model 4100 was a low wing, twin engine turbo-prop design. The fuselage was stretched, however, to seat 29 passengers in a three-abreast arrangement. Since the Model 4100 airplane had the same fuselage cross section as the Model 3100, it did not have a traditional main cabin aisle arrangement.

Section 25.815 species the minimum aisle width dimensions for transport category airplanes based on the passenger capacity. For airplanes with 20 or more passenger seats, a minimum 15-inch width at heights 25 inches or less above the main aisle floor and a minimum 20-inch width at heights greater than 25 inches above the floor must be maintained. Aisle width is measured at any point along the aisle, normal to the centerline of the aisle. The main aisle envisioned by the regulations would run in a straight line from one end of the passenger cabin to the other and would satisfy these width criteria. Long standing FAA policy has permitted slight deviation from a straight line where there is a transition from one cabin section to another, or where there are interior features which dictate that the aisle move laterally. For example, from tourist class to first class there may be a change from five-abreast seating to four-abreast seating which moves the aisle centerline laterally. This has been accepted provided the required widths are maintained at all heights normal to the path that an individual would take. This type of offset normally occurs at one or two points in a main cabin aisle. In addition, there is no offset permitted in the aisle vertically; that is, the required 15-inch dimension must lie completely below the projected 20-inch dimension at all points along the aisle.

The Jetstream main cabin aisle arrangement utilizes an offset at each seat row. The left and right seat assemblies are offset from one another longitudinally such that the seatbacks are not opposite each other across the aisle. This arrangement permits a 20-inch measurement between seatbacks (at an angle to the airplane centerline) and the required 15-inch dimension is maintained within the projected 20-inch dimension vertically. Thus the "required aisle" is not a straight line from one end of the cabin to the other, but a series of alternating angular segments from seatback to seatback. Nonetheless, there *is* a straight path along the cabin length, and the aisle floor does not deviate from side to side at all. The projected aisle width along this straight path reaches 20 inches at a height of 43 inches above the floor, which is the typical seatback height for transport airplanes. Another feature of the design includes the use of overwing exits which are offset longitudinally, corresponding to the seat positions on the left and right of the airplane.

In order to provide design standards for the novel and unusual aisle configuration in the BAe Model 4100 airplanes, the FAA issued Special Conditions No. 25–ANM–45 on July 9, 1991. The criteria used to develop Special Conditions No. 25–ANM–45 utilized the existing regulations, and made certain favorable design features in the Model 4100 mandatory. Special Conditions No. 25–ANM–45 are summarized as follows:

a. There are no more than 29 passenger seats with no more than ten seat rows on either side of the aisle;

b. The interior arrangement includes one pair of Type II and one pair of Type III passenger emergency exits;

c. In addition to the requirements of § 25.815, the projected aisle width is at least 20 inches measured at a height of 43 inches above the aisle floor;

d. The Type III exits and adjacent seat rows are offset longitudinally such that persons approaching an exit from one end of the cabin may use the exit without interfering with those approaching the other exit from the other end of the cabin;

e. The location and part number of each passenger seat must be defined by a drawing approved by the FAA or foreign civil airworthiness authority. The seat arrangement may not be reconfigured without FAA approval; and

f. An evacuation demonstration must be conducted to demonstrate the efficacy of the aisle arrangement.

The content of the special conditions was based, in part, on the maximum passenger capacity proposed by BAe. The specific limitation of 29 passenger seats was the maximum capacity requested by BAe, but the FAA considered that the fact that this capacity was well below the maximum that could be allowed for the installed exit combination was a significant factor in acceptance of the aisle arrangement.

Subsequent to issuing the Special Conditions 25–ANM–45 and prior to issuance of the Type Certificate for that project British Aerospace Public Limited Company changed its name to Jetstream Aircraft Limited and changed the model designation for the airplane from BAe Model 4100 to the Jetstream Model 4101. Type Certificate A41NM was issued to Jetstream Aircraft Limited on April 9, 1993 for the Jetstream Model 4101 airplane. It is now anticipated that additional models of the 4100 series may be added to this Type Certificate in the future. In addition to the Model 4101, Special Conditions No. 25–ANM-45 would be applicable to any other Jetstream Model 4100 series airplanes that incorporate the same novel or unusual aisle configuration.

Type Certification Basis

Under the provisions of § 21.101, Jetstream must show that 30 passenger Model 4100 series airplanes comply with the regulations in the type certification basis established for the 29 passenger Jetstream Model 4101

airplane. The type certification basis for the Model 4101 is as follows:

The certification basis for the Model 4101 is established in accordance with § 21.29, using the Joint Aviation Regulations (JAR) as a reference point, with appropriate additional requirements incorporated to provide an equivalent certification basis to the FAR requirements for U.S. certification. British Aerospace and the Civil Aviation Authorities (CAA)–UK elected to have the type certification basis be the following:

—JAR 25 as amended through Change 12 dated May 10, 1988;
—JAR 25 Orange Paper Amendment 88–1 effective October 18, 1988;
—JAR 1, definitions as amended through Change 4 dated June 1, 1987; and
—any additional part 25 paragraphs necessary to provide a composite type certification basis equal to the required part 25 type certification basis.

Based on §§ 21.29 and 21.17 and the type certification application date, the applicable U.S. type certification basis was established as follows:

—Part 25 dated February 1, 1965, as amended by Amendments 25–1 through 25–66;
—any applicable special conditions issued;
—any applicable exemptions granted;
—any equivalent safety findings made;
—the fuel venting requirements of Special Federal Aviation Regulation No. 27, including Amendments 27–1 through the latest amendment in effect on the date the Model 4100 is type certificated, and
—Part 36, including Amendments 36–1 through the latest amendment in effect on the date of TC.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for Jetstream Model 4100 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

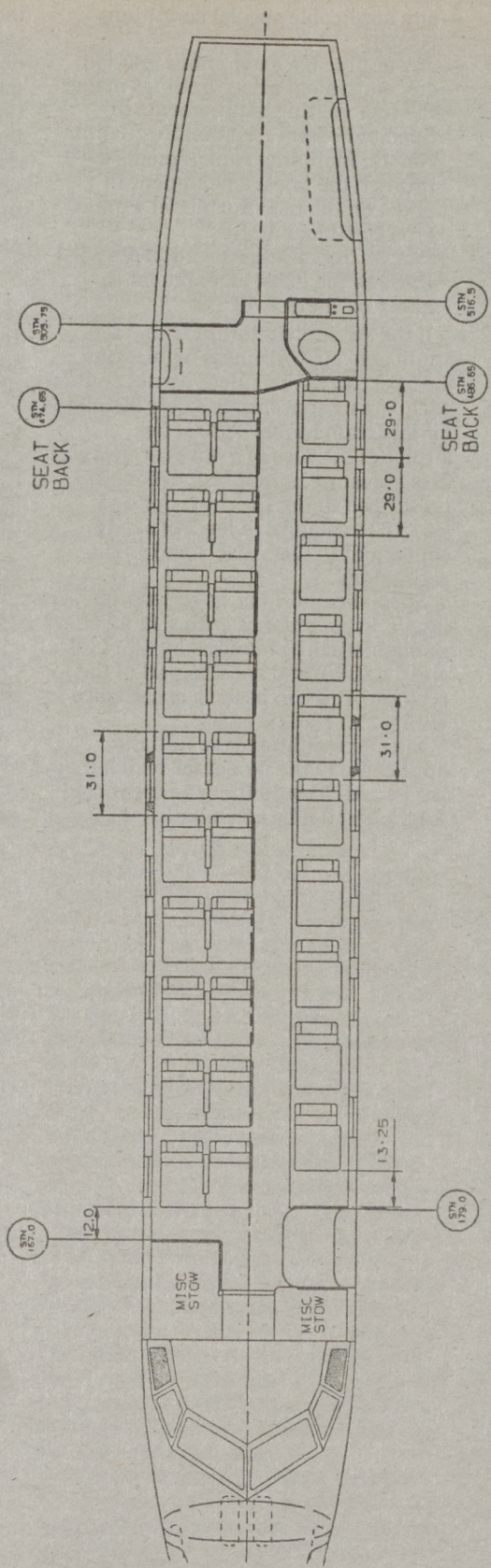
Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The 30 passenger seat version of the Jetstream Model 4100 series airplanes incorporate(s) the same novel or unusual aisle configuration as described above for the 29 seat version.

As in the case of the 29 seat version, the required main cabin aisle widths would be established using measurements taken between seatbacks, which form a path in angular segments. The aisle width measured normal to the fuselage centerline above 25 inches from the floor, would extend from the seat back to the opposite cabin sidewall. Thus, while the required 15-inch dimension at cabin heights below 25 inches from the floor would be completely within the projected 20-inch width vertically, the 20-inch position would not be centered over the 15-inch position (See Figure 1.)

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In establishing Special Conditions No. 25–ANM–45, the FAA carefully evaluated the relevant design parameters of the BAe Model 4100 and

determined that the main aisle configuration is clearly not what was envisioned by the regulations. The regulations do not specifically prohibit the arrangement proposed; however, the policy in effect is predicated on a largely straight aisle which has only one or two lateral deviations; in other words, a traditional cabin arrangement. Therefore, special conditions were developed to establish design criteria which result in a level of safety equivalent to configurations on which the regulations were based.

Jetstream has requested that the FAA amend Special Conditions No. 25–ANM–45 to allow a maximum passenger capacity of 30, to account for a new customer demand, and be responsive to the market. In their request Jetstream contends that there is no technical basis for the limitation on passenger capacity, and that the Joint Aviation Authorities (JAA) have, in fact, already granted such approval. Jetstream has proposed that on the basis of harmonization with the JAA, the FAA should consider their request favorably.

Jetstream further contends that the evacuation demonstration conducted in accordance with the special conditions for the 29 passenger Model 4101 illustrated that there is no impediment due to the aisle arrangement for 30 passengers. Jetstream argues that the concern that prompted the requirement was therefore demonstrated not to exist.

In developing the special conditions, the FAA took account of the several favorable cabin safety features that the 29 passenger Model 4101 incorporates. One of the major features was the good exit-to-passenger ratio for the number of passengers requested. That is, one pair of Type II exits and one pair of Type III exits for 29 passenger seats, where the regulations allow up to 39. In this regard, 29 passenger seats was the largest arrangement proposed for a US customer. Consequently, the FAA did not consider a greater passenger capacity, and the issue of harmonization did not come up.

With respect to the evacuation demonstration conducted in accordance with the special conditions, this demonstration was a modified version of the demonstration specified in part 25, Appendix J. The principal modification was the use of a single exit (in this case, the forward Type I exit) instead of one half of the total number of exits installed. The demonstration was conducted this way in order to provide for maximum usage of the aisle, by the maximum number of passengers. While this demonstration was completed in 54 seconds, the resultant overall rates of egress were not particularly fast for this type of exit. In addition, the evacuees appeared to steady themselves on seatbacks to a higher degree than is typically seen in such demonstrations. Thus, while there was no clear obstruction due to the aisle, the overall egress rates did seem to be somewhat reduced. The FAA therefore considers that the aisle arrangement should result in a limit on maximum passenger capacity that is reduced over the theoretical limit in the regulations.

Jetstream has requested that the FAA increase the current limit, which they believe is arbitrary, and allow up to 30 passengers in accordance with same special conditions. As noted by the applicant the demonstration conducted for approval of the 29 passenger version Model 4101 did include 30 occupants in the passenger cabin (to account for the JAA approved arrangement) and was completed well within the allowable time. Therefore, from the standpoint of amending the special conditions, an additional demonstration would not be required. While the limit of 29 passengers is somewhat arbitrary, the FAA must consider whether other conditions should apply if the limit is raised.

One of the existing conditions is that there be no more than ten seat rows on either side of the aisle. The 30 passenger arrangement proposed by Jetstream still complies with this requirement. In fact, the additional seat is located on the left side of the aisle at the extreme rear of the airplane, and does not produce the same kind of aisle offset that occurs throughout the cabin. This is because the seat is opposite a windscreen at which point the aisle leads into the passageway for the aft exit.

These special conditions are intended to provide requirements which result in a cabin aisle that is as effective and safe as those envisioned by the regulations for the maximum number of passengers on the airplane. Where appropriate, requirements have been drawn from existing regulations. In other cases, new requirements were developed to preserve the level of safety which is inherent in the design of more conventional aisle arrangements. The FAA considers that an additional passenger does not invalidate the existing special conditions. It is noted however, that further increase in passenger capacity would violate one of the other conditions because it would result in more than ten seat rows on at least one side of the aisle. Therefore, any increase beyond 30 passenger seats would very likely require the development of additional conditions.

As noted above, the FAA has determined that the staggered aisle should limit the passenger seating capacity to something less than would otherwise be allowed by the regulations. Under the terms of these special conditions, 30 is considered to be the reasonable maximum.

As in the case of Special Conditions No. 25–ANM–45, an evacuation demonstration would be required for the 30-passenger version. Since the applicant chose to conduct it with 30 rather than 29 passengers, the evacuation demonstration conducted for the 29-passenger version would show compliance with this requirement for the 30-passenger version as well.

Accordingly, in addition to the requirements of § 25.815, the following amended special conditions are proposed for Jetstream Model 4100 series airplanes with a staggered main aisle. Other conditions may be developed as needed based on further FAA review and discussions with the manufacturer and the Civil Aviation Authority (CAA).

As discussed above, the proposed special conditions would be applicable initially to the 30 passenger version of the Jetstream Aircraft Limited Jetstream Model 4101 airplane. Should Jetstream apply at a later date for a change to the type certificate to include another model of the 4100 series incorporating the same novel or unusual design feature, the special conditions would apply to that model, as well, under the provisions of § 21.101(a)(1).

Jetstream, in their petition, requested that the amended special conditions be promulgated without delay as a final rule and in time to permit delivery of 30 passenger airplanes during August 1994. The FAA has determined that public comment would be in the public interest, but will shorten the comment period to 20 days in order to expedite the issuance of the final special conditions.

Conclusion

This action affects only certain novel or unusual design features on one Model of airplanes. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amended Special Conditions

Accordingly, the Federal Aviation Administration proposes the following amended special conditions for

Jetstream Aircraft Limited Model 4100 series airplanes with an offset main cabin aisle.

PART 25—[AMENDED]

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq., E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

1. Jetstream Model 4100 series airplanes may be approved with an offset main aisle provided:

a. There are no more than 30 passenger seats with no more than ten seat rows on either side of the aisle;

b. The interior arrangement includes on pair of Type II and one pair of Type III passenger emergency exits;

c. In addition to the requirements of § 25.815, the projected aisle width is at least 20 inches measured at a height of 43 inches above the aisle floor; and

d. The Type III exits and adjacent seat rows are offset longitudinally such that persons approaching an exit from one end of the cabin may use the exit without interfering with those approaching the other exit from the other end of the cabin.

2. The location and part number of each passenger seat must be defined by a drawing approved by the FAA or CAA–UK. The seat arrangement may not be reconfigured without FAA approval.

3. An evacuation demonstration must be conducted to demonstrate the efficacy of the aisle arrangement.

Issued in Renton, Washington, on August 30, 1994.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–22620 Filed 9–12–94; 8:45 am]

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14 CFR Part 39

[Docket No. 93–SW–27–AD]

Airworthiness Directives; The Enstrom Helicopter Corporation Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to The Enstrom Helicopter Corporation Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX series helicopters, that currently requires initial and repetitive inspections of a certain main rotor transmission clutch assembly (clutch assembly) for bearing roughness, noise, lock-up, or improper oil level and, if necessary, replacement of the clutch assembly. The current AD also requires replacement of the clutch assembly at certain time-in-service intervals. This action would require the same inspections and replacements as required by the current AD, but would provide an additional approved replacement part number and provide a reference to three additional manufacturer service documents. The actions specified by the proposed AD are intended to prevent failure of the clutch assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

DATES: Comments must be received by October 28, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137–4298. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Chicago Aircraft Certification Office, Airframe Branch, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 202, Des Plaines, Illinois 60018, telephone (708) 294–7136, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–27–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137–4298.

Discussion

On January 23, 1989, the FAA issued AD 89–04–09, Amendment 39–6138 (54 FR 6391, February 10, 1989), to require initial and repetitive inspections of certain main rotor transmission clutch assemblies for bearing roughness, noise, lock-up, and improper oil levels. AD 89–04–09 also requires replacement of the main rotor transmission clutch assembly (clutch assembly) when unairworthy, and establishes a 1,200 hours time-in-service retirement life on the clutch assembly. That action was prompted by several failures of the clutch assembly. Based on an analysis of the clutch assembly failure data, the FAA, in conjunction with The Enstrom Helicopter Corporation and Formsprag, the clutch assembly manufacturer, determined that the clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7), could not be safely overhauled and returned to service. The FAA has determined that premature failure of the clutch assembly due to a loss of lubricant creates an unsafe condition. The requirements of that AD are intended to prevent failure of the clutch assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has approved the use of clutch assembly, part number (P/N) 28–13401–4 (Formsprag CL 40526–10), in addition

to the earlier clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) as replacement clutch assemblies. Additionally, subsequent to the issuance of AD 89–04–09, The Enstrom Helicopter Corporation (Enstrom) issued Service Directive Bulletin (SDB) No. 0069, Revision A, dated July 9, 1990, that contains an overhaul time interval for clutch assemblies, P/N 28–13401–2 (Formsprag CL 40526–8) and P/N 28–13401–4 (Formsprag CL 40526–10). Also, AD 89–04–09 referenced neither Enstrom Service Information Letter (SIL) No. 0084, dated December 19, 1978, pertaining to checking the run-out of the main rotor pinion shaft nor Enstrom SDB No. 0068, dated May 8, 1986, subsequently reissued July 9, 1990, pertaining to the retirement life of the clutch assembly. Finally, a note contained in AD 89–04–09 incorrectly referenced SIL "0038A"; the reference should have been SIL "No. 0088, Revision A, dated August 6, 1980."

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 89–04–09 to require initial and repetitive inspections of certain clutch assemblies for bearing roughness, noise, lock-up, or improper oil levels and, if necessary, immediate replacement of the clutch assembly. Owner/operator checks are proposed after engine start and rotor engagement to verify proper operation of the clutch assembly and, after each engine shutdown, while the main rotor is still turning down, to check for abnormal noise (such as a clicking or racheting sound) from the upper pulley that houses the clutch assembly. These proposed owner/operator checks do not require the use of tools, precision measuring equipment, training, pilot logbook endorsements, or the use of technical data not contained in the AD. Additionally, these owner/operator checks are considered part of the normal pilot "Before Takeoff" and "After Landing" checks and were allowed by the existing AD. These owner/operator checks are additional measures to ensure, between 25 hours TIS inspections, that sufficient lubricants are maintained in the clutch assembly and not lost through a leaking seal. These checks may be performed by an owner/operator holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with sections 43.11 and 91.417(a)(2)(v) of the Federal Aviation Regulations. The proposed AD would also require replacement of the clutch assembly at certain TIS intervals.

The FAA estimates that 162 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $2,800 to overhaul or $10,500 for a zero-time clutch assembly per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be from $471,420, if only overhauled clutch assemblies are installed, to $1,718,820, if only zero-time clutch assemblies are used.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6138 (54 FR 6391, February 10, 1989), and by adding a new airworthiness directive (AD), to read as follows:

The Enstrom Helicopter Corporation (Enstrom): Docket No. 93–SW–27–AD. Supersedes AD 89–04–09, Amendment 39–6138.

Applicability: Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX series helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main rotor transmission clutch assembly (clutch assembly), loss of control of the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) For Model F–28, F–28A, F–28C, F–28C–2, 280, and 280C series helicopters, equipped with clutch assembly part number (P/N) 28–13401–1 (Formsprag CL 40526–1 through–7) perform the following:

(1) Before the first flight of each day, before takeoff, gently close the throttle, splitting the tachometer needles to verify proper operation of the clutch assembly. If the tachometer needles do not split, before further flight, inspect the clutch assembly in accordance with paragraph (a)(4).

(2) At the conclusion of the last flight of each day, after engine shutdown, while the main rotor is still running down, listen for any abnormal noise (such as a clicking or racheting sound) from the area of the upper pulley that houses the clutch assembly. If any abnormal noise is heard from the clutch assembly, inspect the clutch assembly in accordance with paragraph (a)(4).

(3) The operational checks required by paragraphs (a)(1) and (a)(2) may be performed by an owner/operator holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

(4) If any irregularities are noted while performing the procedures required by paragraph (1) or (2), inspect the clutch assembly to determine if it is locked-up, or if the upper pulley will rotate. Rotate it in both directions while feeling for any bearing roughness and listening for any bearing noise. The upper pulley should free-wheel if rotated in a clockwise direction and engage if rotated in a counterclockwise direction.

(5) Within the next 25 hours time-in-service (TIS) after the effective date of this airworthiness directive (AD), make an entry in the aircraft log book documenting the clutch assembly part number, the number of hours TIS, and the date.

(6) Within the next 25 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS, inspect the clutch assembly for proper oil level in accordance with the appropriate maintenance manual. If there has been less than a complete loss of oil, replenish the oil and service the clutch assembly in accordance with The Enstrom Helicopter

Corporation Service Information Letter No. 0079A, dated February 14, 1980.

(7) If there has been a complete oil loss, or lock-up, noise, or roughness are detected from the clutch assembly as a result of the inspections required by this AD, before further flight, replace the clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10).

(8) For a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), that has 1,175 or more hours TIS on the effective date of this AD, within the next 25 hours TIS, replace the clutch assembly with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10).

(9) For a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), that has less than 1,175 hours TIS on the effective date of this AD, replace the clutch assembly with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10), prior to the clutch assembly accumulating 1,200 hours TIS.

Note: The clutch service information published in The Enstrom Helicopter Corporation (Enstrom) Service Note No. 0027, dated December 9, 1975; Enstrom Service Information Letter No. 0084, dated December 19, 1978; Enstrom Service Information Letter No. 0079A, dated February 14, 1980; Service Information Letter No. 0088, Revision A, dated August 6, 1980, Enstrom Service Directive Bulletin No. 0068, Revision A, dated July 9, 1990; and Enstrom Service Directive Bulletin No. 0069, Revision A, dated July 9, 1990; pertains to this AD.

(b) For Model F–28F, 280F, and 280FX series helicopters, accomplish the following:

(1) Within the next 25 hours TIS after the effective date of this AD, determine the part number of the clutch assembly.

(2) If a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), is found, before further flight, replace it with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10). The clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), is not approved for use on Enstrom Model F–28F, 280F, or 280FX series helicopters.

(c) Installation of a clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10), on Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX series helicopters constitutes a terminating action for the requirements of this AD.

(d) This AD establishes a retirement life of 1,200 hours TIS for the clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7). However, for clutch assemblies with 1,175 or more hours TIS on the effective date of this AD, those clutch assemblies need not be retired until on or before the accumulation of an additional 25 hours TIS.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Chicago Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Chicago Aircraft Certification Office.

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

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on September 6, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–22627 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 94–SW–06–AD]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 series helicopters. This proposal would require a modification of the latches on the transmission and engine cowlings access doors. This proposal is prompted by five occurrences of an engine or transmission cowling access door becoming loose in flight. The actions specified by the proposed AD are intended to prevent the transmission and engine cowling access doors from opening in flight, being struck by the main rotor blade, and subsequently, separating from the helicopter and being ingested by the main rotor or tail rotor system resulting in a loss of control of the helicopter.

DATES: Comments must be received by November 14, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–06–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137–4298. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel E. Brodie, Aerospace Engineer, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–SW–06–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–SW–06–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137–4298.

Discussion

This notice proposes the adoption of a new airworthiness directive (AD), that

is applicable to Eurocopter Deutschland GmbH (ECD) Model MBB–BK 117 series helicopters, serial numbers (S/N) 7001 through 7201. Since 1986, there have been five reports of the engine or transmission cowling access doors opening in flight which, in several cases, resulted in damage to the main rotor blades.

The FAA has reviewed and approved MBB-Helicopters Alert Service Bulletin ASB–MBB–BK 117–20–104, Revision 1, dated December 8, 1989, that describes procedures for removing and modifying various latches of the access doors of the transmission and engine cowlings, installing new locks, and providing the cowlings, firewalls, and fuselage with appropriate mating components. Transmission and engine cowlings that open in flight can damage the rotor systems and, therefore, create an unsafe condition.

Since an unsafe condition has been identified that is likely to exist or develop on other ECD Model MBB–BK 117 helicopters of the same type design, the proposed AD would require replacing the current latches with those having positive locks, relocating certain latches, and installing additional locks on the transmission and engine cowling access doors within the next 150 hours time-in-service. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 126 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 45 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $624 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $390,474.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) 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 a new airworthiness directive to read as follows:

Eurocopter Deutschland GMBH (ECD): Docket No. 94–SW–06–AD.

Applicability: Model MBB–BK 117 helicopters, serial numbers 7001 through 7201, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the transmission and engine cowling access doors from opening in flight, being struck by the main rotor blade, and subsequently, separating from the helicopter and being ingested by the main rotor or tail rotor system resulting in a loss of control of the helicopter, accomplish the following:

(a) Within the next 150 hours time-in-service, remove the left hand and right hand transmission and engine cowlings without removing the transmission and engine cowling access doors that are installed on the transmission and engine cowlings, and modify the access door latches in accordance with the Work Procedure contained in the Accomplishment Instructions of MBB-Helicopters Alert Service Bulletin ASB–MBB–BK 117–20–104, Revision 1, dated December 8, 1989.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulation (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on September 6, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–22626 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL 5071–3]

Notice and Open Meeting of the Negotiated Rulemaking Advisory Committee for Small Nonroad Engine Regulations

AGENCY: Environmental Protection Agency.

ACTION: FACA Committee Meeting—Negotiated Rulemaking on Small Nonroad Engine Regulations.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the next meeting of the Advisory Committee to negotiate a rule to reduce air emissions from small nonroad engines. The meeting is open to the public without advance registration. Agenda items for the meeting include reports from the task groups and discussions of the draft "single text" strawman.

DATES: The committee will meet on October 4, 1994 from 10 a.m. to 6 p.m. and on October 5, 1994 from 8:30 a.m. to 5 p.m.

ADDRESSES: The location of the meeting will be the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, MI 48108; phone: (313) 995–5900.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Lucie Audette, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, Michigan 48105, (313) 741–7850. Persons needing further information on committee procedural matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460,

(202) 260–5495, or the Committee's facilitator's, Lucy Moore or John Folk-Williams, Western Network, 616 Don Gaspar, Santa Fe, New Mexico 87501, (505) 982–9805.

Dated: September 7, 1994.

Deborah Dalton,

Designated Federal Official.

[FR Doc. 94–22584 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[IL63–1–5716b; FRL–5071–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve Illinois' 1990 base year ozone precursor emissions inventory for certain ozone nonattainment areas as revisions to the Illinois ozone State Implementation Plan (SIP). The emissions inventories were submitted by the State of Illinois to satisfy a Federal requirement that States containing ozone nonattainment areas submit inventories of actual ozone precursor emissions. The Illinois ozone nonattainment areas covered by the ozone emissions inventories addressed in this rulemaking are: Chicago, Metro-East St. Louis, and Jersey County. In the final rules section of this **Federal Register**, the USEPA is approving the State's SIP revision request without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and the public comments received will be addressed in a subsequent final rule based on this proposed rule. A second comment period on this action will not be held. Parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before October 13, 1994.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available forinspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: September 2, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94–22641 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 70

[AD-FRL–5071–2]

Operating Permit Program: Proposed Interim Approval; Minnesota Pollution Control Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permit Program submitted by the Minnesota Pollution Control Agency (MPCA) for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by October 13, 1994.

ADDRESSES: Comments should be addressed to Rachel Rineheart (AE–17J) at the Region 5 address indicated.

Copies of the State's submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Rachel Rineheart at (312) 886–7017 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Rachel Rineheart, U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7017.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the Clean Air Act ("the Act") as amended (1990), EPA has promulgated rules which define the minimum elements of an approvable State operating permit program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Scope

MPCA's permitting rule, Minnesota Rules, Chapter 7007, combines the State's preconstruction and operating permit programs into a single permitting program. This approval is limited solely to Minnesota's part 70 operating permit program submittal of November, 15, 1993. This is not a rulemaking under section 110 of the Act. The State has submitted a separate request for approval of this rule as a preconstruction permitting program and a federally enforceable state operating permit program as a revision to the State Implementation Plan.

Minnesota's submittal includes a statement that the program will be enforceable in the entire State of Minnesota except Indian tribal lands. Because MPCA has not demonstrated,

consistent with applicable principles of Indian law and Federal Indian policies, legal authority to regulate sources on tribal lands, the proposed interim approval of Minnesota's operating permits program will not extend to lands within the exterior boundaries of any Indian reservation in the State of Minnesota.[1] Title V sources located within the exterior boundaries of Indian reservations in Minnesota will be subject to either the Federal operating permits program, to be promulgated at 40 CFR part 71, or to a tribal operating permits program approved pursuant to title V and the regulations that will be promulgated under section 301(d) of the Act. The section 301(d) regulations will authorize EPA to treat tribes in the same manner as States for appropriate Act provisions.[2]

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

Charles W. Williams, Commissioner, MPCA, submitted Minnesota's part 70 Operating Permit Rule on November 15, 1993, requesting source category-limited interim approval of the State's program. The Commissioner of MPCA has the authority to submit this rule on behalf of the Governor of Minnesota under Minnesota Statutes section 116.03, subdivision 3. The submittal contained all required elements under 40 CFR 70.4, including a description of Minnesota's operating permit program, permitting program documentation, and the Attorney General's legal opinion that the laws of the State of Minnesota provide adequate authority to carry out all aspects of the program required by the Clean Air Act.

2. Regulations and Program Implementation

The Minnesota permitting regulations (Minnesota Rules, Chapter 7007) substantially meet the requirements of 40 CFR 70.4, 70.5, and 70.6 with respect to permit content including operational flexibility; 40 CFR 70.7 and 70.8 with respect to permit processing requirements (including public participation and minor permit modifications); and 40 CFR 70.11 with respect to requirements for enforcement authority. The Minnesota permitting regulations meet the requirements of 40 CFR 70.2 and 70.3 with respect to applicability and 40 CFR 70.5 with respect to criteria which define insignificant activities and complete application forms.

Minnesota Rules 7007.0100, subpart 26 defines "Title I modification" as "any change that constitutes a modification under any provision of [T]itle I of the Act." In addition, Minnesota's rule specifically includes major modifications under parts C and D of title I, modifications subject to a New Source Performance Standard, and modifications subject to a National Emission standard for Hazardous Air Pollutants (NESHAPs) or any other rules adopted by the Administrator under section 112 of the Act. Commissioner Charles Williams states in his April 19, 1994, letter that Minnesota interprets its definition to include modifications made pursuant to a preconstruction permitting program approved into the State Implementation Plan under section 110(a)(2)(C) of the Act. The EPA is soliciting comment, as part of the proposal to revise part 70, on the proper definition of "Title I modifications." However, EPA believes that Minnesota's definition, in light of this clarification, would be consistent with any definition of "Title I modifications" EPA may adopt.

For further discussion on the State's regulations, please refer to the Technical Support Document accompanying this approval. The program submittal meets the program requirements of title V and 40 CFR part 70 except as discussing in II.B of this document.

3. Permit Fee Demonstration

Minnesota's fee collection rule, Minnesota Rules 7002.0035, sets the minimum amount of funding the State receives from title V sources by multiplying the number of tons of regulated pollutants listed in the most recent available emissions inventory, with a maximum of 4,000 tons per pollutant per facility, by $25 + the Consumer Price Index (CPI) per ton. However, the current definition of regulated pollutant in MPCA's fee rule (Minnesota Rules 7007.0015, subpart 4) does not include particulate matter greater than 10 microns in diameter, total reduced sulfur, hydrogen chloride, or sulfuric acid mist, all of which are included in the Federal definition. MPCA intends to remedy this discrepancy in a rulemaking scheduled for 1994. When this discrepancy has been corrected, MPCA's fee rule will set the minimum funding the State will receive at the presumptive minimum. However, during the first year after interim approval is granted, the fees that the State of Minnesota will be collecting, which has already been established through the State's regulations, will result in collection of a dollar per ton amount less than the presumptive minimum.

Minnesota will collect $6,558,000 in emission fees for the first year of its program, and has demonstrated that the fees collected will be sufficient to run the program for the first year. However, the fee demonstration in Minnesota's submittal does not contain all information required by 40 CFR 70.9. Specifically, Minnesota's fee demonstration does not contain an estimate of permit program costs for the first four years after program approval. Therefore, the State's fee demonstration may only be given an interim approval.

In order for the State to receive full approval of it's program, the State must either change its definition of regulated air pollutant in its fee rule to include all pollutants included in the Federal definition, or it must submit a four year projection of costs and fees to be collected that demonstrates that the State will collect fees in an amount sufficient to run its program.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation. Minnesota has demonstrated in its title V program submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in Minnesota's enabling legislation and in regulatory provisions defining "applicable requirements" and stating that the permit must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow Minnesota to issue permits that assure compliance with all section 112 requirements.

EPA is interpreting the above legal authority to mean that Minnesota is able to implement and enforce all section 112 requirements. For further rationale on this interpretation, please refer to the Technical Support Document accompanying this rulemaking and the April 13, 1993, guidance memorandum titled "Title V Program Approval Criteria for section 112 Activities," signed by John Seitz.

b. Implementation of 112(g) Upon Program Approval. As a condition of approval of the part 70 program, Minnesota is required to implement section 112(g) of the Act from the date of approval of the part 70 program. Imposition of case-by-case determinations of Maximum Achievable Control Technology (MACT) or offsets under section 112(g) will require the use

[1] This is not a determination that MPCA could not possibly demonstrate jurisdiction over sources within the exterior boundaries of Indian reservations in Minnesota. However, no such showing has been made.

[2] Tribes may also have inherent sovereign authority to regulate air pollutants from sources on tribal lands.

of a mechanism for establishing federally enforceable restrictions on a source-specific basis. The EPA is proposing to approve Minnesota's preconstruction permitting program found in Minnesota Rules Chapter 7007 under the authority of title V and part 70 solely for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a State rule implementing EPA's section 112(g) regulations. EPA believes this approval is necessary so that Minnesota has a mechanism in place to establish federally enforceable restrictions for section 112(g) purposes from the date of part 70 approval. Although section 112(l) generally provides authority for approval of State air toxics programs, title V and section 112(g) provide authority for this limited approval because of the direct linkage between implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purposes of any other provision under the Act, for example section 110. If Minnesota does not wish to implement section 112(g) through its preconstruction permit program and can demonstrate that an alternative means of implementing section 112(g) exists, the EPA may, in the final action approving Minnesota's part 70 program, approve the alternative instead.

This approval is for an interim period only, until such time as the State adopts rules implementing regulations promulgated by EPA to implement section 112(g). Accordingly, EPA is proposing to limit the duration of this approval to a reasonable time following promulgation of section 112(g) regulations so that Minnesota, acting expeditiously, will be able to adopt regulations consistent with the section 112(g) regulations. The EPA is proposing here to limit the duration of this approval to 18 months following promulgation by EPA of section 112(g) regulations. Comment is solicited on whether 18 months is an appropriate period considering Minnesota's procedures for adoption of regulations.

c. Program for Delegation of Section 112 Standards as Promulgated. Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) approval requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of Minnesota's program for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated. Minnesota has informed EPA that it intends to accept delegation of section 112 standards through automatic delegation. The details of this delegation mechanism will be set forth in a Memorandum of Agreement between Minnesota and EPA, expected to be completed prior to approval of Minnesota's section 112(l) program for delegation of unchanged Federal standards. This program applies to both existing and future standards, but is limited to sources that will obtain part 70 permits.

d. Title IV. Minnesota's program contains adequate authority to issue permits which reflect the requirements of title IV and its implementing regulations. In addition, Minnesota's submittal contains a commitment to revise its regulations as necessary to accommodate Federal revisions and additions to title IV and the Acid Rain regulations once they are promulgated.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant interim approval to the operating permit program submitted by Minnesota on November 15, 1993. If this approval is promulgated, the State must make the following changes to receive full approval:

1. Remove from the State's legislation Minnesota Statutes section 609.671, subdivision 14 which provides an exemption from criminal prosecution for sources which give notice of a violation and take reasonable steps to remedy the violation.
2. Revise Minnesota Rules 7007.0800, Subpart 6 to clearly state that all part 70 sources must submit semi-annual reports.
3. Revise Minnesota Rules 7007.1400 to be consistent with the requirements of 40 CFR 70.7(d). Minnesota Rules 7007.1400 provides that the administrative amendment procedure may be used to "clarify a permit term." This ambiguous provision is not consistent with the requirements of 40 CFR 70.7(d) and could be interpreted broadly enough to allow changes to a permit which should be handled through the permit modification procedures.
4. Revise Minnesota Rules 7007.0800, Subpart 16 to require that the permit terms included in 40 CFR 70.6(a) be expressly stated in part 70 permits. Minnesota Rules 7007.0800, Subpart 16 allows permit terms which are required by 40 CFR 70.6(a) to be included in the permit by reference to the state regulation. Failure to have these provisions expressly stated in the permit may create difficulties in enforcing those terms and may make it difficult for citizens to understand what provisions apply to a source.
5. Revise the definition of regulated pollutant at Minnesota Rules 7002.0035 to include any "regulated pollutant for presumptive fee calculation" as defined at 40 CFR 70.2, or submit a detailed fee demonstration containing all required elements under 40 CFR 70.9.
6. Revise Minn. Rules 7007.0750, subpart 2.C to require the permitting authority to take action on minor and moderate permit amendments within 90 days of receipt of a complete application.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permit program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

Minnesota has requested Source Category-Limited (SCL) interim approval of its part 70 operating permit program. Although the State would be required to issue permits within 3 years to all sources subject to the program that obtains interim approval, some sources would not be subject to the requirement to obtain a permit until full approval is granted. Part 70 sources which are not addressed until full approval are also subject to the 3-year time period for processing initial permit applications. The 3-year period for these sources would begin on the date full approval of the State's program is granted. Therefore, initial permitting of all part 70 sources might not be completed until 5 years after interim approval is granted.

Minnesota has presented the following as compelling reasons for why

SCL interim approval should be granted in the November 15, 1993, submittal:

1. Minnesota does not have nonattainment areas for ozone. Consequently, Minnesota has not adopted Volatile Organic Compound (VOC) Reasonably Available Control Technology rules, nor does it have its own State air toxics rules. Therefore, MPCA and the facilities regulated by the air toxics program are not familiar with and have not implemented measures to control VOC emissions. MPCA staff and the regulated community will need additional time to catch up with other States in becoming familiar with control techniques and to identify and contact VOC/toxic sources.
2. Minnesota has a variety of large, complex sources which require extensive amounts of time to permit. The time spent issuing permits to these sources will take considerable time away from issuing permits to other sources, making it impossible given MPCA's resource constraints for MPCA to issue permits to all part 70 sources within 3 years.
3. MPCA expects to lose a portion of its experienced permitting engineers to private industry when facilities are required to submit permit applications. The time which is necessary to train new staff as this occurs will increase the amount of time needed to issue a permit.
4. Although MPCA has almost doubled its staff since January of 1992 in anticipation of the workload associated with title V, the workload will surpass available resources. MPCA intends to request additional funding during the 1995 legislative session; however, MPCA will still be unable to take final action on all applications within 3 years.

EPA believes Minnesota has presented compelling reasons for a SCL interim approval.

The EPA believes that a program granted SCL interim approval must apply to at least 60 percent of all part 70 sources, which are responsible for at least 80 percent of the aggregate emissions from all part 70 sources. The EPA requires a demonstration that these criteria are met when a significant percentage of sources or aggregate emissions are excluded from the interim program. The Minnesota submittal which included a schedule for permitting part 70 sources which would permit 60.71 percent of part 70 sources emitting 81.35 percent of aggregate emissions from part 70 sources within 3 years of program approval met the criteria.d.

EPA believes that SCL interim approval is warranted for Minnesota's program. For further discussion on EPA's determination, see the Technical Support Document accompanying this approval.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed rule. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process; and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by October 13, 1994.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysisassessing 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.

Interim approvals under section 502 of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal approval of a State operating permit program 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning operating permit programs 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).

If the interim approval is converted to a disapproval, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing state requirements nor does it substitute a new Federal requirement.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 31, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94–22582 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

41 CFR Part 101–20

RIN 3090–AF50

Energy Conservation

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Proposed Rule.

SUMMARY: Since the mid-1970's, the General Services Administration has imposed rigid building temperature and air circulation standards in the buildings it owns and manages. These standards were established to promote energy conservation without appropriate attention to occupant comfort and productivity. The results of a recent survey of GSA's building occupants showed a low customer satisfaction in the areas of building temperatures and indoor air quality. These results, plus the introduction of new building energy technologies which provide energy conservation without diminution of comfort and service to building occupants, allow GSA to eliminate rigid temperature standards.

This proposed rule will eliminate operating standards and allow for building temperatures to be maintained in a manner satisfactory to users and consistent with local commercial practices. In addition, it will delete the minimum ventilation rate and replace it with the ventilation standards specified by the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE Standard 62 Ventilation for Acceptable Indoor Air

Quality). This will improve temperature comfort levels, ventilation, and the indoor air quality of buildings. This will, in turn, improve customer satisfaction and productivity.

DATES: Comments are due on or before November 14, 1994.

ADDRESSES: Comments should be addressed to: General Services Administration, Public Buildings Service, Office of Real Property Management and Safety, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jim Carelock, Office of Real Property Management and Safety, Washington, DC 20405, (202) 501–1563.

SUPPLEMENTARY INFORMATION: Executive Order 12862—Setting Customer Service Standards. Executive Order 12862 states that in order to carry out the principles of the National Performance Review, the Federal Government must be customer-driven. GSA, in an effort to become more customer driven, seeks to improve customer satisfaction, by changing regulations that have a direct effect on three areas of low customer satisfaction. GSA's customers, building tenants, have indicated by their responses to customer surveys that they have very low satisfaction levels for the following: ventilation, 42 percent satisfied; indoor air quality, 44 percent satisfied; summer temperature, 53 percent satisfied; and winter temperature, 56 percent satisfied.

The two sections of the Federal Property Management Regulations (FPMR) addressed in this proposal mandate space temperatures and ventilation rates that contribute to low customer satisfaction. These changes will permit the Buildings Managers to control building temperatures and mandate adherence to the latest air ventilation guidelines. On April 11, 1994 the Administrator of GSA granted a class deviation for the two sections of the FPMR. This action made the changes recommended in this proposed rule effective immediately for GSA buildings.

Executive Order 12866

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

Regulatory Flexibility Act

GSA has determined that this rule 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.).

List of Subjects in 41 CFR Part 101–20

Blind, Safety, Concessions, Crime, Federal buildings and facilities, Fire Prevention, Government property management, Security measures.

For the reasons set out in the preamble, it is proposed to amend 41 CFR Part 101–20 as follows:

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

1. The authority citation for Part 101–20 continues to read as follows:

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

SUBPART 101–20.1—BUILDING OPERATIONS, MAINTENANCE, PROTECTION, AND ALTERATIONS

2. Section 101–20.107 is amended by revising paragraph (c) (1) and paragraph (e) to read as follows:

§ 101–20.107 Energy conservation.

* * * * *

(c) * * *

(1) To the maximum extent practicable, temperatures will be maintained to maximize customer satisfaction by conforming to local commercial equivalent temperature levels and operating practices. GSA will seek to minimize energy use while operating its buildings in this manner. During non-working hours, heating temperatures shall be set no higher than 55 degrees Fahrenheit and air-conditioning will not be provided except as necessary to return space temperatures to a suitable level for the beginning of working hours.

* * * * *

(e) During working hours in periods of heating and cooling, provide ventilation in accordance with ASHRAE Standard 62, *Ventilation for Acceptable Indoor Air Quality* where practical in light of building structure, system capacity or other factors relevant to individual facilities. Where compliance with this ASHRAE standard is not practical, provide the maximum practicable amount of ventilation during periods of heating and cooling and pursue opportunities to increase ventilation up to the applicable ASHRAE standard.

* * * * *

Dated: June 2, 1994.

David L. Bibb,

Assistant Commissioner.

[FR Doc. 94–22538 Filed 9–12–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 39

RIN 1090–AA44

Revised Statute 2477 Rights-of-Way

AGENCIES: Office of the Secretary, Bureau of Land Management, National Park Service, Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of period of comments.

SUMMARY: A proposed rule to implement Revised Statute 2477 addressing rights-of-way across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service was published in the **Federal Register** on August 1, 1994 (59 FR 39216), with a 60-day comment period expiring September 30, 1994. The comment period is being extended until November 15, 1994 in response to public request.

DATES: The period for the submission of comments is hereby extended until November 15, 1994. Comments postmarked after this date will not be considered as part of the decisionmaking process on issuance of the final rule.

ADDRESSES: Comments should be sent to Director (140), Bureau of Land Management, Room 5555, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management: Ron Montagna, (202) 452–7782. National Park Service: Dennis Burnett, (202) 208–7675. U.S. Fish and Wildlife Service: Duncan Brown, (703) 358–1744.

George T. Frampton, Jr.,

Assistant Secretary of the Interior.

[FR Doc. 94–22514 Filed 9–12–94; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 582

[Docket No. 94–73; Notice 1]

RIN 2127–AF44

Insurance Cost Information Regulation

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, NHTSA proposes technical amendments to the insurance cost information regulations. Among the proposed changes are revising the term "passenger motor vehicles" to read "passenger cars, utility vehicles, light duty trucks, and vans," and revising from January to March, the availability date of the insurance information. NHTSA also proposes making more explicit the limitations of the collision loss data, and proposes recommending that prospective purchasers contact insurance agents for more information. The technical amendments are proposed to make the insurance cost information more accurate.

DATES: Comments on this notice of proposed rulemaking must be received by this agency not later than November 14, 1994.

ADDRESSES: Comments should refer to the docket number referenced in the heading of this notice, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are 9:30 am to 4:00 pm, Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Mr. Kee's telephone number is (202) 366–4936.

SUPPLEMENTARY INFORMATION:

Background

Insurance Cost Information Regulation

49 U.S.C. 32302(c) states that the Secretary of Transportation (the Secretary) shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective purchasers information developed by the Secretary and provided to the dealer which compares differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness. By delegation from the Secretary, NHTSA has been authorized to carry out the statute.

On January 31, 1975, NHTSA published 49 CFR part 582, Insurance Cost Information Regulation (40 FR 4918). Part 582, as then promulgated, required that automobile dealers "make available to prospective purchasers information reflecting differences in insurance costs for different makes and models of passenger motor vehicles based upon differences in damage susceptibility and crashworthiness." Part 582, however, did not specify information that dealers must provide.

On March 5, 1993 (58 FR 12545), NHTSA published a final rule amending part 582. The rule complemented the 1975 rulemaking, and completed implementation of section 32302(c). The March 1993 final rule, which became effective April 5, 1993, requires dealers of new automobiles to make collision loss experience data available in booklets to prospective purchasers. The information to be provided in the booklet is specified in section 582.5, which requires inclusion of a complete explanatory text and updated data on auto insurance costs published annually by NHTSA.

The mandatory text specified by part 582 relates to, among other topics, the limitations of the auto insurance cost data as a predictor of differences in insurance premiums. Essentially, those limitations result from the fact that most of the factors that insurance companies use to establish premiums relate to driver characteristics and, except for the vehicle's value, are not directly related to the vehicle itself. Thus, as the text explains, the fact that a vehicle's historical claims experience is somewhat better or worse than that of other vehicles in its class may not be reflected in the premium that an insurance company establishes for that vehicle. If the claims experience is reflected, it is likely to have only a small impact on the premium.

The mandatory text also urges consumers to contact insurance companies if they wish to obtain precise information about actual premiums for particular makes and models of vehicles. Previous studies by NHTSA have revealed that the difference between the premiums charged by different insurance companies for the same car and driver is greater than the difference between the premiums charged by a given company for comparably-valued cars that have different claims experience. NHTSA believed the mandatory text would help to minimize consumer confusion by providing customers with an understanding of the uses and limitations of the auto insurance cost data.

In specifying the yearly insurance cost data that accompanied the required text, NHTSA decided to rely on collision loss experience data collected and reported by the Highway Loss Data Institute (HLDI), as the best available indicator of the effect of damage susceptibility on insurance costs.

In the March 1993 final rule, NHTSA specified HLDI's December Insurance Collision Report as the data source for part 582. NHTSA decided to specify HLDI's December Report because it contains more current data and covers more vehicle models than other HLDI publications. The HLDI data is presented in a format that ranks the vehicles in each class from best to worst (with numerical values given for each vehicle). NHTSA specified this format because it determined the use of this ranking system should assist customers in evaluating the comparative performance of comparable vehicles.

In the March 1993 final rule, NHTSA stated its belief that the HLDI information should be available as soon as possible after its publication date. Therefore, NHTSA stated its intent to publish the annual **Federal Register** document updating HLDI's December Insurance Collision Report data no later than January of the calendar year that follows HLDI's publication of the data.

Proposed Amendments

In this notice of proposed rulemaking, NHTSA proposes to amend part 582 by making certain changes in section 582.5, that specifies the text of the insurance cost information booklet. At present, the text specifies the date "January [Year to be Inserted]." In this NPRM, NHTSA proposes to revise "January" to "March." The change to a later month will allow NHTSA adequate time to publish the comparative insurance cost information booklet. HLDI sends the December Insurance Collision Report data to NHTSA in mid-January. The data is then formatted for printing and distributed to automobile dealers by mail. NHTSA can thus expect that the booklet will be published by March of each year.

Part 582 presently specifies a comparison of insurance costs for "passenger motor vehicles." In this NPRM, NHTSA proposes to revise "passenger motor vehicles," at appropriate places in § 582.5, to read "passenger cars, utility vehicles, light duty trucks and vans." The proposed revisions would make clear that "passenger motor vehicles" includes many vehicle types besides "passenger car."

In this NPRM, NHTSA also proposes to make certain changes to the required text that would make more explicit the limitations of the collision loss data. At present, the text in § 582.5 explaining the data's limitations states that the collision loss data table does not include information about new models, models that have been substantially redesigned, and models without enough claim experience. In order to make clear that certain data should not be relied upon, NHTSA proposes to revise the third paragraph in § 582.5 to state:

The table is not relevant for new models or models that have been substantially redesigned for [YEAR TO BE INSERTED], and it does not include information about models without enough claim experience.

At present, the fourth paragraph in § 582.5 states that it is unlikely that a consumer's total premium will vary more than five percent depending upon the collision loss experience of a particular vehicle. Upon further review, NHTSA believes it would be more accurate to state that it is unlikely that a consumer's total premium will vary more than ten percent. This notice proposes that change.

The reason for the change to ten percent is that the Insurance Services Organization (ISO) recommends insurance premium rates to its members. An ISO representative indicated to NHTSA that the collision cost data could result in an insurance premium reduction of ten percent rather than the five percent mentioned in the booklet "Comparison of Differences in Insurance Costs for Passenger Motor Vehicles on the Basis of Damage Susceptibility," made available to motor vehicle purchasers.

Finally, at present, § 582.5 states that to determine the actual premium that a consumer will be charged for insuring a particular vehicle or for complete information about insurance premiums, the consumer should contact insurance companies directly. In this proposed rule, NHTSA proposes that § 582.5 be revised to advise the consumer to contact insurance company *agents* directly. Amending the text to advise the consumer to contact the insurance company agents directly, reflects the fact that the consumer's first point of contact with insurance companies is the insurance company agent.

Regulatory Impacts

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this rulemaking action and has determined the action not to be "significant" under the Department of Transportation's regulatory policies and procedures. The agency has determined that the economic effects of the proposed amendments are minimal, so that a full regulatory evaluation is not required. This NPRM proposes minor amendments to the insurance cost information regulation, so that the information to be provided to potential motor vehicle purchasers is more accurate. Assuming these proposals are adopted, any extra text that must be included in the information booklet would be minuscule.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this notice of proposed rulemaking on small entities. NHTSA estimates there are about 24,000 dealers of new passenger motor vehicles. Many of the dealers would be considered small entities, that may be affected by this proposed rule. However, NHTSA believes that this proposed rule would not have a significant economic impact on a substantial number of these small dealers. The rationale is that this rulemaking proposes minor editorial changes, resulting in a small amount of extra text in the insurance cost information booklet. The potential cost increments associated with this proposed rule should have negligible effects on the purchase price of new passenger motor vehicles. For these reasons, I certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

3. National Environmental Policy Act

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

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12623, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This proposed rule would not have any retroactive effect, and it does not preempt any State law. Chapter 323—*Consumer Information* of 49 U.S.C. does not provide for judicial review of rules issued pursuant to 49 U.S.C. 32302. The Administrative Procedure Act, 5 U.S.C. 701 *et seq.*, provides generally for judicial review of final agency action, which in certain circumstances may include this proposed rule. The Administrative Procedure Act does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Procedures for Filing Comments

NHTSA solicits public comments on the issues presented in this notice. It is requested, but not required, that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21.) Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on this notice will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 582

Administrative practice and procedure, Insurance, Motor Vehicles.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 582 as follows:

PART 582—[AMENDED]

1. The authority citation for part 582 would be revised to read as follows:

Authority: 49 U.S.C. 32302, 32303; delegation of authority at 49 CFR 1.51.

2. Section 582.5 would be revised to read as follows:

§ 582.5 Information form.

The information made available pursuant to § 582.4 shall be presented in writing in the English language and in not less than 10-point type. It shall be presented in the format set forth below, and shall include the complete explanatory text and the updated data published annually by NHTSA.

MARCH [YEAR TO BE INSERTED]

COMPARISON OF DIFFERENCES IN INSURANCE COSTS FOR PASSENGER CARS, UTILITY VEHICLES, LIGHT DUTY TRUCKS, AND VANS ON THE BASIS OF DAMAGE SUSCEPTIBILITY

The National Highway Traffic Safety Administration (NHTSA) has provided the information in this booklet in compliance with Federal law as an aid to consumers considering the purchase of a new vehicle. The booklet compares differences in insurance costs for different makes and models of passenger cars, utility vehicles, light trucks and vans on the basis of damage susceptibility. However, it does not indicate a vehicle's relative safety.

The following table contains the best available information regarding the effect of damage susceptibility on insurance premiums. It was taken from data compiled by the Highway Loss Data Institute (HLDI) in its December [YEAR TO BE INSERTED] *Insurance Collision Report*, and reflects the collision loss experience of passenger cars, utility vehicles, light trucks, and vans sold in the United States in terms of the average loss payment per insured vehicle year for [THREE APPROPRIATE YEARS TO BE INSERTED]. NHTSA has not verified the data in this table.

The table represents vehicles' collision loss experience in relative terms, with 100 representing the average for all passenger vehicles. Thus, a rating of 122 reflects a collision loss experience that is 22 percent higher (worse) than average, while a rating of 96 reflects a collision loss experience that is 4 percent lower (better) than average. The table is not relevant for new models or models that have been substantially redesigned for [YEAR TO BE INSERTED], and it does not include information about models without enough claim experience.

Although many insurance companies use the HLDI information to adjust the "base rate" for the collision portion of their insurance premiums, the amount of any such adjustment is usually small. It is unlikely that your total premium will vary more than ten percent depending upon the collision loss experience of a particular vehicle.

If you do not purchase collision coverage or your insurance company does not use the HLDI information, your premium will not vary at all in relation to these rankings.

In addition, different insurance companies often charge different premiums for the same driver and vehicle. Therefore, you should contact insurance company agents directly to determine the actual premium that you will be charged for insuring a particular vehicle.

Please Note: In setting insurance premiums, insurance companies mainly rely on factors that are not directly related to the vehicle itself (except for its value). Rather, they mainly consider driver characteristics (such as age, gender, marital status, and driving record), the geographic area in which the vehicle is driven, how many miles are traveled, and how the vehicle is used. Therefore, to obtain complete information about insurance premiums, you should contact insurance company agents directly.

Insurance companies do not generally adjust their premiums on the basis of data reflecting the crashworthiness of different vehicles. However, some companies adjust their premiums for personal injury protection and medical payments coverage if the insured vehicle has features that are likely to improve its crashworthiness, such as air bags and automatic seat belts.

Test data relating to vehicle crashworthiness are available from NHTSA's New Car Assessment Program (NCAP). NCAP test results demonstrate relative frontal crash protection in new vehicles. Information on vehicles that NHTSA has tested in the NCAP program can be obtained by calling the agency's toll-free Auto Safety Hotline at (800) 424–9393.

[INSERT TABLE TO BE PUBLISHED EACH MARCH BY THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION]

If you would like more details about the information in this table, or wish to obtain the complete Insurance Collision Report, please contact HLDI directly, at: Highway Loss Data Institute, 1005 North Glebe Road, Arlington, VA 22201, Tel: (703) 247–1600.

Issued on September 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–22545 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 59, No. 176
Tuesday, September 13, 1994

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Committee on Judicial Review; Meetings

ACTION: Notice of Public Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Rulemaking and the Committee on Judicial Review of the Administrative Conference of the United States.

AGENCY: Committee on Rulemaking.

DATES: Monday, September 26, 1994, from 2–4 pm.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, NW, Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nancy G. Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

AGENCY: Committee on Judicial Review.

DATES: Friday, September 23, 1994 at 1:30 pm.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: M. Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee on Rulemaking will meet to continue its discussion of Exemption 8 of the Freedom of Information Act. The Conference's consultant for this project is Professor Roy Schotland of the Georgetown University Law Center.

The Committee on Judicial Review will meet to begin discussion of two draft reports: a study of preclusion of pre-enforcement judicial review under CERCLA by Professor Michael Healy of the University of Kentucky, and a report by Professor William Kovacic of George Mason University, currently visiting at Washington College of Law, American University, on choice of forum for government contract bid protest disputes. The Committee will also complete work on a project on procedures of the Foreign-Trade Zones Board.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of each committee, if appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of each meeting will be available on request.

Dated: September 8, 1994.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 94–22645 Filed 9–12–94; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Draft Environmental Impact Statement; Office Complex at Beltsville Agricultural Research Center, Prince George's County, MD

Pursuant to the National Environmental Policy Act (NEPA), the U.S. Department of Agriculture (USDA) has prepared a Draft Environmental Impact Statement (EIS) for construction of a 350,000 square foot, low-rise office complex plus associated parking on federal land within the Beltsville Agricultural Research Center, Prince George's County, Maryland. The project provides for consolidation of USDA functions currently located in leased facilities in Maryland and the District of Columbia, and in the USDA Headquarters South Building, which will be renovated. Since initiating the EIS process with a public scoping meeting in January, 1994, the size of the proposed office complex has been decreased by USDA from 700,000 s.f. to 350,000 s.f.

The Draft EIS considers environmental impacts from project implementation on each of three (3) possible government-owned sites: Site A, 100± acres north of the Capital Beltway, southeast of the Rhode Island Avenue/Sunnyside Avenue intersection; Site B, 120± acres east of the Baltimore-Washington Parkway, southeast of the Powdermill Road/Soil Conservation Service Road intersection; and Site D, 94± acres southeast of the Edmonston Road/Beaverdam Road intersection. A "No Action" alternative is also considered. Potential environmental impacts include short-term construction-related impacts, and long-term changes in traffic, socio-economic and physical conditions. The Draft EIS is available for inspection at the Beltsville, Greenbelt, and College Park Public Libraries, and upon request from the USDA Headquarters at the address given below.

A Public Hearing on the Draft EIS will be held on October 27, 1994, at 7:00 p.m. in the auditorium of the Beltsville Agricultural Research Center, Building 003, 10300 Baltimore Avenue, Beltsville, Maryland 20705. A short presentation by USDA summarizing the Draft EIS will precede a period for public comments. Oral comments should be limited to ten (10) minutes each. Agencies and the public are invited to provide written comments on the Draft EIS, in addition to, or in lieu of, oral comments at the Public Hearing. All written comments must be mailed, no later than October 27, 1994 to: Mr. Michael V. Sazonov, Contracting Office Technical Representative, U.S. Department of Agriculture, Office of Operations, Washington Area Service Center, South Building, Room S–313, 14th and Independence Avenue SW., Washington, D.C. 20250; Telephone (202) 720–2804.

Wardell C. Townsend, Jr.,

Assistant Secretary for Administration.

[FR Doc. 94–22546 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–98–M

Soil Conservation Service

Burgess Community Flood Prevention; RC&D Measure, South Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy

Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Parts 1500–1508); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement (EIS) is not being prepared for the Burgess Community Flood Prevention RC&D Measure, Horry County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Jose J. Acevedo, Acting State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina, 29201, telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally-assisted action indicates that the proposed measure will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Jose J. Acevedo, Deputy State Conservationist, has determined that the preparation and review of an EIS is not needed.

The proposed action is to reduce flooding and improve flow conditions on 4.0 miles of new and/or renovated channels to facilitate the removal of stormwater.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation and the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 1202 1st Avenue, Conway, South Carolina 29526, (803) 248–9118.

The FONSI has been sent to interested federal, state, and local agencies and other interested parties. A limited number of copies of the FONSI are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watersheld Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and Local Officials.

Dated: September 1, 1994.

Jose J. Acevedo,

Acting State Conservationist.

Finding of No Significant Impact for Burgess Community Flood Prevention Measure RC&D Measure Horry County, South Carolina

Introduction

The Burgess Community Flood Prevention RC&D Measure is a federally assisted action authorized for planning under Public Law 97–98, Agriculture and Food Act of 1981. An environmental assessment was undertaken in conjunction with the development of the plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location:

U.S. Department of Agriculture, Soil Conservation Service, 1202 1st Avenue, Conway, South Carolina 29526

Recommended Action

Proposed is the construction of the Burgess Community Flood Prevention Measure consisting of four miles of new and/or renovated channels in order to properly remove the stormwater from the residential areas of the watershed. The proposed measure plan will reduce flooding around 113 homes and reduce flooding of roads.

Effect of Recommended Action

The proposed action will protect the private and public improvements within the watershed by improving the removal of excess stormwater. The channels which will be constructed or modified will be designed to remove the 10 year frequency storm event. Streamflow will be stabilized to the extent that peak flood flow rates will be slightly reduced and flow will be attenuated.

The project will impact 0.76 acres of wetlands. The channels depths will be designed from 0.0 feet to a maximum depth of 5.0 feet. This design will permit out of bank flow while minimizing any hydrological change to the surrounding wetlands. All spoil and debris will be removed from the wetlands.

There will be a land use change of approximately 15 acres. These changes are a result of land clearing to accommodate easements and channel location. The change is from forested to open vegetated maintenance road adjacent to the channel. A vegetated plan will be developed by the SCS biologist in consultation with the U.S. Fish and Wildlife Service and the South Carolina Department of Natural Resources.

The proposed project will improve quality of life and improve the health of the community. The removal of ponded stormwater will allow the septic systems to work more effectively, improving the surface and groundwater quality.

An initial management survey of cultural resources concluded that no significant adverse impacts will occur to cultural resources in the project area. SCS archaeologist will conduct a complete survey of the project area prior to the commencement of any project component.

Threatened and endangered plant species have been identified in the project area in recent history but will not be impacted by the proposed project. SCS in consultation with U.S. Fish and Wildlife Service concluded that the proposed project as planned will not adversely affect federally listed or proposed endangered and threatened species in Phase I. Field investigations have not revealed any endangered species in Phase II or III due to other habitat changes.

Fish and wildlife habitats will be temporarily disturbed during the installation of the project. The project will provide long-term benefits by providing diversity in landuse by creating open space, wildlife plantings, and improved water quality.

No significant adverse environmental impacts will result from installations, with the exception of minor inconveniences to local residents during construction.

Alternatives

The measure plan consisted of three alternatives, the no action plan, construction of 4 miles of channels, and the removal of all residents from the flood area. Alternative 2, the construction and modification of the channels, was chosen as the best economical and cost effective solution. Alternative No. 2 has been modified three times to avoid possible endangered species habitat and wetlands at the request of those agencies involved in the comment processes.

Consultation—Public Participation

Formal agency consultation began with the initiation of the notification of the State Single Point of Contact for Federal Assistance in April 1992. Agencies were again notified when planning was authorized in August 1992.

Scoping meetings were conducted with SCS staff and included

representatives from U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, South Carolina Wildlife and Marine Resources Department, South Carolina Department of Health and Environmental Control, and South Carolina Coastal Council. Meetings were held during April 1992, September 1992, June 1993, and September 1993. Planning involved all agencies identified and included county government and landowners within the project area.

Specific consultation was conducted with the state Historic Preservation officer and residents within the watershed as to cultural and historical resources.

The measure plan was transmitted to all participating and interested agencies, groups, and individuals for review and comments in January 1994. Public meeting with landowners and sponsors were held throughout the planning process to keep all interested parties informed of the study progress and to obtain public input to the measure plan and environmental evaluation.

Agency consultation and public participation to date has shown no unresolved conflicts with the implementation of the selected plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore based on the above findings, I have determined that an environmental impact statement for the Burgess Community Flood Prevention Measure is not required.

Dated: September 1, 1994.

Jose J. Acevedo,

Deputy State Conservationist.

[FR Doc. 94–22537 Filed 9–12–94; 8:45 am]

BILLING CODE 3410–16–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Investment Opportunity

The U.S. Agency for International Development (USAID) has authorized the guaranty of loans to the Democratic Socialist Republic of Sri Lanka ("Borrower") as part of USAID's development assistance program. At this time, the Government of Sri Lanka has authorized USAID to request proposals from eligible lenders for a loan under this program of $10 Million U.S. Dollars (US$10,000,000). The Government of Sri Lanka ("GOSL") has retained the services of a Financial Advisor for this borrowing. Interested U.S. lenders or investment bankers may submit bids either directly to the Borrower's representative and USAID or through the Financial Advisor retained by GOSL for the borrowing.

The names and addresses of (1) The Borrower's representative, and (2) the Borrower's Financial Advisor for this financing (for those who wish to bid through the Financial Advisor), to be contacted by interested U.S. lenders or investment bankers, as well as the amount of the loan and project number, are indicated below:

Government of Sri Lanka

Project No.: 383–HG–004—$10,000,000

Housing Guaranty Loan No.: 383–HG–004 A01

1. Attention: (Mrs.) V.M.Y. Casie Chitty, Director General
   Address: Ministry of Finance, Department of Fiscal Policy and Economic Affairs, The Secretariat, Colombo 1, Sri Lanka
   Telex No.: 21409 CE
   Telefax No.: 011 (94) 1–449–823 (preferred communication)
   Telephone Nos.: 011 (94) 1–433–357 or 011 (94) 1–434–278
2. Attention: Mr. Miner H. Warner, President
   Address: Public Resources International, 21 West Street (27th Floor), New York, N.Y. 10006
   Telefax No.: (212) 363–8399 (preferred communication)
   Telephone No.: (212) 363–8383

Interested lenders should contact the Borrower, or its Financial Advisor (if they wish to bid via GOSL's Financial Advisor), as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids direct to the Borrower's representative with copies to the Borrower's Financial Advisor by Tuesday, September 20, 1994, 12:00 noon Eastern Daylight Time. Bids should be open for a period of 48 hours from the bid closing date. Please note that the Borrower reserves the right to accept or reject any bid without being obliged to give any reasons. Copies of all bids should be simultaneously sent to the following:

1. Mr. Earl Kessler, Director/RHUDO/New Delhi
   USAID/New Delhi, India
   (Street address: c/o American Embassy, Chanakyapuri New Delhi-110 021, India)
   Telefax No.: 011 (91) 11–686–8594 (preferred communication)
   Telephone No.: 011 (91) 11–686–5301
2. Ms. Kamalini Fernando, Housing Advisor
   USAID/Colombo, Sri Lanka
   (Street Address: USAID/Colombo, 356 Galle Road, Colombo, Sri Lanka)
   Telefax Nos.: 011 (94) 1–574–333 or 011 (94) 1–574–500 (preferred communication)
   Telephone No.: 011 (94) 1–574–296
3. Mr. David Grossman, Assistant Director/
   Mr. Peter Pirnie, Financial Advisor
   Address: U.S. Agency for International Development, Office of Environment and Urban Programs G/ENV/UP, Room 401, SA–2 Washington, D.C. 20523–0214
   Telex No.: 892703 AID WSA
   Telefax Nos.: (202) 663–2552 or (202) 663–2507 (preferred communication)
   Telephone No.: (202) 663–2530 or (202) 663–2547

For your information the Borrower is currently considering the following terms:

(1) *Amount:* U.S. $10 million.

(2) *Term:* 30 years.

(3) *Grace Period:* Ten years grace on repayment of principal (during grace period, semi-annual payments of interest only). If *variable* interest rate, repayment of principal to amortize in equal, semi-annual installments over the remaining 20-year life of the loan. If *fixed* interest rate, semi-annual level payments of principal and interest over the remaining 20-year life of the loan.

(4) *Interest Rate:* Alternatives of both fixed and variable rate loans are requested.

(a) *Variable Interest Rate:* To be based on the three-month or six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed. The rate should be adjusted weekly.

(b) *Fixed Interest Rate:* If rates are to be quoted on a spread over an index, the lender should use as its index a long bond, specifically the 7½% U.S. Treasury bond due November 15, 2024. Such rate is to be set at the time of acceptance.

(5) *Prepayment:* (a) Offers should include any options for prepayment and mention prepayment premiums, if any.

(b) Federal statutes governing the activities of the USAID Housing Guaranty program require that the proceeds of USAID-guaranteed loans be used to provide affordable shelter and related infrastructure and services to below median-income families. In the extraordinary event that the Borrower materially breaches its obligation to comply with this, or related, requirements, USAID reserves the right,

among its other rights and remedies, to accelerate the loan. (It should be noted that since the inception of the USAID Housing Guaranty Program in 1962, USAID has not exercised its right of acceleration).

(6) *Fees:* Please note that Lenders' placement fees (if any), legal fees, and out-of-pocket expenses are to be *included* in the rate quoted for this financing (i.e., such fees will not be deductible from the proceeds of the loan). The initial up front fees of USAID and the Paying and Transfer Agent shall be payable at closing from the proceeds of the loan. In the event of bidding through the Financial Advisor, the Investor is required to arrange with the Financial Advisor regarding the fees to be paid, which are also to be included in the interest rate to be quoted.

(7) *Closing Date:* Not to exceed 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower, and thereafter, subject to certain conditions required of the Borrower by USAID as set forth in agreements between USAID and the Borrower.

The full repayment of the loans will be guaranteed by USAID. The USAID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive the USAID guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for the USAID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by USAID.

Information as to the eligibility of investors and other aspects of the USAID housing guaranty program can be obtained from: Mr. Peter M. Kimm, Director, Office of Environment and Urban Programs, U.S. Agency for International Development, Room 401, SA–2, Washington, D.C. 20523–0214, Fax Nos: (202) 663–2552 or 663–2507, Telephone: 202/663–2530.

Dated: September 9, 1994.

Michael G. Kitay,

Assistant General Counsel, Bureau for Global Programs, Field Support and Research, Agency for International Development.

[FR Doc. 94–22680 Filed 9–12–94; 8:45 am]

BILLING CODE 6116–01–M

Voluntary Foreign Aid Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on:

Date: Wednesday, October 5, 1994, 9:00 a.m. to 5:00 p.m.

Location: Dean Acheson Auditorium, Department of State, Washington, DC.

During the meeting, USAID Administrator J. Brian Atwood and other speakers from USAID and the PVO community will discuss USAID policies that affect the U.S. private and voluntary community. Agenda topics for this meeting include: reform of the USAID procurement policies; review of the findings and recommendations of the Center for Development Information and Evaluation's new study on "Development Through PVOs and NGOs"; and an introduction to USAID's new Global Bureau.

The meeting is free and open to the public. However, notification by Friday, September 30, 1994, through the Advisory Committee's Office Is required.

Persons wishing to attend the meeting must call Theresa Oakley (703) 351–0243 or FAX (703) 351–0212. Persons attending must include their name, organization, birth date and social security number for security purposes.

Dated: September 2, 1994.

Adele Liskov,

Deputy Director, Office of Private and Voluntary Cooperation, Bureau for Humanitarian Assistance.

[FR Doc. 94–22535 Filed 9–12–94; 8:45 am]

BILLING CODE 6116–01–M

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974: Amendment of CIA System of Records (CIA–72) and Elimination of CIA System of Records (CIA–15)

AGENCY: Central Intelligence Agency.

ACTION: Notice of amended and eliminated system of records subject to the Privacy Act.

SUMMARY: The Central Intelligence Agency is providing notice of the amendment of a system of records and the elimination of a system of records in its current inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

EFFECTIVE DATE: This action is effective October 13, 1994, unless comments are received which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: John H. Wright, Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505, telephone: (703) 351–2083.

SUPPLEMENTARY INFORMATION: The record system, identified as CIA–72, is to be entitled: Inspector General Investigative Records. CIA–72 has been updated and expanded to include appropriate portions of a system of records entitled "Employee Grievance Files" (CIA–15), which is hereby being eliminated as a CIA record system, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). Accordingly, CIA–15 (as initially published in the **Federal Register** on 28 August 1975 and subsequently in the **Federal Register** Privacy Act Issuances Compilations, Volume IV, the latest of which was published in 1991, and in an upcoming 1993 compilation) is to be deleted from the listing of CIA Privacy Act systems of records. Because changes and additions have been made throughout amended CIA–72, as published in the **Federal Register** on 17 April 1992, it is being published herewith in its entirety.

Dated: September 8, 1994.

Frank J. Ruocco,

Deputy Director for Administration.

Structure of This Revision

This revision affects primarily the "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:" section of CIA–72. Minor changes are made in other sections. The structural outline of this system with notations as to which parts are changed is presented below:

System Name:

[Changed] Inspector General Investigative Records.

System Location:

[Unchanged]

Categories of Individuals Covered by the System:

[Changed] This section now includes "and persons who have filed grievances with the Office of Inspector General or Agency components." This revision incorporates records previously included in CIA–15, Employee Grievance Files.

Categories of Records in the System:

[Changed] This section includes "prior criminal or non-criminal records of individuals covered by the system, and other materials relating to employee grievances and matters of interest to or being investigated by the Office of Inspector General."

Authority for Maintenance of the System:

[Changed] Additional authorities have been added to this section.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

[Changed] Paragraphs a, b, h, and i include information from the current version of CIA–72 as well as information previously included in CIA–15. Paragraphs c, d, e, f, g, j, k, and the last sentence of paragraph i add new material concerning additional uses of records maintained and purposes of such uses.

CIA–72

SYSTEM NAME:

Inspector General Investigative Records.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, D.C. 20505.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees, persons with a contractual or other relationship with the Agency, persons who are interviewed by or provide information to the Office of Inspector General, persons involved with or knowledgeable about a matter being investigated by the Office of Inspector General, and persons who have filed grievances with the Office of Inspector General or Agency components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of interviews, signed statements, correspondence, reports of investigations, forms, cables, internal CIA memoranda, prior criminal or non-criminal records of individuals covered by the system, and other materials relating to employee grievances and matters of interest to or being investigated by the Office of Inspector General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Central Intelligence Agency Act of 1949, as amended—Pub. L. 81–110, 50 U.S.C. 403 et seq.
Section 506(a), Federal Records Act of 1950 (44 U.S.C. 3101)
National Security Act of 1947, as amended—Pub. L. 80–253
Executive Order 12333
Executive Order 12356
Intelligence Authorization Act of 1994

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Records in the system are used and disclosed by members of the Office of Inspector General in the investigation of matters of interest or concern to the Director of Central Intelligence, Inspector General, and senior Agency officials, including grievances and allegations of misconduct by Agency employees, and to provide information to Agency management regarding personnel matters, and for evaluating current and proposed programs, policies and activities, selected assignments, and requests for awards or promotions.

b. Records in the system that indicate a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program, or by rule, regulation or order pursuant thereto, or that indicate a violation or potential violation of a contractual obligation, may be disclosed to the appropriate agency, whether Federal, state, local, foreign, or international, charged with the responsibility for investigating or prosecuting such violation, enforcing or implementing such statute, rule, regulation, or order, or with enforcing such contract.

c. Records in the system may be disclosed to a Federal, state, local, foreign, or international agency, or to an individual or organization, when necessary to elicit information relevant to an Office of Inspector General investigation, inquiry, decision, or recommendation.

d. Records in the system may be disclosed to a Federal, state, local, foreign, or international agency when requested in connection with the assignment, hiring, or retention of an individual, the issuance or revocation of a security clearance, letting of a contract, or any authorized inquiry or investigation to the extent that the information is relevant to the requesting agency's decision on the matter.

e. Records in the system may be disclosed to any Federal agency when documents, witness statements, or other information obtained from that agency are used in compiling the system record, or when the record is relevant to the official responsibilities of that agency.

f. Unclassified records in the system, or unclassified portions thereof, including information identifying individuals covered by the system, may be disclosed to the public when the matter under investigation has become public knowledge or the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the Inspector General process, or is necessary to demonstrate the accountability of CIA employees, officers, or individuals covered by the system, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

g. Records in the system pertaining to an employee grievance may be disclosed to any party to that grievance and the facilitator except for records that disclose the identity of a non-party who provided a statement during the grievance process.

h. Records in the system may be disclosed in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures in the course of settlement negotiations, or pursuant to statutes or regulations governing the conduct of such proceedings.

i. Records in the system may be disclosed to representatives of the Department of Justice or of any other agency that is responsible for representing Agency interests in connection with a judicial, administrative, or other proceedings. Records may also be disclosed to the Department of Justice to the extent necessary to obtain its advice on any matter relevant to an Office of Inspector General investigation.

j. Records in the system may be disclosed to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, or other congressional committees, or the staffs thereof, in connection with their oversight and legislative functions.

k. Records in the system may be disclosed to the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board, and any successor organizations, when requested by those entities, or when the Inspector General determines that disclosure will assist in the performance of their oversight functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disk, microfilm, magnetic disk, and paper.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are stored in vaulted areas or approved metal filing cabinets. Access

to information on magnetic disk is on a limited need-to-know basis and controlled by password identifiers.

RETENTION AND DISPOSAL:

Records are retained and destroyed in accordance with the records control schedules approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Central Intelligence Agency, Washington, D.C. 20505.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the Central Intelligence Agency rules published in the Code of Federal Regulations (32 CFR 1901.13). Individuals seeking information from this system of records must comply with these rules.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Agency's Information and Privacy Coordinator as indicated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by the Central Intelligence Agency concerning access to or correction of the records, are promulgated in the Central Intelligence Agency rules section of the Code of Federal Regulations (32 CFR 1901).

RECORD SOURCE CATEGORIES:

Agency employees and contractors, Federal, state, and local officials, private citizens, and foreign nationals.

[FR Doc. 94–22589 Filed 9–12–94; 8:45 am]

BILLING CODE 6310–02–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–811]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination: Disposable Lighters From Thailand

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

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Kristin Heim or Thomas McGinty, Office of Countervailing Investigations, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–3798 or (202) 482–5055, respectively.

SUPPLEMENTARY INFORMATION: On August 9, 1994, we published a preliminary negative countervailing duty determination pertaining to disposable lighters from Thailand (59 FR 40525).

On August 17, 1994, in accordance with 19 CFR 355.20(c) (1994), we received a request from petitioner to align the due date for the final countervailing duty determination with the date of the final antidumping duty determination in the investigation of disposable lighters from Thailand. Accordingly, the final determination in this countervailing duty determination is due not later than January 3, 1995.

This notice is published in accordance with 19 CFR 355.20(c)(3) (1993).

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–22560 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–813]

Correction of Ministerial Errors in Preliminary Antidumping Duty Determination: Stainless Steel Bar From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: V. Irene Darzenta or Katherine Johnson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–6320 or (202) 482–4929, respectively.

Amended Preliminary Determination

In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on July 28, 1994, the Department of Commerce (the Department) made its preliminary determination that stainless steel bar (SSB) from Italy was being sold at less than fair value (59 FR 39736, August 4, 1994). On August 3 and 4, 1994, we disclosed the calculations performed in our preliminary determination to counsel for respondent Acciaierie Valbruna S.r.l. (Valbruna) and petitioners, respectively, pursuant to their requests. On August 10, 1994, and August 11, 1994, we received timely submissions from Valbruna and petitioners, respectively, alleging ministerial errors in the Department's preliminary determination calculations. (For specific details of these allegations and our analysis of them, see Memorandum from David L. Binder to Richard W. Moreland dated August 29, 1994.)

Respondent claimed that the Department: (1) Incorrectly added to the home market gross unit prices certain freight charges associated with one of their warehouses that should have been deducted; (2) did not convert home market indirect selling expenses and commissions to the appropriate unit of measure in its margin analysis; and (3) incorrectly calculated the impact of the value added tax (VAT) on the home market indirect selling expense offset (ESP offset) by adding the VAT adjustment relevant to the ESP offset to FMV, rather than deducting it.

Petitioners claimed that the Department: (1) Incorrectly calculated a differences-in-merchandise (difmer) adjustment for U.S. sales with identical home market product matches; (2) incorrectly added the home market freight expenses associated with one of Valbruna's warehouses to the home market gross unit prices in testing whether Valbruna's related party sales prices were at arm's-length; (3) did not convert home market indirect selling expenses and commissions to the appropriate unit of measurement in calculating the commission offset and ESP offset caps; and (4) incorrectly calculated the VAT tax impact on ESP sales.

We agree that the errors alleged by the parties are ministerial errors. These errors, taken together, will constitute a significant ministerial error within the meaning of the Department's proposed regulation regarding preliminary determinations, in that their correction will result in a difference between a dumping margin of *de minimis* and a margin of greater than *de minimis*. *See* section 353.15(g)(4)(ii) of the Department's proposed regulations (57 FR 1131, January 10, 1992); *See also Correction of Ministerial Errors in Preliminary Antidumping Duty Determination: Sillcomanganese from Ukraine*, 59 FR 37969, July 26, 1994. Therefore, in accordance with the procedures set forth in that proposed regulations, we are amending Valbruna's preliminary dumping margin. The corrected dumping margin for Valbruna is 0.44 percent and that for "All Others" is 6.13 percent.

Suspension of Liquidation

We are directing Customs Service to correct our request to suspend liquidation, made in accordance with section 733(d)(1) of the Act, for all entries of SSB from Italy. We are directing the Customs Service to discontinue suspension of liquidation of all entries of SSB from Italy for Valbruna that are entered, or withdrawn from warehouse, for consumption on or after August 4, 1994, the date of publication of our preliminary determination notice in the **Federal Register**. Because Valbruna's dumping margin is *de minimis*, and *de minimis* margins are not included within the all other rate, we are directing the Customs Service to correct the All Others rate so that it will only reflect the rate for Foroni S.p.A., the only other company investigated. We are instructing the U.S. Customs Service that any cash deposits or bonds collected with respect to SSB from Italy for Valbruna should be released or refunded.

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of SSB from Italy for Foroni S.p.A. and All Others that are entered, or withdrawn from warehouse, for consumption on or after August 4, 1994, the date of publication of our preliminary determination notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the revised estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Original margin (percent)	Revised margin (percent)
Acciaierie Valbruna S.R.L.	0.57	0.44% *de minimis*
Foroni S.p.A	6.13	6.13
All Others	4.11	6.13

Notification of International Trade Commission (ITC)

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination.

This amended preliminary determination is published in accordance with Section 733(f) of the Act.

Dated: September 2, 1994.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–22557 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–469–805]

Correction of Ministerial Errors in Preliminary Antidumping Duty Determination: Stainless Steel Bar From Spain

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: September 13, 1994.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or Katherine Johnson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–1756 or (202) 482–4929, respectively.

Amended Preliminary Determination

In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act), on July 28, 1994, the Department of Commerce (the Department) made its preliminary determination that stainless steel bar (SSB) from Spain was being sold at less than fair value (59 FR 39740, August 4, 1994). On August 4, 1994, we disclosed the calculations performed in our preliminary determination to counsel for respondent Roldan, S.A. (Roldan), and petitioners, pursuant to their requests. On August 8, 1994, and August 11, 1994, we received submissions from Roldan and petitioners, respectively, alleging a ministerial error in the Department's preliminary determination calculation. Both parties alleged that the Department did not convert the unit prices for marine insurance expenses incurred on U.S. sales from Spanish pesetas to U.S. dollars for purposes of calculating its preliminary antidumping duty margins. The Department subsequently determined that a ministerial error did not occur when it performed its margin calculation. (For specific details of this allegation and our analysis, see Memorandum from Richard W. Moreland to Barbara R. Stafford dated August 15, 1994).

On August 23, 1994, Roldan requested that the Department reconsider its decision that it did not make a ministerial error in its handling of marine insurance for the preliminary determination, and therefore correct the preliminary determination. We have reconsidered our earlier decision and now conclude that we made a ministerial error when calculating the preliminary margin. (*See* memorandum from Richard W. Moreland to Barbara R. Stafford dated August 31, 1994).

This error constitutes a significant ministerial error within the meaning of the Department's proposed regulation regarding preliminary determinations, in that its correction will result in a difference of no less than 5 absolute percentage points, *i.e.*, between a dumping margin of 25.21 percent and a dumping margin of 1.92 percent. Therefore, we are amending Roldan's preliminary dumping margin. *See* section 353.15(g)(4)(ii) of the Department's proposed regulations (57 FR 1131, January 10, 1992). We have converted the unit prices for marine insurance expenses from Spanish pesetas to U.S. dollars for purposes of deducting the movement expense from U.S. price and for purposes of making the VAT adjustment. The corrected dumping margins are 1.92 percent for Roldan and 4.68 percent for "all others."

Suspension of Liquidation

We are directing the Customs Service to correct our request to suspend liquidation in accordance with section 733(d)(1) of the Act, for all entries of SSB from Spain for Roldan and for "all others".

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of SSB from Spain that are entered, or withdrawn from warehouse, for consumption on or after August 4, 1994, the date of publication of our preliminary determination notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the revised estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Original margin (percent)	Revised margin (percent)
Roldan, S.A.	25.21	1.92
Acenor, S.A.	8.96	8.96
All others	17.89	4.68

Notification of International Trade Commission (ITC)

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination.

This amended preliminary determination is published in

accordance with Section 733(f) of the Act.

Dated: September 2, 1994.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–22558 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–DS–P

Carnegie Institution of Washington et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–044. *Applicant:* Carnegie Institution of Washington, Stanford, CA 94305. *Instrument:* Mass Spectrometer System, Model Delta S. *Manufacturer:* Finnigan MAT GmbH, Germany. *Intended Use:* See notice at 59 FR 24690, May 12, 1994. *Reasons:* The foreign instrument provides a sensitivity of 1 ion of CO_2 per 1500 molecules of CO_2 in the source and an internal precision of 0.006 per mil for 100 bar µl samples of CO_2. *Advice Received From:* National Institutes of Health, June 23, 1994.

Docket Number: 94–061. *Applicant:* Saint Louis University, St. Louis, MO 63103. *Instrument:* Two Seismometers, Model STS-2. *Manufacturer:* G. Streckeisen, Switzerland. *Intended Use:* See notice at 59 FR 29417. *Reasons:* The foreign instrument provides: (1) a bandwidth of 0.003 to 5.0 Hz, (2) 140 dB dynamic range and (3) portable surface operation with self-centering capability and temperature compensation. *Advice Received From:* The U.S. Geological Survey, July 21, 1994.

Docket Number: 94–066. *Applicant:* University of Rhode Island, Narragansett, RI 02882. *Instrument:* Two Large Volume In-situ Pumps with accessories, Model C/4. *Manufacturer:* Challenger Oceanic Systems & Services, United Kingdom. *Intended Use:* See notice at 59 FR 31208. *Reasons:* The foreign instrument provides: (1) pumping and filtration of 1000 l/hour of seawater on battery power at depths to 5500 m, (2) programmable operation and (3) deployment of manganese adsorber cartridges. *Advice Received From:* The National Oceanic and Atmospheric Administration, July 22, 1994.

The National Institutes of Health, The U.S. Geological Survey and The National Oceanic and Atmospheric Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–22556 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–090. *Applicant:* Howard Hughes Medical Institute, Box 9812, New Haven, CT 06536. *Instrument:* Phosphoimager X-ray Diffraction Area Detector. *Manufacturer:* MacScience Co. Ltd., Japan. *Intended Use:* The instrument will be used in determining the three-dimensional structures of proteins and nucleic acids using x-ray crystallography. The proteins or nucleic acids are crystallized and the single crystals are exposed to a beam of X-rays which diffracted by the crystals give rise to discreet spots of varying intensities. The instrument is used to automatically measure the intensities of each of these diffracted reflections and write them out on disk. In addition, the instrument will be used for Ph.D. thesis research of graduate students in the Department of Molecular Biophysics and Biochemistry. *Application Accepted by Commissioner of Customs:* July 13, 1994.

Docket Number: 94–091. *Applicant:* U.S. Environmental Protection Agency, Environmental Research Laboratory, Office of Research and Development, 960 College Station Road, Athens, GA 30605-2720. *Instrument:* Isotope Ratio Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Isotopic Analysis, United Kingdom. *Intended Use:* The instrument will be used for natural abundance-level measurements of (1) the stable carbon isotopic compositions of individual peaks resolved by gas chromatography, and (2) the stable carbon, nitrogen and sulfur isotopic compositions of soil, plant, and animal materials. These samples will be used to study transformations of C, N, S, and H in terrestrial soil-plant-water ecosystems. *Application Accepted by Commissioner of Customs:* July 18, 1994.

Docket Number: 94–092. *Applicant:* The University of Georgia, Research Foundation, Boyd Graduate Studies Research Center, Athens, GA 30602. *Instrument:* Motion Analysis System, Model ELITEPLUS. *Manufacturer:* Bioengineering Technology and Systems, Italy. *Intended Use:* The instrument will be used in the biomechanical analysis of human and/or animal gait to assist researchers in evaluating the effects of drugs, disease, etc. The instrument will also be used in the courses Biomechanical Systems Design, BEN 470 and BEN 670, to analyze loading responses of joints during gait, to learn how to design prosthetic devices and to understand the response of the body to implants, drugs, etc. *Application Accepted by Commissioner of Customs:* July 18, 1994.

Docket Number: 94–093. *Applicant:* The University of Georgia, Research Foundation, Boyd Graduate Studies Research Center, Athens, GA 30602. *Instrument:* Muscle Response System, Model TELEMEG. *Manufacturer:* Bioengineering Technology and Systems, Italy. *Intended Use:* The instrument will be used in the biomechanical analysis of human and/or animal gait to assist researchers in evaluating the effects of drugs, disease, etc. The instrument will also be used in the courses Biomechanical Systems Design, BEN 470 and BEN 670, to analyze loading responses of joints

during gait, to learn how to design prosthetic devices and to understand the response of the body to implants, drugs, etc. *Application Accepted by Commissioner of Customs:* July 18, 1994.

Docket Number: 94–094. *Applicant:* United States Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. *Instrument:* Fuel Cell. *Manufacturer:* Fuji Electric Company, Japan. *Intended Use:* The instrument will be used for study in the use of a phosphoric acid fuel cell to propel an urban transit bus. The fuel cell converts hydrogen and oxygen into electrical power. The objectives of this program are to develop and demonstrate a methanol-fueled, PAFC/battery-powered urban transit bus to provide energy savings, petroleum displacement and air quality improvements. *Application Accepted by Commissioner of Customs:* July 19, 1994.

Pamela Woods

Acting Director, Statutory Import Programs Staff

[FR Doc. 94–22559 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

Monterey Bay National Marine Sanctuary Advisory Council; Meetings

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council Open Meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise and assist the Secretary of Commerce in the implementation of the management plan for the Monterey Bay National Marine Sanctuary.

Time and place: Friday, September 23, 1994 from 9:00 until 4:30. The meeting location will be at the Santa Cruz Harbor Yacht Club, 244 4th Avenue, Santa Cruz, California.

Agenda: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including the development of a Marine Learning Center at Pier One, Fort Mason, San Francisco.

Public participation: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

For further information contact: Scott Kathey at (408) 647–4201 or Elizabeth Moore at (301) 713–3141.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program.)

Dated: September 7, 1994.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 94–22579 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–08–M

Patent and Trademark Office

Grant of Certificate of Interim Extension of the Term of U.S. Patent No. 4,048,306; Dynabac

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The Patent and Trademark Office has issued a certificate under 35 U.S.C. Section 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 4,048,306 that claims the human drug product known as Dynabac.

FOR FURTHER INFORMATION CONTACT: Gerald A. Dost by telephone at (703) 305–9282; or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Special Programs, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: Section 156 of title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to 5 years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review. Under section 156, a patent is eligible for term extension only if regulatory review of the claimed product was completed before the original patent term expired.

On December 3, 1993, section 156 was amended by Pub. L. No. 103–179 to provide that if the owner of record of the patent or its agent reasonably expects the applicable regulatory review period to extend beyond the expiration of the patent, the owner or its agent may submit an application to the Commissioner of Patents and Trademarks for an interim extension of the patent term. If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for a statutory extension of the patent term, the Commissioner shall issue to the applicant a certificate of interim extension for a period of not more than one year.

On August 22, 1994, Eli Lilly and Company, on behalf of the patent owner Boehringer Ingelheim GmbH, filed an application under 35 U.S.C. section 156(d)(5) for interim extension of the term of U.S. Patent No. 4,048,306. The application states that the patent claims the active ingredient Dirithromycin in the human drug product Dynabac and a method of using the product under regulatory review. The application indicates that the product is currently undergoing a regulatory review before the Food and Drug Administration for permission to market or use the product commercially. The original term of the patent is set to expire on September 13, 1994. Applicant requests an interim extension of the term of the patent for a period of one year.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. section 156. Since it is apparent that the regulatory review period may extend beyond the expiration of the original patent term, an interim extension of the patent term under 35 U.S.C. section 156(d)(5) is appropriate. Accordingly, an interim extension under 35 U.S.C. section 156(d)(5) of the term of U.S. Patent No. 4,048,306 has been granted for a period of one year from the original expiration date of the patent.

Dated: September 6, 1994.

Michael K. Kirk,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

[FR Doc. 94–22568 Filed 9–12–94; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk-blend and Non-Cotton Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Laos

September 8, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa requirements.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

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 Governments of the United States and the Lao People's Democratic Republic reached agreement, effected by exchange of notes dated November 8, 1993, to establish an export visa arrangement for certain cotton, wool, man-made fiber, silk-blend and non-cotton vegetable fiber textiles and textile products, produced or manufactured in the Lao People's Democratic Republic and exported from the Lao People's Democratic Republic on and after October 1, 1994. Goods exported during the period October 1, 1994 through October 15, 1994 shall not be denied entry for lack of a visa. All goods exported after October 15, 1994 must be accompanied by an appropriate export visa.

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).

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 8, 1994.

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), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1993; pursuant to the Visa Arrangement of November 8, 1993, between the Governments of the United States and the Lao People's Democratic Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 1, 1994, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk-blend, and non-cotton vegetable fiber textiles and textile products in Categories 200-239, 300-369, 400-469, 600-670, and 800-899, including merged and part categories, produced or manufactured in the Lao People's Democratic Republic and exported from the Lao People's Democratic Republic on and after October 1, 1994 for which the Government of the Lao People's Democratic Republic has not issued an appropriate export visa fully described below. Should additional categories, merged categories or part categories be added to the bilateral agreement, the entire category(s) or part category(s) shall be included in the coverage of this arrangement on an agreed effective date. Goods exported during the period October 1, 1994 through October 15, 1994 shall not be denied entry for lack of a visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for the Lao People's Democratic Republic is "LA"), and a six digit numerical serial number identifying the shipment; e.g., 4LA123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature and the printed name of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation (e.g., "Cat. 340–510 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 347/348 may be visaed as 347/348 or if the shipment consists solely of 347 merchandise, the shipment may be visaed as "Cat. 347," but not as "Cat. 348").

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, printed name of signer, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new visa must be obtained from the Government of the Lao People's Democratic Republic, or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of Lao People's Democratic Republic, and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Laos has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less, do not require a visa for entry.

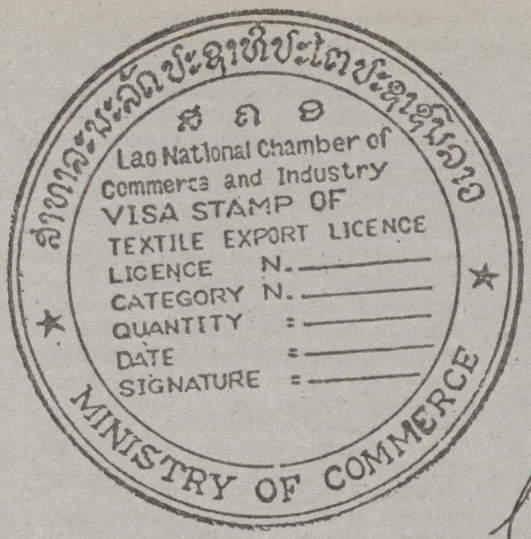
A facsimile of the visa stamp is enclosed with this letter.

The actions taken concerning the Government of the Lao People's Democratic Republic with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.



FACSIMILE OF VISA STAMP OF THE LAO PEOPLE"S DEMOCRATIC REPUBLIC

[FR Doc. 94–22642 Filed 9–12–94; 8:45 am]
BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS) Meeting

ACTION: Notice of meeting; Change in status of meeting.

SUMMARY: Pursuant of Public Law 92–463, as amended, (5 U.S.C. App. § 10 (1972)) the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) announced a forthcoming meeting in the **Federal Register** on Tuesday, August 16, 1994 at 59 FR 42035. A determination has been made to close this meeting, under Title 5, U.S. Code, Section 552b(c)(2) and appendix 2, Section 10(d). The purposes of this meeting relate solely to the internal personnel roles and practices of DACOWITS. Substantive issues will not be discussed.

DATES: September 12, 1994, 8:30 a.m.–4 p.m.

ADDRESSES: PBC Conference Room 3A682, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Martha C. Gillette, USN, Office of DACOWITS and Military Women Matters, OUSD (Personnel and Readiness), The Pentagon, Room 3D769, Washington, DC 20301–4000, Telephone (703) 697–2122.

Dated: September 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–22590 Filed 9–12–94; 8:45 am]
BILLING CODE 5000–04–M

Department of the Air Force

Intent to Grant Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant C^2 Technologies, 37 Towle Farm Road, Complex 46, Hampton, NH 03842–1945, a sole proprietorship which is in the process of being incorporated in the State of New Hampshire, an exclusive license under United States Patent Application No. 08/263,207 filed 16 June 1994 in the names of L. Pierre de Rochemont, Michael J. Suscavage, Daniel F. Ryder, Jr., and Mikhail Klugerman for "Method To Construct C–Axis Textured Ceramic Coatings, Filaments, and Multiple Filament Metal Composite Structures."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this notice. Copies of the patent application(s) may be obtained, on request, from the same addressee.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, HQ AFLSA/JACP, 1501 Wilson Blvd, room 805, Arlington, VA 22209–2403, Telephone No. (703) 696–9050.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 94–22591 Filed 9–12–94; 8:45 am]
BILLING CODE 3901–01–P

Department of the Army

Meeting, Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, DOD.

ACTION: Open Meeting notice.

The Open Meeting notice published in the **Federal Register** (59 FR 44134), for the Board of Visitors, United States Military Academy on 23 September 1994 has been changed to 18 November 1994. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 18 November 1994.

Place of Meeting: West Point, New York.

Start Time of Meeting: 8:00 a.m.

Proposed Agenda: Annual Report Preparation; Report on Admissions Review.

Director of Intercollegiate Athletics Program Brief, Report on Summer Activities; Update Reports on Infrastructure Revitalization and Faculty Restructuring.

All proceedings are open. For further information contact Lieutenant Colonel John J. Luther, United States Military Academy, West Point, New York 10996–5000; telephone (914) 938–5870.

Kenneth L. Denton,

Army Federal Register, Liaison Officer.

[FR Doc. 94–22592 Filed 9–12–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Howard Hanson Dam Operating, King County, WA

AGENCY: U.S. Army Corps of Engineers, Seattle District, DOD.

ACTION: Notice of intent.

SUMMARY: Seattle District, U.S. Army Corps of Engineers is proposing an Environmental Impact Statement (EIS) for the Continuing Operation and Maintenance of the Howard Hanson Dam on the Green River, King County, Washington. Even though this project was completed before the National Environmental Policy Act of 1969, it is the intent of the Corps to prepare an EIS on current operations which have an impact on notable environmental amenities, particularly, resident and anadromous fish resources.

ADDRESSES: U.S. Army Corps of Engineers, Seattle District, Planning Branch, Environmental Resources Section, P.O. Box 3755, Seattle, Washington 98124–2255.

FOR FURTHER INFORMATION CONTACT: Mike McNeely, (206) 764–3624.

SUPPLEMENTARY INFORMATION: Howard A. Hanson Dam was originally authorized as the Eagle Gorge Dam and Reservoir by the Flood Control Act of 1950. Construction was completed in 1962. Project authorized purposes were flood control, augmentation of low flows, irrigation and water supply. Irrigation in the Green River Valley is no longer a priority and the project has never been operated for water supply. Howard Hanson Dam has arrange of operational choices within the parameters of the authorized uses of the project. Throughout the years that HHD has been in operation, many downstream changes have occurred in land use, recreation, k fishery resources and resource allocation as well as in general environmental awareness. These, in turn, have resulted in operational changes and adjustments primarily related to refilling the conservation pool and controlling sediment accumulation in the reservoir. Seattle District proposes to operate the project for flood control and low flow augmentation in accordance with a refill strategy instituted in 1992, a drought year. In coordination with resource agencies, refill will begin early (April) and discharge flows are designed to minimize impacts to wild steelhead spawning downstream. This strategy is dynamic and adjustments will be made on a year-to-year basis as new knowledge is gained.

Alternatives

The Corps of Engineers has three alternative courses of action available:

1. Operate the project as described above (the "no action" alternative because it is the existing condition.

2. Operate with the original parameters generally used from 1962 to 1983.

3. Operate with 98% reliability with delay of refill for out-migration of upper watershed fish—a strategy generally used from 1984 to 1992.

Scoping and Public Involvement

Public involvement will be sought during scoping and conduct of the study in accordance with NEPA procedures. A public scoping process has been begun to clarify issues of major concern, identify any information sources that might be available to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. The Notice of Intent formally commences the scoping process under NEPA. As part of the scoping process, all affected Federal, State and local agencies, Indian Tribes, and other interested private organizations, including environmental groups, are invited to comment on the scope of the EIS. Comments are requested concerning project alternatives, mitigation measures, probable significant environmental impacts and permits or other approvals that may be required.

The following key areas have been identified to be analyzed in depth in the draft EIS:

1. Geology and Engineering Design.
2. Water Management.
3. Water Quality.
4. Fisheries.
5. Wildlife.
6. Wetlands.
7. Cultural Resources.
8. Socioeconomic Resources.

Other Environmental Review and Coordination Requirements

All review and coordination requirements will be fulfilled via this NEPA process. On-going operations of the dam are continually coordinated with agencies and interested publics.

Scoping Meeting

A scoping meeting is not scheduled for this EIS.

Availability of Draft EIS

The draft EIS is scheduled for release in the spring of 1995.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–22539 Filed 9–12–94; 8:45 am]

BILLING CODE 3710–34–M

DEPARTMENT OF ENERGY

Information Collection

AGENCY: Department of Energy (DOE).

ACTION: Notice of Information Collection.

SUMMARY: This information collection will be used to explore two methodological issues: whether survey methods show that nonuse values exist for nonenvironmental goods (e.g., consumer willingness to pay to prevent the job losses of others); and a comparison between alternative survey instruments. See Supplementary Information.

DATES: Respondents are requested to submit two copies of all correspondence related to this issue. Information should be submitted within 15 days of publication of this notice in the **Federal Register**. If you expect that you will be submitting information, but find it difficult to do so within the 15-day time period, please advise the contact, listed below, of your intentions.

ADDRESSES: Comments and suggestions should be submitted in writing to: Ms. Peggy Podolak, Office of Economic Analysis and Competition (PO–61), Office of Policy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, FAX (202) 586–5391.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Peggy Podolak, at the above address, or by telephone at (202) 586–6430.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) is funding a methodological study on nonuse values. A nonuse value is a measure of people's willingness to pay to preserve the mere existence of something even

though they never plan to own, use, or directly benefit from it. The first portion of the study addreses whether such values exist for nonenvironmental services, such as jobs of others outside one's community. In the second portion of the study, willingness-to-pay for single items considered individually will be compared to willingness-to-pay for the same items when bundled. These methodological questions will be evaluated in a trade-off context, with the Columbia River Basin in the Pacific Northwest as the subject of the study.

This study is being performed solely to address methodological issues surrounding the estimation of nonuse values and will not be used for any other purpose. In particular, DOE seeks to ascertain whether individuals who state positive nonuse values for *environmental* services also state positive nonuse values for *nonenvironmental* services and how different survey methods perform to elicit willingness-to-pay valuations.

The method used here will be a paper-and-pencil survey administered in a shopping mall in or near Raleigh, North Carolina. Recruiters will approach shoppers and ask if they are willing to take the survey. It will take approximately one-half hour for each of the anticipated 200 respondents to complete the questionnaire, for a total information collection burden of 100 hours.

DOE recognizes that the use of the mall-intercept approach which is necessitated by the Department's limited resources for this research entails statistical problems that render problematic any extrapolation of survey results to a population or subpopulation other than the actual individuals sampled. Thus, the results of this survey will be used solely to guide future research and advance the development of methods for estimating nonuse values, and will not be used for policy purposes related to any rulemaking, natural resource damage assessment, or other substantive government program. DOE believes that the practical utility of this research justifies the small burdens it imposes on respondents.

Issued in Washington, DC on September 1, 1994.

Abraham E. Haspel,

Deputy Assistant Secretary for Economic and Environmental Policy.

[FR Doc. 94–22606 Filed 9–12–94; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Notice of Availability of Record of Decision for the Hermiston Generating Project

AGENCY: Bonneville Power Administration (BPA), Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD which states BPA's decision to enter into a transmission agreement with PacifiCorp to transfer (wheel) electrical power from a proposed privately-owned, combined-cycle combustion turbine cogeneration plant near Hermiston, Oregon. BPA has decided to transfer the power relying on the Hermiston Generating Project Environmental Impact Statement (EIS), and other information, to make its decision.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION CONTACT: Dawn R. Boorse—PG, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–4261, fax number 503–230–3752. Or you may also call your local BPA Area or District Manager.

Issued in Portland, Oregon, on August 30, 1994.

Randall W. Hardy,

Administrator.

[FR Doc. 94–22607 Filed 9–12–94; 8:45 am]

BILLING CODE 6450–01–P–M

Notice of Availability of Record of Decision for the PacifiCorp Capacity Sale

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD which states BPA's decision to enter into an 1100 megawatt, long-term capacity sale contract with PacifiCorp, a private utility in the Pacific Northwest. BPA has made this decision relying on the PacifiCorp Capacity Final Environmental Impact Statement (FEIS).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Ary—PG, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–4259, fax number 503–230–3752. Or you may also call your local BPA Area or District Manager.

Copies of the ROD and FEIS may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

Issued in Portland, Oregon, on September 6, 1994.

Randall W. Hardy,

Administrator.

[FR Doc. 94–22608 Filed 9–12–94; 8:45 am]

BILLING CODE 6450–01–P–M

Office of Energy Efficiency and Renewable Energy

[Case No. F–072]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Evcon Industries, Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–072) granting a Waiver to Evcon Industries, Inc. (Evcon) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Evcon's Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its AGU, BGU, and BGD series gas furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9138.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Evcon has been granted a Waiver for its AGU, BGU, and BGD series gas furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on September 7, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

In the Matter of: Evcon Industries, Inc. (Case No. F–072)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Evcon filed a "Petition for Waiver," dated May 11, 1994, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the **Federal Register** on July 14, 1994, Evcon's petition and solicited comments, data and information respecting the petition. 59 FR 35916. Evcon also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on July 9, 1994. 59 FR 35916, July 14, 1994.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Evcon Petition. The FTC did not have any objections to the issuance of the waiver to Evcon.

Assertions and Determinations

Evcon's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Evcon requests the allowance to test using a 30-second blower time delay when testing its AGU, BGU, and BGD series gas furnaces. Evcon states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in a 1.0 to 2.0 percent improvement in overall energy efficiency, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5 minute delay. Evcon indicates that it is unable to take advantage of any of these exceptions for its AGU, BGU, and BGD series gas furnaces.

Since the blower controls incorporated on the Evcon furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Evcon AGU, BGU, and BGD series gas furnaces. Accordingly, with regard to testing the AGU, BGU, and BGD series gas furnaces, today's Decision and Order exempts Evcon from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Evcon Industries, Inc. (Case No. F–072) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, Evcon Industries, Inc., shall be permitted to test its AGU, BGU, and BGD series gas furnaces on the basis of the test procedure specified in 10 CFR Part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Evcon Industries, Inc. shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the AGU, BGU, and BGD series gas furnaces manufactured by Evcon Industries, Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective September 7, 1994, this Waiver supersedes the Interim Waiver granted the Evcon Industries, Inc. on July 9, 1994. 59 FR 35916, July 14, 1994 (Case No. F–072).

Issued In Washington, DC, on September 7 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 94–22605 Filed 9–12–94; 8:45 am]

BILLING CODE 6450–01–P

[Case No. F–073]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to York International Corporation

AGENCY: Office of Energy Efficiency and Renewable Energy, Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–073) granting a Waiver to York International Corporation (York) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting York Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its P2DP, PBKD, and XED02 lines of induced draft furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9138.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, York has been granted a Waiver for its P2DP, PBKD, and XED02 lines of induced draft furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on September 7, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the matter of: York International Corporation (Case No. F–073).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, and the Energy Policy Act of 1992 (EPAct), Public Law 102–486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

York filed a "Petition for Waiver," dated June 16, 1994, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the **Federal Register** on July 14, 1994, York's petition and solicited comments, data and information respecting the petition. 59 FR 35918. York also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on July 9, 1994. 59 FR 35918, July 14, 1994.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the York Petition. The FTC did not have any objections to the issuance of the waiver to York.

Assertions and Determinations

York's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. York requests the allowance to test using a 30-second blower time delay when testing its P2DP, PBKD, and XED02 lines of induced draft furnaces. York states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an approximately 0.5 percent improvement in energy efficiency, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. York indicates that it is unable to take advantage of any of these exceptions for its P2DP, PBKD, and XED02 lines of induced draft furnaces.

Since the blower controls incorporated on the York furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the York P2DP, PBKD, and XED02 lines of induced draft furnaces. Accordingly, with regard to testing the P2DP, PBKD, and XED02 lines of induced draft furnaces, today's Decision and Order exempts York from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by York International Corporation (Case No. F–073) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR Part 430, Subpart B, York International Corporation, shall be permitted to test its P2DP, PBKD, and XED02 lines of induced draft furnaces on the basis of the test procedure specified in 10 CFR Part 430, with modifications set forth below:

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE Standard 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE Standard 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, York International Corporation shall comply in all respects with the test procedures specified in Appendix N of 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the P2DP, PBKD, and XED02 lines of induced draft furnaces manufactured by York International Corporation.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective September 7, 1994, this Waiver supersedes the Interim Waiver granted the York International Corporation on July 9, 1994. 59 FR 35918, July 14, 1994 (Case No. F–073).

Issued In Washington, DC, on September 7, 1994.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 94–22604 Filed 9–12–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EL94–86–000, et al.]

The City of Cleveland, Ohio v. Cleveland Electric Illuminating, et al.; Electric Rate and Corporate Regulation Filings

September 6, 1994.

Take notice that the following filings have been made with the Commission:

1. The City of Cleveland, Ohio v. Cleveland Electric Illuminating

[Docket No. EL94–86–000]

Take notice that on August 12, 1994, The City of Cleveland, Ohio (Cleveland) tendered for filing a Complaint, Petition For Immediate Preliminary Order Maintaining Status Quo, and Motion for Expedited Consideration and Procedures in the above-captioned proceeding.

Comment date: October 6, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Service Company

[Docket No. ER94–1207–000]

Take notice that on August 29, 1994, Northeast Utilities Service Company (NUSCO), tendered for filing, a supplemental filing in this docket.

NUSCO states that a copy of this filing has been mailed to the parties to this docket.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER94–1211–000]

Take notice that on August 29, 1994, Northeast Utilities Service Company (NUSCO), tendered for filing a supplemental filing in this docket.

NUSCO states that a copy of this filing has been mailed to the parties to this docket.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Minnesota)

[Docket No. ER94–1598–000]

Take notice that on August 26, 1994, Northern States Power Company (Minnesota) tendered for filing and acceptance the Bluff Creek Transformation Capacity Sale Agreement between NSP, Chaska and MN Valley.

NSP requests this Agreement be effective upon the date of execution, May 17, 1994. NSP requests waiver of the Commission's Notice Requirements under Part 35 so the Agreement may be effective as of the date of execution.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Long Island Lighting Company

[Docket No. ER94–1599–000]

Take notice that on August 25, 1994, Long Island Lighting Company (LILCO), tendered for filing an Agreement between Connecticut Light and Power Company (CL&P) and LILCO dated October 31, 1967, relating to the construction, repair and maintenance of a jointly-owned underwater interconnection between the electric systems of CL&P and LILCO.

LILCO has requested a waiver of the Commission's prior notice and filing requirements to permit the Agreement to become effective as of October 31, 1967.

Copies of this filing have been served by LILCO on Northeast Utilities Service Company.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Camelot Energy Services

[Docket No. ER94–1457–000]

Take notice that on August 19, 1994, Camelot Energy Services tendered for filing an amendment to its July 15, 1994 filing in the above-referenced docket.

Comment date: September 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Power & Light Company

[Docket No. ER94–1506–000]

Take notice that on August 22, 1994, Puget Sound Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Interstate Power Company

[Docket No. ER94–1508–000]

Take notice that on August 19, 1994, Interstate Power Company tendered for

filing a Notice of Withdrawal to its July 19, 1994 filing in the above-referenced docket.

Comment date: September 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Puget Sound Power & Light Company

[Docket No. ER94–1531–000]

Take notice that on August 22, 1994, Puget Sound Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company

[Docket No. ER94–1582–000]

Take notice that on August 22, 1994, Louisville Gas and Electric Company (LG&E) tendered for filing letter agreements confirming that LG&E will provide power and energy to Louis Dreyfus Electric Power Inc. under Rate GSS on various dates.

Comment date: September 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Electric Company

[Docket No. ER94–1601–000]

Take notice that on August 26, 1994, Commonwealth Electric Company (Commonwealth) tendered for filing pursuant to § 35.12 of the Commission's regulations, System Power Sale Agreements governing the sale by Commonwealth of System Power (as defined herein) to United Illuminating Company and Hudson Light and Power Department (collectively referred to herein as the Buyers).

By the provisions of these agreements, Commonwealth proposes to sell to the Buyers electric power upon terms and conditions and in amounts mutually acceptable to each respective party.

A copy of this filing has been served upon the Buyers and upon the Massachusetts Department of Public Utilities.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Central Illinois Public Service Company

[Docket No. ER94–1602–000]

Take notice that on August 26, 1994, Central Illinois Public Service Company (CIPS) tendered for filing an executed Interchange Agreement between CIPS and Louis Dreyfus Electric Power, Inc. (Dreyfus). The Interchange Agreement will enable CIPS to sell power and energy to Dreyfus for resale by Dreyfus as an electric power marketer to its own customers.

In order to make it possible for CIPS to engage in such transactions with Dreyfus as soon as possible, CIPS requests an effective date of August 27, 1994. CIPS is authorized to state that Dreyfus supports this request. CIPS, accordingly, requests a waiver of the Commission's notice requirements.

CIPS states that a copy of the filing was served upon Dreyfus and the Illinois Commerce Commission.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. PSI Energy, Inc.

[Docket No. ER94–1603–000]

Take notice that on August 25, 1994, PSI Energy, Inc. (PSI), tendered for filing an Interchange Agreement, dated August 1, 1994, between PSI and LG&E Power Marketing Inc. (LPM).

The Interchange Agreement provides for the following service between PSI and LPM:

1. Exhibit A—Power Sales by LPM
2. Exhibit B—Power Sales by PSI

Copies of the filing were served on LG&E Power Marketing Inc., Virginia State Corporation Commission and the Indiana Utility Regulatory Commission.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. West Texas Utilities Company Public Service Company of Oklahoma Central Power and Light Company

[Docket No. ER94–1606–000]

Take notice that on August 29, 1994, West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Central Power and Light Company (CPL) (collectively, the Companies) petitioned the Commission for approval of a plan to flow certain recent settlement proceeds, net of litigation expenses, through the Companies' respective fuel adjustment clauses. The Companies seek waiver, to the extent necessary, of the Commission's fuel clause regulations in order to accomplish the proposed distributions.

The Companies ask for expedited consideration and an effective date coincident with the date of the Commission's order if issued earlier than the usual sixty day notice period. Accordingly, the Companies seek waiver of the Commission's notice requirement to the extent necessary. Copies of the filing were served on the wholesale customers of the three companies, the Oklahoma Corporation Commission and the Public Utility Commission of Texas. Copies are also available for public inspection at WTU's offices in Abilene, Texas, PSO's offices in Tulsa, Oklahoma, and at CPL's offices in Corpus Christi, Texas.

Comment date: September 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22573 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC94–21–000, et al.]

Midwest Power Systems Inc., et al.; Electric Rate and Corporate Regulation Filings

September 1, 1994.

Take notice that the following filings have been made with the Commission:

1. Midwest Power Systems Inc.

[Docket No. EC94–21–000]

Take notice that on July 27, 1994, Midwest Power Systems Inc. tendered for filing an Application for approval of its 8.5 miles of nominal 161,000 volt (161 kV) electric transmission line from Central Iowa Power Cooperative.

Comment date: September 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Cincinnati Gas & Electric Company

[Docket No. EL92–22–002]

Take notice that on March 11, 1994, Cincinnati Gas & Electric Company tendered for filing its compliance refund report in the above-referenced docket.

Comment date: September 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Alabama Power Company

[Docket No. EL94–18–000]

Take notice that on July 22, 1994, Alabama Power Company tendered for filing an amendment to its December 23, 1993, filing in the above-referenced docket.

Comment date: September 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Continental Energy Services

[Docket No. ER94–1488–000]

Take notice that on August 22, 1994, Continental Energy Services tendered for filing an amendment in the above-referenced docket.

Comment date: September 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Coastal Electric Services Company

[Docket No. ER94–1450–000]

Take notice that on August 23, 1994, Coastal Electric Services Company tendered for filing an amendment in the above-referenced docket.

Comment date: September 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Power & Light Company

[Docket No. ER94–1552–000]

Take notice that on August 18, 1994, Puget Sound Power & Light Company (Puget) tendered for filing an amendment in the above-referenced docket.

Comment date: September 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Corporation

[Docket Nos. TX93–2–004 and EL94–59–002]

Take notice that on August 24, 1994, American Electric Power Corporation tendered for filing supplemental information to its August 1, 1994, filing in the above-referenced dockets.

Comment date: September 14, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22548 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC94–25–000, et al.]

PacifiCorp, et al.; Electric Rate and Corporate Regulation Filings

September 2, 1994.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. EC94–25–000]

Take notice that on August 23, 1994, PacifiCorp, tendered for filing in accordance with 18 CFR Part 33 of the Commission's Rules and Regulations, an application seeking an order authorizing PacifiCorp to sell to Franklin County Public Utility District (Franklin PUD) 2.75 miles of 115 kilovolt transmission line located in Franklin County, Washington.

PacifiCorp requests that, pursuant to § 33.10 of the Commission's Regulations, the Commission accept this application for filing, to be effective forty-five (45) days after the date of filing.

A copy of this filing was supplied to Franklin PUD and the Washington Utilities and Transportation Commission.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER94–1304–000]

Take notice that on August 29, 1994, Southern California Edison Company submitted supplemental information regarding its filing in the above captioned docket.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Great Bay Power Corporation

[Docket No. ER94–1589–000]

Take notice that on August 24, 1994, Great Bay Power Corporation (Great Bay) tendered for filing an executed service agreement between North American Energy Conservation and Great Bay for service under Great Bay's Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on November 11, 1993, in Docket No. ER93–924–000. The service agreement is proposed to be effective September 1, 1994.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER94–1590–000]

Take notice that on August 25, 1994, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement to provide non-firm transmission service to MASSPOWER under the NU System Companies' Transmission Service Tariff No. 2. The Service Agreement will replace non-firm transmission service being provided to MASSPOWER under FERC Rate Schedule Nos. CL&P–525 and Supplement No. 1 WMECO–411 and Supplement No. 1. NUSCO has also filed a Notice of Termination for said rate schedules.

NUSCO states that a copy of the filing has been mailed to MASSPOWER and J. Makowski Associates, Inc.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Utilities Service Company

[Docket No. ER94–1591–000]

Take notice that on August 25, 1994, Northeast Utilities Service Company (NUSCO) tendered for filing on behalf of The Connecticut Light and Power Company a Sales Agreement with Reading Municipal Light Department and a Service Agreement between NUSCO and the NU System Companies for service under NUSCO's Long-Term Firm Transmission Service Tariff No. 1 for the Sales Agreement.

NUSCO requests that the rate schedule become effective on November 1, 1994. NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Sales Agreement and the affected state utility commission.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Northeast Utilities Service Company

[Docket No. ER94–1592–000]

Take notice that on August 25, 1994, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of The Connecticut Light and Power Company, Western Massachusetts

Electric Company, Holyoke Water Power Company, and Public Service Company of New Hampshire (together, the NU System Companies'), a filing for a System Power Sales Agreement with City of Holyoke, Massachusetts Gas and Electric Department (Holyoke) and a Tariff No. 1 Transmission Service Agreement. NUSCO requests that the rate schedules become effective on November 1, 1994.

NUSCO states that copies of the filing have been mailed or delivered to the NU System Companies, Holyoke and the Massachusetts Department of Public Utilities.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. American Power Exchange, Corp.

[Docket No. ER94–1593–000]

Take notice that on August 25, 1994, American Power Exchange, Corp. (APE), tendered for filing pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 (1992), a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective on October 19, 1994.

APE intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where APE purchases power, including capacity and related services from electric utilities, qualifying facilities and independent power producers, and resells such power to other purchasers, APE will be functioning as a marketer. In APE's marketing transactions, APE proposes to charge rates mutually agreed upon by both parties. All sales will be at arms-length, and no sales will be made to affiliated entities. In transactions where APE does not take title for the electric power and/or energy, APE will be limited to the role of a broker and charge a fee for its services. APE is not in the business of producing or transmitting electric power. APE does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provide that no sales may be made to affiliate.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Edison Company

[Docket No. ER94–1594–000]

Take notice that on August 25, 1994, Ohio Edison Company, on behalf of itself and Enron Power Marketing, Inc., filed a Power Purchase and Sale Agreement dated August 19, 1994. This initial rate schedule will enable the parties to purchase or sell capacity and energy in accordance with the terms and conditions set forth herein.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Power Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company (The APS Companies)

[Docket No. ER94–1595–000]

Take notice that on August 25, 1994, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (The APS Companies), filed Standard Transmission Service Agreements to add Catex Vitol Electric Inc., Rainbow Energy Marketing Corporation, Louis Dreyfus Electric Power Inc., Enron Power Marketing, Inc. and Power-Net Corporation to The APS Companies' Standard Transmission Service Rate Schedule which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date when customers may take service under the proposed rate schedule is August 1, 1994.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER94–1596–000]

Take notice that on August 25, 1994, Florida Power & Light Company (FPL) tendered for filing the Notices of Contract Demand for Power Year 1997 for the following customers under Rate Schedule PR of FPL's Wholesale Electric Tariff: City of Starke; City of Jacksonville Beach City; City of Green Cove Springs, and the City of Clewiston.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Gulfstream Energy, LLC

[Docket No. ER94–1597–000]

Take notice that on August 25, 1994, Gulfstream Energy, LLC (Gulfstream Energy) tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective October 24, 1994.

Gulfstream Energy intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Gulfstream Energy sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither Gulfstream Energy nor any of its affiliates are in the business of generating, transmitting, or distributing electric power.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that no sales may be made to affiliates.

Comment date: September 16, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22549 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–751–000, et al.]

Transwestern Pipeline Co., et al., Natural Gas Certificate Filings

September 6, 1994.

Take notice that the following filings have been made with the Commission:

1. Transwestern Pipeline Company

[Docket No. CP94–751–000]

Take notice that on August 30, 1994, Transwestern Pipeline Company (Transwestern), Post Office Box 1188, Houston, Texas 77251–1188 filed an

application pursuant to Section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transwestern states that while preparing for further proceedings in its refunctionalization proceeding in Docket No. CP94–254–000, and upon further analysis of its system in response to the gathering orders recently issued by the Commission, it was discovered that certain field facilities, including certain compressors, plants, meters, dehydrators, and other miscellaneous wellhead facilities are no longer used and useful or are uneconomical or otherwise unnecessary for continued operation of the pipeline. It is stated that this abandonment requests authorization to abandon certain compression, plants, metering, dehydration, and other miscellaneous facilities, and to secure all other authorizations as may be required under the circumstances.

Transwestern states that it is proposing to abandon a number of compressors because the wells upstream have been plugged and abandoned by the producer and deliveries of gas have ceased. It is stated that other compression facilities will be abandoned because the wellhead pressure has fallen below the level necessary for the gas to enter Transwestern's facilities or gas can no longer enter Transwestern's system because the producer disconnected the well. In certain instances, Transwestern contends that the well has been split connected or disconnected because the producer has opted to transport the gas through another pipeline with a lower pressure line. Transwestern submits that abandonment of other compressors is requested because the volumes of gas from the wells behind the compressors have fallen to below the minimum level required for operation of the compressors.

According to Transwestern, abandonment of some of the compressors is requested because the facilities are no longer needed for one of the following reasons: (i) The gathering system behind the compressor was sold and there are no volumes flowing into the Transwestern system; (ii) the producer decided to provide its own compression; (iii) an exchange arrangement with another pipeline was terminated, and compression is no longer required or necessary; (iv) Transwestern's line pressure was lowered to the point that compression is no longer required; or (v) at stations where there are multiple units, the volume decreased to the point that one or more such units are not required.

Transwestern also proposes to abandon six plants, three because the producers have chosen to install their own treating facilities for the removal of hydrogen sulfide, and therefore, the plants are no longer necessary.

For the remaining three plants, Transwestern states that one will be abandoned because the wells requiring hydrogen sulfide removal have been plugged and abandoned, one will be abandoned because the production behind the plant no longer consists of sour gas requiring hydrogen sulfide removal, and the third will be abandoned its operation is no longer economically feasible due to a substantial decrease of volumes flowing through the plant.

Transwestern states that it also proposes to abandon meters, dehydrators, and associated facilities because no gas has flowed through the subject facilities since 1990, and it is quite certain that no gas will flow through the facilities in the future.

Comment date: September 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. ANR Pipeline Company and Northern Natural Gas Company

[Docket No. CP94–752–000]

Take notice that on August 30, 1994, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed jointly in Docket No. CP94–752–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation and storage services authorized in Docket Nos. CP75–182 and CP75–237,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR and Northern propose to abandon the natural gas transportation and storage services performed under an agreement dated November 26, 1974, on file as ANR's Rate Schedule X–59. It is stated that under the agreement Northern delivers, during the period of March through October, up to an aggregate quantity of 4,200,000 Mcf at a peak daily rate of 22,050 Mcf. It is further stated that, during the period of November through February, ANR redelivers the aggregate quantity at no more than 42,000 Mcf per day. It is stated that the primary term of the agreement ends February 28, 1995, and the parties have agreed to terminate the arrangement effective as of that date in accordance with the terms of the agreement.

Comment date: September 27, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company

[Docket No. CP94–756–000]

Take notice that on August 31, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP94–756–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to upgrade an existing delivery point under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to upgrade the delivery point in order to accommodate increased natural gas deliveries to Northern States Power—Minnesota, for delivery at the St. Paul 1E town border station, located in Washington County, Minnesota. The increased deliveries to NSP would occur within Northern's currently effective service agreements. NSP has requested the upgrade of the delivery point to accommodate growth in this area.

Comment date: October 21, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

[1] *See* Opinion No. 810 and order issued July 7, 1977 (59 FPC 533 (1977)).

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22574 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM95–1–20–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

September 7, 1994.

Take notice that on August 31, 1994, Algonquin Gas Transmission Company (Algonquin), filed to update its Annual Charge Adjustment (ACA). Algonquin tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Fourth Revised Volume No. 1

Seventh Revised Sheet No. 21
Seventh Revised Sheet No. 22
Sixth Revised Sheet No. 23
Sixth Revised Sheet No. 24
Sixth Revised Sheet No. 25
Sixth Revised Sheet No. 27
Sub Fourth Revised Sheet No. 29
Sub Fourth Revised Sheet No. 30
Fifth Revised Sheet No. 31
Sub Fourth Revised Sheet No. 32
Sub Fifth Revised Sheet No. 33
Fifth Revised Sheet No. 34
Fifth Revised Sheet No. 35

Original Volume No. 2

Sixth Revised Sheet No. 259
Seventh Revised Sheet No. 296
Sub Fourth Revised Sheet No. 343
Sub Second Revised Sheet No. 401
Sub Second Revised Sheet No. 431

Algonquin states that this filing decreases its current ACA charge by $0.0002 per MMBtu. Algonquin requests that these tariff sheets be accepted effective October 1, 1994.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions shown on Algonquin's system.

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 September 14, 1994. Protest 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 Conference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22551 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–34–000]

Florida Gas Transmission Co; Fuel Reimbursement Charge Adjustment Report

September 2, 1994.

Take notice that on August 31, 1994, Florida Gas Transmission Company (FGT), tendered for filing a Fuel Reimbursement Charge Adjustment Report pursuant to Section 27 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

FGT states that the ratio of fuel usage and unaccounted for volumes to actual deliveries determined in accordance with Section 27 of its tariff and reflected on an attached workpaper is 2.31%. Because this percentage supports the currently effective Fuel Reimbursement Charge Percentage of 2.25% requested in FGT's out-of-cycle filing on May 11, 1994, in Docket No. TM94–5–34 and approved by Commission order issued June 17, 1994, and because changes in the Percentage must be reflected in all Shippers' arrangements with suppliers and upstream transporters and/or gatherers, FGT is not proposing any revisions at this time. Therefore, no tariff sheets are filed with the report.

FGT further states it will continue to closely monitor the actual quantities of fuel and lost and unaccounted for gas as information becomes available and make such adjustments to the Fuel Reimbursement Charge Percentage as warranted in accordance with Section 27 in order to closely match the fuel retention with actual operating experience and minimize the over or under retention of company used fuel and unaccounted for volumes.

FGT states that copies of the filing were mailed to all customers serviced under the rate schedules affected by the filing and the 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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1994. 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. 94–22571 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–120–000]

Koch Gateway Pipeline Co.; Informal Settlement Conference

September 7, 1994.

Take notice that Commission Staff will convene an informal settlement conference in this proceeding on September 15, 1994, at 10:00 a.m. The

conference will be held in a hearing room at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may 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, contact Donald A. Heydt at (202) 208–0740 or Warren C. Wood at (202) 208–2091.

Lois D. Cashell

Secretary.

[FR Doc. 94–22553 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–16–000]

National Fuel Gas Supply Corp.; Tariff Filing

September 7, 1994.

Take notice that on August 31, 1994, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 5; Fifth Revised Sheet No. 6; and First Revised Sheet No. 6A, with a proposed October 1, 1994, effective date.

National states that these tariff sheets are submitted to revise its Annual Charge Adjustment (ACA) surcharge authorized by the Commission for Fiscal 1995 to $0.24 per Mcf, or $0.23 per dekatherm when converted to National's measurement basis.

National states that a copy of this filing was posted pursuant to Section 154.16 of the Commission's regulations, and that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before September 14, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22554 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–149–000 RP94–145–000]

Pacific Gas Transmission Company; Informal Settlement Conference

September 6, 1994.

Take notice that an informal settlement conference will be convened in this proceeding on September 20 and 21, 1994, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.120(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, contact Betsy Carr (202) 208–1240 or Russell B. Mamone at (202) 208–0740.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22550 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1559–000]

Puget Sound Power & Light Company; Filing

September 7, 1994.

Take notice that on August 16, 1994, Puget Sound Power & Light Company tendered for filing information related to its Residential Purchase and Sale Agreement with the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–22572 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–68–000]

Trailblazer Pipeline Company; Proposed Changes in FERC Gas Tariff

September 7, 1994.

Take notice that on September 1, 1994, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet Nos. 5 and 6, to be effective October 1, 1994.

Trailblazer states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Trailblazer to recover from its customers annual charges assessed it by the Commission pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1994, is $.0024 per Mcf.

Trailblazer requested a waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on October 1, 1994.

Trailblazer states that a copy of the filing is being mailed to Trailblazer's jurisdictional customers and interested state regulatory agencies.

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 1994. 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. 94–22552 Filed 9–12–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5067–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before October 13, 1994.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of this ICR contact Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Questionnaires for Operations and Maintenance (O&M), Biosolids Use (Biosolids), Storm Water (SW), and Combined Sewer Overflow (CSO) Management Award Nominations Under EPA's Environmental Excellence Awards Program (EPA ICR No. 1287.04; OMB Control No. 2040–0101).

Abstract: This ICR is an extension of an existing information collection request in support of the Environmental Excellence Awards Program. Established under section 501(e) of the Federal Water Pollution Control Act (FWPCA), the program recognizes municipalities and industries that demonstrate outstanding technological achievements; or innovative processes, methods or devices in their waste treatment and pollution abatement programs. The program provides a positive incentive for compliance with the National Pollutant Discharge Elimination system and supports sound environmental management practices at water treatment facilities.

As part of the process for selection, candidates must complete and submit relevant questionnaires (Biosolids, CSO, O&M, SW) requesting: (1) Identification information; (2) planning and process reports; (3) general plant design and layout information; (4) flow/output data; and (5) financial and management information.

The questionnaires are screened initially by the State or EPA Region, then forwarded through headquarters to the EPA-sponsored National Panel (consisting of EPA, professional associations and States) for the awards selection. A national awards ceremony is held each fall in Washington, DC to honor those facilities that are selected.

Burden Statement: Public reporting burden for this collection of information is estimated to average 14 hours per response including an average of 8 hours per response for facility Owner/Operators reviewing instructions, gathering the data needed, and completing and reviewing the questionnaire; and 6 hours per response for State agencies screening applicants, and reviewing and forwarding questionnaires to the EPA.

Respondents: Owners/operators of municipal or private wastewater treatment facilities, and State agencies involved in the awards process, as appropriate.

Estimated Number of Respondents: 200 owners/operators and their respective State agencies, where appropriate.

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: On occasion of submission of questionnaire.

Estimated Total Annual Burden on Respondents: 2800 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden to:

Sandy Farmer, U.S.Environmental Protection Agency, Information Policy Branch (2136), 401 M. Street, SW., Washington, DC 20460.

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: September 2, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–22581 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5065–7]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal preemption; Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice regarding waiver of Federal preemption.

SUMMARY: EPA is granting California a waiver of Federal Preemption pursuant to section 209(b) of the Clean Air Act to enforce amendments to its motor vehicle emission standards and test procedures to require more stringent evaporative emission standards, durability requirements, and testing procedures for 1995 model year passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles and engines, except petroleum-fueled diesel vehicles. California also amended its corresponding regulations.

ADDRESSES: A copy of the above standards, durability requirements, testing procedures, the decision document containing an explanation of the Administrator's determination, and the record of those documents used in arriving at this decision, are available for public inspection during the working hours of 8 a.m. to 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (Docket #A–92–05), room M1500, First Floor Waterside Mall, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 260–9256.

FOR FURTHER INFORMATION CONTACT: David J. Dickinson, Attorney/Advisor, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Telephone: (202) 233–9256.

SUPPLEMENTARY INFORMATION: I have decided to grant California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b), for amendments to its evaporative emission standards, durability requirements, and test procedures for 1995 model year passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles and engines.[1] A comprehensive description of the California evaporative emission regulations can be found in the decision document for this waiver and in materials submitted to the Docket by California.

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate,

[1] California's initial waiver request included a request for waiver of Federal preemption for model years 1995 and thereafter. In a revised waiver request California limited the applicability of its new amendments to model year 1995. EPA anticipates California to revise its evaporative emission test procedure for model year 1996 and thereafter, and to submit an additional waiver request for such test, in order to produce a more closely aligned test procedure with EPA's new test procedure commencing in 1996.

at least as protective of public health and welfare as the applicable Federal standards; whether California needs State standards to meet compelling and extraordinary conditions; and whether California's amendments are consistent with section 202(a) of the Act.

The California Air Resources Board (CARB) determined that these standards and accompanying enforcement procedures do not cause California's standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. No information was presented to me by any parties to demonstrate that CARB arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find CARB's determination to be arbitrary and capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle emission control program, which includes the subject standards and procedures. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Therefore, I agree that California continues to have compelling and extraordinary conditions which require its own program, and, thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that its emission standards and durability requirements are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 202(a) of the Act. Additionally, CARB determined that certain differences exist between California and Federal test procedures but that any vehicle that satisfies California's requirements can be presumed to meet the Federal requirements. Because of the test procedure inconsistencies described by CARB, EPA agrees that a manufacturer would be unable to demonstrate compliance with both California and Federal requirements with the same test vehicle in the course of a single test sequence. Therefore, EPA will accept the data used to successfully certify under CARB's 1995 model year evaporative emissions test procedures as demonstrating compliance with applicable EPA standards. Accordingly, I hereby grant the waiver requested by California.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by November 14, 1994. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: August 25, 1994.

Ann E. Goode,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 94–22585 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–140225; FRL–4907–7]

Access to Confidential Business Information by EG and G Dynatrend, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, EG and G Dynatrend, Inc. (DYT) of Burlington, Massachusetts for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI). This notice is being issued to extend the period of performance of the present contract from July 18, 1994, to December 31, 1994.

DATES: Access to the confidential data submitted to EPA will occur no sooner than September 23, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–W8–0126, contractor DYT, of 24 New England Executive Park, Burlington, MA 01803–5203, will assist the Office of Pollution Prevention and Toxics (OPPT) in responding to malfunctioning alarms, setting up alarms, and storing tapes with CBI data. In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W8–0126, DYT will require access to CBI submitted to EPA under all sections of TSCA to successfully perform the duties specified under the contract. DYT personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide DYT access to these CBI materials on a need-to-know basis only. Access to TSCA CBI will take place at EPA Headquarters and at the Environmental Research Center (ERC), EPA's Annex in Research Triangle Park, North Carolina.

In a previous notice published in the **Federal Register** of November 15, 1993 (58 FR 60198), DYT was authorized for access to CBI submitted to EPA under all sections of TSCA. EPA is issuing this notice to extend DYT's access to TSCA CBI under contract number 68–W8–0126. Upon completing review of the CBI materials, DYT will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until December 31, 1994.

DYT personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: August 30, 1994.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–22587 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00389; FRL–4911–1]

Statement of Policy for Pesticide Products Used Together or Sequentially; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments on a proposed policy for labeling of

pesticide products used together or sequentially. That policy has been developed in a draft Pesticide Regulation (PR) Notice entitled, "Labeling Limitations for Products Used Together or Sequentially" which is available upon request. Interested parties may request a copy of the Agency's proposed policy as set forth in the ADDRESSES unit of this notice.

DATES: Written comments, identified by the docket number [OPP–00389], must be received on or before October 28, 1994.

ADDRESSES: The PR Notice is available from Jeff Kempter, By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 713, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5448. Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Kempter (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 713, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5448.

SUPPLEMENTARY INFORMATION: Pesticide products may be mixed or used after other pesticides according to label directions. However, sometimes products bear labeling statements which prohibit or advise against using certain products together or after each other to prevent crop phytotoxicity, incompatibility, reduction of efficacy or adverse effects to humans or the environment. The Agency is proposing guidance on when such labeling statements will be approved. The proposed policy is that the Agency will require or approve mandatory labeling statements prohibiting or limiting use of one product with or after another only if data are submitted which demonstrate that unreasonable adverse effects will occur without such statements. If EPA is not persuaded by the data or no data are submitted, the Agency will approve advisory statements which recommend that a product not be used with or after another.

This **Federal Register** notice announces the availability of the draft PR Notice and solicits comment on the proposed policy. If, after reviewing any comments, EPA determines that changes to the policy are warranted, the Agency will revise the draft PR Notice prior to release.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 6, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–22588 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5070–7]

Reassessment of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD, dioxin)

AGENCY: Environmental Protection Agency (EPA).

ACTION: As part of the Agency's reassessment of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (2,3,7,8-TCDD, hereinafter referred to as simply dioxin), two External Review Draft documents are being made available for a 120-day public review and comment period.

SUMMARY: This notice announces the availability of two External Review Draft documents for public review and comment:

1. Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin (TCDD) and Related Compounds (EPA/600/BP–92/001a–c)
2. Estimating Exposure to Dioxin-Like Compounds (EPA/600/6–88/005Ca–c)

During the public comment period, public comment meetings will be convened to take formal comments on the draft documents. These meetings are being planned for the first two weeks of December at five locations: Washington, DC; New York, NY/New Jersey; Chicago, IL; Dallas, TX; and San Francisco, CA. Detailed information will be provided in a future **Federal Register** notice.

The draft documents also will be reviewed at a Science Advisory Board meeting to be held after the public comment period has ended, early next year. Information about this meeting will be published in a future **Federal Register** notice.

DATES: The draft documents will be made available on September 13, 1994. Comments must be postmarked by January 13, 1994.

ADDRESSES:

Requesting Documents

Due to the large size of both draft documents (each is over 1,000 pages in length), the documents will be available as follows:

Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin (TCDD) and Related Compounds, EPA/600/BP–92/001a, 001b, 001c. (Note: The full document is 3 volumes and approx. 1,100 pages.)

or

Risk Characterization Chapter, EPA/600/BP–92/001c. (Note: This third volume of the 3-volume set integrates health and exposure information on dioxin and related compounds; approx. 100 pages.)

and/or

Estimating Exposure to Dioxin-Like Compounds, EPA/600/6–88/005Ca, Cb, Cc. (Note: The full document is 3 volumes and approx. 1,300 pages.)

or

Executive Summary Chapter of the Exposure Document, EPA/600/6–88/005Ca. (Note: This first volume of the 3-volume set summarizes the exposure information; approx. 100 pages.)

To obtain a paper copy of these draft documents, interested parties should contact the ORD Publications Center, CERI-FRN, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone (513) 569–7562; fax (513) 569–7566. Please provide your name, mailing address, document title, and EPA number.

Please note that the two summary volumes also will be made available as WordPerfect 5.1 files on 3½" PC–DOS formatted disks. Please request by document title and EPA number.

Risk Characterization Chapter (Vol. III–Health), EPA/600/BP–92/001ca (disk)
Executive Summary Chapter (Vol. I–Exposure), EPA/600/6–88/005Caa (disk)

The draft documents will be provided for inspection at the ORD Public Information Shelf, EPA Headquarters Library, 401 M Street, S.W., Washington, DC 20460, between the hours of 10 a.m. and 2 p.m., Monday through Friday, except for Federal holidays, and at all of the EPA Regional and Laboratory libraries.

Submitting Comments

All comments must be in writing. Commenters should submit three copies of each comment, and if commenting on both documents—the health assessment document and the exposure assessment—submit separate comments rather than combined submissions.

For the health assessment document, send comments to: Dioxin Health Assessment Comments, Technical Information Staff (8601), Office of Health and Environmental Assessment, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

For the exposure assessment document, send comments to: Dioxin Exposure Assessment Comments, Technical Information Staff (8601), Office of Health and Environmental Assessment, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For questions on the overall reassessment of dioxin or technical questions on the health assessment document: William Farland, Office of Health and Environmental Assessment (8601), Office of Research and Development, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260–7315; fax (202) 260–0393.

For technical questions on the exposure assessment: John Schaum, Exposure Assessment Group (8603), Office of Health and Environmental Assessment, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; telephone (202) 260–8909; fax 260–1722.

SUPPLEMENTARY INFORMATION:

The Scientific Reassessment of Dioxin

In April 1991, EPA announced that it would conduct a scientific reassessment of the health risks of exposure to 2,3,7,8-tetracholorodibenzo-*p*-dioxin (TCDD) and chemically similar compounds collectively known as dioxin. The EPA has undertaken this task in response to emerging scientific knowledge of the biological, human health, and environmental effects of dioxin. Significant advances have occurred in the scientific understanding of mechanisms of dioxin toxicity, of the carcinogenic and other adverse health effects of dioxin in people, of the pathways to human exposure, and of the toxic effects of dioxin to the environment. The reassessment is part of the Agency's goals to improve the research and science base and to incorporate improved research and science into EPA decisions.

History

In 1985 and 1988, the Agency prepared assessments of the human health risks from environmental exposures to dioxin. Also, in 1988, a draft exposure document was prepared that presented procedures for conducting site-specific exposure assessments to dioxin-like compounds. These assessments were reviewed by the Agency's Science Advisory Board (SAB). At the time of the 1988 assessments, there was general agreement within the scientific community that there could be a substantial improvement over the existing approach to analyzing dose response, but there was no consensus as to a more biologically defensible methodology. The Agency was asked to explore the development of such a method. The Agency's reassessment activities are in response to this request.

Stages in the Reassessment Process That Have Been Completed

The EPA had endeavored to make each phase of the reassessment of dioxin an open and participatory effort. On November 15, 1991, and April 28, 1992, public meetings were held to discuss the Agency's plans and activities for the reassessment, to hear and receive public comments and reviews of the proposed plans, and to receive any current, scientifically relevant information.

In the Fall of 1992, the Agency convened two peer-review workshops to review draft documents related to EPA's scientific reassessment of the health effects of dioxin. The first workshop was held September 10 and 11, 1992, to review a draft exposure assessment titled, Estimating Exposures to Dioxin-Like Compounds. The second workshop was held September 22-25, 1992, to review eight chapters of a future draft Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin (TCDD) and Related Compounds. Peer-reviewers were also asked to identify issues to be incorporated into the risk characterization, which was under development.

In the Fall of 1993, a third peer-review workshop was held on September 7 and 8, to review a draft of the revised and expanded Epidemiology and Human Data Chapter, which also would be part of the future health assessment document. The revised chapter provided an evaluation of the scientific quality and strength of the epidemiology data in the evaluation of toxic health effects, both cancer and noncancer, from exposure to dioxin, with an emphasis on the specific congener, 2,3,7,8-TCDD.

Prior to each workshop, the draft documents or chapters were made available in keeping with the Agency's continuing commitment to conduct the reassessment of dioxin in an open and participatory manner, to keep the public informed of its progress, and to encourage public participation in the document development process. The public also was invited to attend the workshops, to present oral comments, and/or to submit written comments. At each workshop, a panel of scientific experts from outside the Agency reviewed the draft documents and provided valuable comments. It also should be noted that outside scientists have been heavily involved throughout the developmental process of writing and reviewing these draft documents. With this notice, the External Review Drafts of both draft documents are being released for a 120-day public review and comment period.

Current Stage of the Scientific Reassessment of Dioxin

The scientific reassessment of dioxin consists of five activities:

1. Update and revision of the health assessment document for dioxin.
2. Laboratory research in support of the dose-response model.
3. Development of a biologically based dose-response model for dioxin.
4. Update and revision of the dioxin exposure assessment document.
5. Research to characterize ecological risks in aquatic ecosystems.

The first four activities have resulted in two draft documents (the health assessment document and exposure document) for 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) and related compounds. These companion documents, which form the basis for the Agency's reassessment of dioxin, have been used in the development of the risk characterization chapter that follows the health assessment (Chapter 9, Volume III). The process for developing these documents consisted of three phases which are outlined in later paragraphs.

The fifth activity, which is in progress at EPA's Environmental Research Laboratory in Duluth, Minnesota, involves characterizing ecological risks in aquatic ecosystems from exposure to dioxins. Research efforts are focused on the study of organisms in aquatic food webs to identify the effects of dioxin exposure that are likely to result in significant population impacts. A report titled, Interim Report on Data and Methods for the Assessment of 2,3,7,8-Tetrachlorodibenzo-*p*-Dioxin (TCDD) Risks to Aquatic Organisms and Associated Wildlife (EPA/600/R–93/055), was published in April 1993. This report will serve as a background document for assessing dioxin-related ecological risks. Ultimately, these data will support the development of aquatic life criteria which will aid in the implementation of the Clean Water Act.

As mentioned previously, completion of the health assessment and exposure documents involves three phases: Phase 1 involved drafting state-of-the-science chapters and a dose-response model for the health assessment document, expanding the exposure document to address dioxin related compounds, and conducting peer-review workshops by panels of experts. This phase has been completed.

Phase 2, preparation of the risk characterization, began during the September 1992 workshops with discussions by the peer-review panels and formulation of points to be carried forward into the risk characterization. Following the September 1993 workshop, this work was completed and was incorporated as Chapter 9 (Volume III) of the draft health assessment document. This phase has been completed.

Phase 3 is currently underway. It includes making External Review Drafts of both the health assessment document and the exposure document available for public review and comment.

Next Stages in the Reassessment Process

As described previously, public briefings will be held during the first week of the public comment period to be followed by formal public hearings in December 1994. After the close of the public comment period, the Agency's Science Advisory Board (SAB) will review the draft documents in public session (early 1995). Following SAB review, the draft documents will be revised, comments and revisions will be incorporated, and final documents will be issued.

Dated: August 30, 1994.

Carl R. Gerber,

Acting Assistant Administrator for Research and Development.

[FR Doc. 94–22442 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–P–M

FEDERAL RESERVE SYSTEM

First of America Bank Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 October 7, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First America Bank Corporation, Kalamazoo, Michigan; to acquire F&C Bancshares, Inc., Murdock, Florida, and thereby indirectly acquire First Federal Savings Bank of Charlotte County, Murdock, Florida, and thereby engage in the operation of a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. The geographic scope of this activity is the state of Florida.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–22576 Filed 9–12–94; 8:45 am]

BILLING CODE 6210–01–F

Fern S. Delong, Trust, 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 October 7, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Fern S. Delong Trust, Anoka, Minnesota; to retain 50 percent of the voting shares of Preferred Bancshares, Inc., Big Lake, Minnesota, and thereby indirectly acquire Perferred Bank, Big Lake, Minnesota.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Bancorp, Inc., Denton, Texas; First Delaware Bancorp, Inc., Dover,

Delaware, and Texas Financial Bancorporation, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Burleson State Bank, Burleson, Texas.

Board of Governors of the Federal Reserve System, September 7, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–22577 Filed 9–12–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Public Health Service

[GN#2267]

National Vaccine Advisory Committee, Public Meeting

AGENCY: Office of the Assistant Secretary for Health, Public Health Service, HHS.

SUMMARY: The Department of Health and Human Services (DHHS), Office of the Assistant Secretary for Health is announcing the forthcoming meeting of the National Vaccine Advisory Committee (NVAC).

DATES: Date, Time and Place: September 26, at 9 a.m.; and September 27, at 8:30 a.m.; Hubert H. Humphrey Building, Room 703A, 200 Independence Avenue SW., Washington, DC 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Chester Robinson, D.P.A., Acting Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, 5600 Fishers Lane, Rockwall II Building, Suite 1075, Rockville, MD 20857 (301) 594–2277.

Agenda: Open Public Hearing

Interested persons may formally present data, information, or views orally or in writing on issues pending before the Advisory Committee or on any of the duties and responsibilities of the Advisory Committee as described below. Those desiring to make such presentations should notify the contact person before September 19, and submit a brief statement of the information they wish to present to the Advisory Committee. Requests should include the names, addresses, and telephone numbers of the proposed participants and an indication of the approximate time required to make their comments. A maximum of 10 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Advisory Committee Discussion

The agenda will include discussions on resources available for the National Vaccine Program Office in FY 1995; priorities for the National Vaccine Advisory Committee (NVAC) activities; update on current immunization activities, including the President's Childhood Immunization Initiative; simplification of pediatric immunization schedules and achieving agreement between vaccine labeling and recommendations for use; proposed economic study of U.S. vaccine industry, and proposed activities of NVAC's Future Vaccines Subcommittee. Meetings of the Advisory Committee shall be conducted, insofar as is practical, in accordance with a more detailed agenda distributed at the beginning of the meeting.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Advisory Committee members and the charter of the Advisory Committee will be available at the meeting.

Those unable to attend the meeting may request this information from the contact person. Summary minutes of the meeting will be made available upon request from the contact person.

Dated: August 31, 1994.

Jeannette R. DeLawter,

Committee Management Specialist.

[FR Doc. 94–22596 Filed 9–12–94; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

[Docket No. 94N–0322]

Drug Export; Talc Triturate-Free Conjugated Estrogens Granulation Bulk

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Wyeth-Ayerst Laboratories has filed an application requesting approval for the export of the human drug Talc Triturate-Free Conjugated Estrogens Granulation Bulk to Ireland.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101, has filed an application requesting approval for the export of the human drug Talc Triturate-Free Conjugated Estrogens Granulation Bulk to Ireland. This drug product is used for the treatment of moderate to severe vasomotor symptoms associated with menopause, atrophic vaginitis, atrophic urethritis, and osteoporosis. The firm does have new drug approval for the Talc Triturated Conjugated Estrogen Granulation formulation. The application was received and filed in the Center for Drug Evaluation and Research on March 1, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on

the application to do so by September 23, 1994, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: August 30, 1994.

David B. Barr,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 94–22497 Filed 9–12–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Closed Meeting:

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: September 19–21, 1994.

Time: 8:30 pm to recess September 19 and 7:30 am to adjournment September 21.

Place: Florida State University, Tallahassee, FL.

Contact person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Branch, DEA, NIDCD, 6120 Executive Boulevard, Suite 400C, Bethesda, MD 20892, 301/496–8683.

Purpose/Agenda: To review and evaluate a grant application.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders)

Dated: September 2, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–22665 Filed 9–12–94; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

[GN# 2268]

National Vaccine Advisory Committee (NVAC), Subcommittee on Future Vaccines, Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of the Future Vaccines Subcommittee of the National Vaccine Advisory Committee.

DATES: Date, Time and Place: September 27, at 1 p.m. to 5 p.m., Hubert H. Humphrey Building, Room 703A, 200 Independence Avenue, S.W., Washington, D.C. 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Chester A. Robinson, D.P.A., Acting Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, 5600 Fishers Lane, Rockwall II Building, Suite 1075, Rockville, MD 20857, (303) 594–2277.

Agenda: Open Public Hearing: Interested persons may formally present data, information, or views orally or in writing on issues to be discussed by the Subcommittee. Those desiring to make such presentations should make a request to the contact person before September 19, and submit a brief description of the information they wish to present to the Subcommittee. Requests should include the names and addresses of proposed participants. A maximum of 10 minutes will be allowed for a given presentation, but the time may be adjusted depending on the number of persons presenting. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the Chairperson's discretion.

Open Subcommittee Discussion: The Subcommittee will discuss (1) priority topics to be addressed in FY 1995, and (2) ways of ensuring that new vaccine candidates can be made available for efficacy trials (Phase III), including assessment of private sector capacity to produce pilot lots. Meetings of the Subcommittee shall be conducted, insofar as is practical, in accordance with a more detailed agenda distributed at the beginning of the meeting. Persons interested in specific agenda items may ascertain from the contact person the approxumate time of discussion. A list of subcommittee members and the charter of the NVAC Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person.

Dated: August 31, 1994.

Jeannette R. DeLawter,

Committee Management Specialist.

[FR Doc. 94–22597 Filed 9–12–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. R–94–1538; FR–2942–N–05]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently

information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 25, 1994.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Real Estate Settlement Procedures Act (RESPA), Section 6 Model Disclosure Statement and Applicant's Acknowledgement of Servicing Transfer (FR–2942).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Section 6 of the Real Estate Settlement Act requires a lender of a federally related mortgate loan including refinancing to give the loan applicant certain information and requires HUD to issue a model of that statement. HUD prepared a model for the notices of actual transfer of servicing which Section 6 now requires servicers to issue.

Form Number: None.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Notice of application	20,000		212		0.033		139,920
Notice of assignment	20,000		3,000		0.10		6,000,000

Total Estimated Burden Hours: 6,139,920.

Status: Reinstatement, no changes.

Contact: Ivy Jackson, HUD, (202) 708–4560; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 25, 1994.

[FR Doc. 94–22632 Filed 9–12–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. R–94–1686; FR–3438–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information:(1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 2, 1994.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Nehemiah Housing Opportunity Grants Program (FR–3438).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Under the Nehemiah Housing Opportunity Program, HUD is authorized to make grants to non-profit organizations to enable them to provide second mortgages to families purchasing homes that are constructed or substantially rehabilitated.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments, and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	136		Varies		Varies		5,032

Total Estimated Burden Hours: 5,032.

Status: Extension, no changes.

Contact: Joan Morgan, HUD, (202) 708–2676; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 2, 1994.

[FR Doc. 94–22633 Filed 9–12–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–3801; FR–3750–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., 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 a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 30, 1994.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Economic Development Initiative.

Office: Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: Section 232(a) of the Multifamily Housing Property Disposition Reform Act of 1994 established the Economic Development Grant program to work in conjunction with the existing Section 108 loan guarantee program. HUD has renamed the program, the Economic Development Initiative (EDI). The purpose of this information will be to establish application procedures for EDI assistance. EDI will enhance the viability of projects assisted under Section 108 and increase the security of loans made with Section 108 loan guarantee funds.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: Recordkeeping and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	×	Burden hours
Application	100		1		20		2,000
Citizen participation	100		1		20		2,000
Recordkeeping	100		1		5		500

Total Estimated Burden Hours: 4,500.

Status: New.

Contact: Paul D. Webster, HUD, (202) 708–1871; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 30, 1994.

[FR Doc. 94–22634 Filed 9–12–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–3815]

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 comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members

of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 25, 1994.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Single Family Mortgage Insurance on Indian Reservations and Other Restricted Lands.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Indian tribes applying for single mortgage insurance must certify that they have adopted an eviction procedure in the event of foreclosure. HUD will use this information to determine that the property and tribal member (borrower) is eligible for mortgage insurance and also to verify mortgage security.

Form Number: None.

Respondents: State or Local Governments and Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Verification of lien	1,000		1		.5		500
Certification	200		1		.5		100
Appeal of field office	20		1		.5		10

Total Estimated Burden Hours: 610.

Status: Extension, no changes.

Contact: Susan Hoyer, HUD, (202) 708–4986; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 25, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: American Housing Survey—1995 Metropolitan Sample.

Office: Policy Development and Research.

Description of the Need for the Information and Its Proposed Use: The 1995 AHS–MS is a longitudinal study that collects current information on the quality, availability, and cost of housing in eleven selected metropolitan areas. The study also provides information on demographic and other characteristics of the occupants. Federal and local government agencies use AHS data to evaluate housing issues.

Form Number: AHS–61, 62, 63, 66, 68, and 590.

Respondents: Individuals or Households.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	59,000		1		.54		32,199

Total Estimated Burden Hours: 32,199.

Status: Revision.

Contact: Duane T. McGough, HUD, (202) 708–1060; Daniel Weinberg, Census, (301) 763–8550; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 23, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Progress Report for Innovative Project Funding Program.

Office: Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: Annual Progress Reports will be completed at the end of each program year by State and local governments and nonprofit organizations who have received funding under the Innovative Homeless Initiative Demonstration program. Grant recipients are required to submit a final progress report. These reports will provide necessary information for program monitoring and evaluation.

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
Progress report	48		1		20		960
Recordkeeping	48		1		45		2,160

Total Estimated Burden Hours: 3,120.
Status: Reinstatement with changes.
Contact: Hazel P. Braxton, HUD, (202) 708–1234; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 23, 1994.

[FR Doc. 94–22636 Filed 9–12–94; 8:45 am]
BILLING CODE 4210–01–M

Office of the Assistant Secretary for Administration

[Docket No. N–94–3814; FR3764–N–01]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of a Computer Matching Program between HUD and the Small Business Administration (SBA).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, as amended, (Public Law 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public," the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Small Business Administration (SBA) to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with SBA's debtor files. In addition to HUD data, the CAIVRS data base now includes delinquent debt information from the Departments of Agriculture, Education and Veterans Affairs and the Small Business Administration. This match will allow prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or SBA direct or guaranteed loans.

Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records of the SBA and verify that the loan applicant is not in default or delinquent on direct or guaranteed loans of participating Federal programs of either agency. Authorized users place a telephone call to the system. The system provides a recorded message followed by a series of instructions, one of which is a requirement for the SSN of the loan applicant. The system then reports audibly whether the SSN is related to delinquent or defaulted Federal obligations for HUD or SBA direct or guaranteed loans. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

EFFECTIVE DATE: Computer matching is expected to begin at least 40 days from the date this computer matching notice is published, providing no comments are received which would result in a contrary determination. It will be accomplished 18 months from the beginning date.

Comments Due Date: October 13, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR PRIVACY ACT INFORMATION AND FOR FURTHER INFORMATION FROM RECIPIENT AGENCY CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 7th St., SW, Room 4176, Washington, DC 20410, Telephone Number (202) 708–2374. [This is not a toll-free number.]

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: Walter Intlekofer, Chief, Operations Assistance Branch, Office of Portfolio Management, Small Business Administration, 409 Third Street, S.W., Washington, DC 20416, Telephone Number (202) 205–6481. [This is not a toll-free number.]

Reporting: In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public;" copies of this Notice and a report, in duplicate, are being provided to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority: The matching program may be conducted pursuant to Public Law 100–503, "The Computer Matching and Privacy Protection Act of 1988," as amended, and Office of Management and Budget (OMB) Circular A–129 (Revised January 1993), Policies for Federal Credit Programs and Non-Tax Receivables. One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives to be met by the Matching Program: The matching program will allow SBA access to a system which permits prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to SBA debtor data for prescreening purposes.

Records to be matched: HUD will utilize its system of records entitled HUD/DEPT–2, *Accounting Records.* The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have defaulted on Section 312 rehabilitation loans; or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRS match, HUD/DEPT–2, System of Records, receives its program inputs from HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans-Delinquent/Default.

The SBA will provide HUD with debtor files contained in its system of records entitled, Loan Case File (SBA 075). HUD is maintaining SBA's records only as a ministerial action on behalf of SBA, not as a part of HUD's HUD/DEPT–2 system of records. SBA's data

contain information on individuals who have defaulted on their direct loans. The SBA will retain ownership and responsibility for their systems of records that they place with HUD. HUD serves only as a record location and routine use recipient for SBA's data.

Notice Procedures: HUD and the SBA will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and the SBA have published notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

Categories of Records/Individuals Involved: The debtor records include these data elements: SSN, claim number, program code, and indication of indebteness. Categories of records include: records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: former mortgagors and purchasers of HUD-owned properties, manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match: Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both Houses of Congress or at least 30 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination.

Issued at Washington, DC, September 7, 1994.

Marilynn A. Davis,

Assistant Secretary for Administration.

[FR Doc. 94–22635 Filed 9–12–94; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Rocky Mountain Arsenal National Wildlife Refuge Comprehensive Management Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992, the Refuge Manager of the Rocky Mountain Arsenal National Wildlife Area, U.S. Fish and Wildlife Service (Department of Interior) gives notice of the agency's intent to prepare an environmental impact statement on the Rocky Mountain Arsenal National Wildlife Refuge Comprehensive Management Plan, Adams County, Colorado.

DATES: Comments concerning the scope of the analysis should be received in writing by October 13, 1994.

ADDRESSES: Send written comments to Dave Shaffer, Rocky Mountain Arsenal National Wildlife Refuge, Building 613, Commerce City, Colorado 80022–1748.

FOR FURTHER INFORMATION CONTACT: Dave Shaffer, Plan Coordinator, (303) 289–0232.

SUPPLEMENTARY INFORMATION: The Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Public Law 102–402) established the Rocky Mountain Arsenal as a National Wildlife Refuge following environmental cleanup, and provided authority for the Fish and Wildlife Service to manage the area as if it were a National Wildlife Refuge during the cleanup process. Pursuant to the Department of Interior's Departmental Manual implementing the National Environmental Policy Act, an Environmental Impact Statement will be prepared for all master plans for major new installations of the Fish and Wildlife Service. The Plan will guide the development of the Rocky Mountain Arsenal National Wildlife Refuge. Ray Rauch, Refuge Manager, will be the responsible official.

Federal, state and local agencies, individuals, or organizations who may be interested in or affected by the decision regarding the Plan are invited to participate in the scoping process. Public involvement in the planning process will be sought by 1) sending planning updates and requests for comments to agencies, organizations, and individuals, and 2) holding open house/public comment forums in the Denver metropolitan area. Scoping meetings will be held on September 12, 13, and 14. Locations and times for the scoping meetings will be announced in the local news media and in a newsletter. The analysis is expected to take about 12 months. A draft environmental impact statement should be available for public review and comment by May, 1995.

The U.S. Fish and Wildlife Service believes it is important to give reviewers notice at this early stage of guidance provided by several court rulings related to public participation in the environmental review process. Reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Judicial review may waive or dismiss objections that could have been raised at the draft environmental impact statement stage, but that were not raised until after completion of the final environmental impact statement.

Dated: September 6, 1994.

Terry Terrell,

Acting Regional Director, Region 6, Denver, Colorado.

[FR Doc. 94–22561 Filed 9–12–94; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[ID–030–04–342A–02; IDI–30480]

Realty Actions; Sales, etc.: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public Land in Butte County; Idaho.

SUMMARY: The following described public land has been examined and through the public-supported land use planning process has been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 at no less than the appraised fair market value of $3,800. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Boise Meridian

T. 5 N., R. 26 E.,
Sec. 6, lots 8, 11.
The land described contains 26.45 acres.

The patent, when issued, will contain a reservation to the United States for ditches and canals, oil and gas, and will be subject to the following:

1. Those rights for canal purposes granted to the Big Lost River Irrigation Company by right-of-way BL–037843.

2. Those rights for canal purposes granted to LaVell R. Purser by right-of-way IDI–27981.

DATES: September 13, 1994, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

ADDRESSES: Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Contact Bruce Bash, Realty Specialist, at the above address or call (208) 524–7521.

SUPPLEMENTARY INFORMATION: This land is being offered by direct sale to Randy and Michelle Purser of Moore, Idaho, based on historic use of the land. Failure or refusal of the Pursers to submit the required payment within 60 of Request for Payment will result in a continued offering of the land until sold.

It has been determined that the subject parcel is prospectively valuable for oil and gas but contains no other known mineral values; therefore, mineral interests, except for oil and gas, will be conveyed simultaneously. A separate nonrefundable filing fee of $50 is required from the purchasers for conveyance of the mineral interests.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address. Any adverse comments will be reviewed by the District Manager, who may vacate or modify this realty action.

Dated: September 2, 1994.

Gary L. Bliss,

Associate District Manager.

[FR Doc. 94–22540 Filed 9–12–94; 8:45 am]

BILLING CODE 4310–66–M

Minerals Management Service

Announcement of the Closure of the Atlantic Outer Continental Shelf (OCS) Office

AGENCY: Minerals Management Service, Interior.

SUMMARY: The Minerals Management Service (MMS) Atlantic OCS Region office located in Herndon, Virginia, is in the process of closing. This office is one of four MMS regional offices responsible for managing the environmental protection, leasing, exploration, production and development of land on the Federal OCS. The Atlantic OCS Region office manages the portion of the OCS program located on four separate planning areas covering the entire Atlantic coast of the United States and the Straits of Florida. The responsibilities of the Atlantic OCS Region office will be absorbed by the Gulf of Mexico OCS Region office located in New Orleans, Louisiana.

DATES: The effective date of this action is October 1, 1994.

ADDRESSES: The present address of the Atlantic OCS Region office is 381 Elden Street, Suite 1109, Herndon, Virginia 22070–4817. The address of the Gulf of Mexico OCS Region office is 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2589.

FOR FURTHER INFORMATION CONTACT: Mr. Byron Congdon of the Gulf of Mexico OCS Region, at (504) 736–2595. You may also write to the Regional Director of the Gulf of Mexico OCS Region office at the above address.

Authority: U.S. Department of the Interior Departmental Manual Release number 3002, dated April 26, 1994.

Dated: September 6, 1994.

Thomas Gernhofer,

Associate Director, Offshore Minerals Management.

[FR Doc. 94–22555 Filed 9–12–94; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

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 September 3, 1994. 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, D.C. 20013–7127. Written comments should be submitted by September 28, 1994.

Carol. D. Shull,

Chief of Registration, National Register.

ARIZONA

Pima County

El Encanto Apartments, 2820 E. Sixth St., Tucson. 94001181

DELAWARE

New Castle County

Springer—Cranston House, 1015 Stanton Rd., Mill Creek Hundred. Marshalltown. 94001177

IOWA

Greene County

Chicago, Milwaukee & St. Paul Depot—Jefferson (Advent and Development of Railroads in Iowa MPS). 507 E. Lincoln Way, Jefferson. 93000326

LOUISIANA

Jefferson Davis Parish

Elton United Methodist Church, 803 2nd St., Elton. 94001174

Foster, J. E., House, 314 W. Academy Ave., Jennings. 94001175

Fruge Store, 907 Main St., Elton. 94001176

Orleans Parish

New Marigny Historic District, Roughly bounded by St. Claude, St. Bernard, Tonti, and St. Ferdinand Sts. and I–10. New Orleans. 94001170

MARYLAND

Baltimore Independent City

Building at 419 West Baltimore Street (Cast Iron Architecture of Baltimore MPS), 419 W. Baltimore St., Baltimore. 94001171

MICHIGAN

Saginaw County

Parshallburg Bridge, Ditch Rd. over the Shiawassee R., Chesaning Township, Oakley vicinity. 94001168

NEW YORK

Ulster County

Kripplebush Historic District, Roughly, area surrounding Kripplebush and Pine Bush Rds., Marbletown. 94001173

TEXAS

Washington County

Schroeder, Fritz Paul and Emma, House, Co. Rd. 68, N side, of N. Brenham, Brenham vicinity. 94001169

VIRGINIA

Clarke County

Norwood, VA 7, S side, 7/8 mi. E of jct. with VA BR 7, Berryville vicinity, 94001180

Loudoun County

Cumberland County Courthouse, US 60, N side, at jct. with VA 600. Cumberland. 94001178

Wythe County

Wytheville Historic District, Roughly bounded by Monroe, Eleventh, Jefferson and Twelfth Sts. and W. Railroad Ave., Wytheville. 94001179

[FR Doc. 94–22563 Filed 9–12–94; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–213 (Sub-No. 4)]

Canadian Pacific Limited—Abandonment—Line Between Skinner And Vanceboro, ME

The Commission's Section of Environmental Analysis (SEA) hereby notifies all interested parties that the Draft Environmental Impact Statement (DEIS) in the Canadian Pacific Limited (CP) abandonment between Skinner and Vanceboro, ME is available. The DEIS addresses the environmental impacts associated with the proposed abandonment.

The DEIS will be served on all parties to the proceeding on September 12,

1994. There will be a 30 day comment period beginning September 12, 1994 to allow the public an opportunity to comment on the DEIS. All comments to the DEIS must be in writing and filed by October 12, 1994.

Parties commenting on the DEIS must send an original and 10 copies of their comments to:

Phillis Johnson-Ball, Section of Environmental Analysis, Room 3219, Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, D.C. 20423.

After assessing all of the comments to the DEIS, SEA will issue a Final Environmental Impact Statement that will include SEA's final recommendations to the Commission.

For further information, you may contact Phillis Johnson-Ball at (202) 927–6213 or Vicki Dettmar at (202) 927–6211. TDD for hearing impaired: (202) 927–5721.

By the Commission, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–22578 Filed 9–12–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated July 11, 1994, and published in the **Federal Register** on July 19, 1994, (59 FR 36785), Abbott Laboratories, 14th Street & Sheridan Road, Attn: Customer Service D–345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Dextropropoxyphene, bulk (non-dosage forms) (9273), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 29, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22529 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Registration

By Notice dated July 11, 1994, and published in the **Federal Register** on July 19, 1994, (59 FR 36786), Arenol Chemical Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methamphetamine (1105)	II
Phenylacetone (8501)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 29, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22530 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 15, 1994, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene, bulk (non-dosage forms) (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 13, 1994.

Dated: September 6, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22600 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application Withdrawal for Penick Corporation

By letter dated August 11, 1994, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, withdrew their request for registration as a bulk manufacturer of the Schedule II controlled substance Methylphenidate (1724).

Therefore, the notice dated June 22, 1994, in the **Federal Register** (FR Doc. 94–15707) Vol. 59, No. 124 at page 33544 is hereby withdrawn.

Dated: August 29, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22531 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on March 15, 1994, The P F Laboratories, Inc., 700 Union Boulevard, Totowa, New Jersey 07512, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 29, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22533 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated July 11, 1994, and published in the **Federal Register** on July 19, 1994, (59 FR 36789), Radian Corporation, 8501 Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of N-Ethylamphetamine (1475), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: August 29, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–22532 Filed 9–12–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Commission on the Future of Worker-Management Relations; Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Commission on the Future of Worker-Management Relations was established in accordance with the Federal Advisory Committee Act (FACA) Public Law 92–463. Pursuant to section 10(a) of FACA, this is to announce that the Commission will meet at the time and place shown below.

TIME AND PLACE: The meeting will be held on Thursday, September 29, 1994 from 9:00 a.m. to 3:00 p.m. in Conference Room N–3437 A–D in the Department of Labor, 200 Constitution Avenue NW., Washington, DC.

AGENDA: The agenda for the meeting is as follows:

The Commission is seeking proposals and options to deal with issues, such as those identified in its Fact Finding Report, related to alternative forms of dispute resolution at the workplace and in the application of employment laws.

The Commission invites the views of interested parties about the problems that are reported to arise under the current law and the recommendations they would make to deal with these problems.

PUBLIC PARTICIPATION: The Commission will be in session and open to the public from 9:00 a.m. until 3:00 p.m. when it will adjourn. Seating will be available on a first-come, first-served basis. Individuals with disabilities wishing to attend, should contact the Commission to request appropriate accommodations. Individuals or organizations wishing to submit written statements should send 15 copies on or before September 22 to Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–9148.

Signed at Washington, DC this 7th day of September 1994.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 94–22601 Filed 9–12–94; 8:45 am]

BILLING CODE 4510–23–M

Office of Federal Contract Compliance Programs

KRT Drywall/Acoustical, a/k/a Construction Associates, Debarment

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of Debarment, KRT Drywall/Acoustical, a/k/a Construction Associates, Logan, Utah.

SUMMARY: This notice advises of the debarment of KRT Drywall/Acoustical, a/k/a Construction Associates, (hereafter "KRT"), as an eligible bidder on Government contracts and subcontracts and federally assisted construction contracts and subcontracts. The debarment is effective immediately.

FOR FURTHER INFORMATION CONTACT: Annie Blackwell, Director Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–3325, Washington, DC 20210 (202–219–9430).

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 60–30.32(c), the Administrative Law Judge issued an Order Granting Plaintiff's Motion for a Default Judgment and Entry of Sanctions: (1) finding KRT in violation of Executive Orders No. 11246, 11375 and 12086; (2) cancelling all Federal contracts and subcontracts and all federally assisted construction contracts and subcontracts of KRT, and of its officers, agents, servants, employees, successors (including Construction Associates), divisions or subsidiaries, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise; declaring KRT ineligible for extensions or other modifications of any existing Government contracts or subcontracts; and declaring KRT and its officers, agents, servants, employees, successors (including Construction Associates), divisions or subsidiaries, and those persons in active concert or

participation with them who receive actual notice of the order by personal service or otherwise ineligible for the award of any Government contracts or subcontracts and all federally assisted contracts and subcontracts, for a period of at least 210 days and thereafter, until KRT demonstrates to the Deputy Assistant Secretary for Federal Contract Compliance Programs that it is currently in compliance with the provisions of Executive Orders No. 11246, 11375 and 12086 and the regulations promulgated thereunder, and that it has undertaken to correct past acts of noncompliance, including identifying and making whole any victims of its noncompliance, and that it will carry out employment practices in compliance with the Executive Orders No. 11246, 11375 and 12086. A copy of the Order is attached.

Signed: September 7, 1994, Washington, D.C.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance Programs.

Order Granting Plaintiff's Motion for a Default Judgment and Entry of Sanctions

Date: August 18, 1994.

Case No. 94–OFC–14

In the Matter of: United States Department of Labor, Office of Federal Contract Compliance Programs, Plaintiff v. KRT Drywall/Acoustical, Defendant.

It appears that:

1. Plaintiff U.S. Department of Labor filed the complaint herein on July 13, 1994 pursuant to the expedited hearing procedures set forth in 41 CFR 60–30.31 *et seq.* A copy of the complaint is attached hereto and is incorporated herein by this reference.

2. The complaint and Plaintiff's Request for Admissions were served on Defendant KRT Drywall/Acoustical by Federal Express and were received by KRT on July 13, 1994.

3. KRT did not file an answer, nor has it requested an extension of time within which to file an answer.

4. On August 9, 1994 Plaintiff filed a "Motion for Default Judgment and Entry of Sanctions" on the grounds that Defendant failed to file an answer or request an extension of time within 20 days after service of the complaint as required by 41 CFR 60–30.6(a).

5. On August 10, 1994 Defendant filed an "Objection to Plaintiff's Motion For a Default Judgment and Entry of Sanctions" requesting a denial of the Plaintiff's default motion on the grounds that the complaint "may have been misplaced," and that therefore entry of default "will work an injustice upon KRT."

6. On August 15, 1994 Plaintiff filed its response to Defendant's objection contending that the provisions of 41 CFR 60.32(c) are mandatory.

41 CFR 60.30.32(c) provides that if a hearing is not requested within 25 days of the filing of the complaint, the allegations of the complaint shall be adopted as findings, and the sanctions and/or penalties sought in the complaint shall be imposed. It appears that the above provisions of 41 CFR 60.30.32(c) are mandatory and not discretionary.

Since Defendant has neither filed an answer nor asked for an extension of time within which to answer, and has to date not requested a hearing in any other way, Plaintiff's Motion for Default is granted and Plaintiff's Proposed Findings of Fact and Conclusions of Law, which are attached and incorporated herein by this reference, are adopted as the findings herein.

It is therefore ordered that all of KRT's Federal contracts and subcontracts are immediately canceled; and that KRT or Construction Associates, its officers, agents, subsidiaries, and successors (including Construction Associates), are declared ineligible to receive any Government contracts or subcontracts or for extensions or other modifications of any existing Government contracts or subcontracts, for a period of at least 210 days, and thereafter until KRT has demonstrated to the Deputy Assistant Secretary for Federal Contract Compliance Programs that it is currently in compliance with the provisions of the Executive Orders No. 11246, 11375 and 12086 and the regulations promulgated thereunder, and that it has undertaken to correct past acts of noncompliance, including identifying and making whole any victims of its past noncompliance, and that it will carry out employment practices in compliance with the Executive Orders No. 11246, 11375 and 12086.

Alexander Karst,

Administrative Law Judge.

San Francisco, CA.

Administrative Complaint

Pursuant to 41 CFR 60–30.5 and 41 CFR 60–30.32, Plaintiff, Office of Federal Contract Compliance Programs, United States Department of Labor (hereinafter "OFCCP"), by it attorneys, hereby files this Administrative Complaint. The hearing, if requested, will be subject to the expedited hearing procedures at 41 CFR 60–30.31, *et seq.* OFCCP alleges the following:

1. This action is brought by OFCCP to enforce the contractual obligations imposed by Executive Order No. 11246 (30 Fed. Reg. 12319), as amended by Executive Order No. 11375 (32 Fed. Reg. 14303) and Executive Order 12086 (43 Fed. Reg. 46501) (hereinafter "the Executive Order") and the rules and regulations issued pursuant thereto.

2. Jurisdiction exists under Sections 208 and 301 of the Executive Order and the following regulations: 41 CFR 60–1.34, 41 CFR 60–1.26 and 41 CFR 60–4.8 and 41 CFR Part 60–30.

3. KRT Drywall/Acoustical (hereinafter "Defendant") is a construction contractor specializing in drywall work.

4. At all times pertinent hereto Defendant has maintained its principal place of business in Logan, Utah.

5. At all times pertinent hereto Defendant has held a Federal or federally assisted construction contract of $10,000 or more.

6. At all times pertinent hereto Defendant has been a Government contractor, subcontractor or federally assisted construction contractor within the meaning of the Executive Order and at all pertinent times has been subject to the contractual obligations imposed on Government contractors and subcontractors by the Executive Order and the implementing regulations issued thereunder.

7. At all times pertinent hereto Defendant has been required to abide by the affirmative action requirements set forth in 41 CFR Part 60–4.

8. On May 12, 1992, OFCCP commenced a compliance review of Defendant. That review resulted in a Notice of Violation issued on May 26, 1992, finding that Defendant had violated its affirmative action obligations in six specific respects.

9. On June 26, 1992, OFCCP and Defendant entered into a Conciliation Agreement resolving the deficiencies identified in the May 26, 1992 Notice of Violation.

10. Defendant agreed in the Conciliation Agreement to provide OFCCP with personnel activity reports at six month intervals. The reports were to include information on the number of vacancies for each craft, the number of contacts KRT had with linkage and recruitment sources to fill those vacancies, the number of applications received by KRT from each of its recruitment sources, the number of hires, and the total number of applicants and hires by race, sex and ethnicity.

11. The Conciliation Agreement was to remain in full force and effect until OFCCP determined that Defendant had submitted two acceptable reports as defined by the Agreement.

12. Defendant agreed in the Conciliation Agreement to notify certain

employment and recruitment organizations when job vacancies arose and to seek referrals from those organizations. The organizations to be contacted included the Turning Point Program, the Indian Employment Service and the Utah State Job Service.

13. The first personnel activity summary report was due on November 10, 1992, and was to cover the period of May 1, through October 31, 1992.

14. Defendant submitted a report on November 30, 1992, which stated that the company had hired 10 male applicants in the last six months.

15. Defendant did not notify the Indian Employment Service or the Turning Point Program of these 10 openings and did not request that these sources supply applicants for any of these positions, as agreed upon their conciliation agreement.

16. Defendant's first personnel activity report was not timely submitted.

17. Defendant did not specifically request qualified female and minority applicants when it listed job openings with Job Service.

18. Defendant did not, during the period May 1, through October 31, 1992 make every good effort to recruit and employ women.

19. By letter dated February 4, 1993, OFCCP notified Defendant that its untimely filing of the first personnel activity report, its failure to specifically request affirmative action job orders when it contacted the Job Service, and its failure to make every good faith effort to recruit and employ women during the period from May 1, through October 31, 1992, violated the June 16, 1992, Conciliation Agreement.

20. Defendant's second personnel activity report was due on May 10, 1993, and was to cover the period from November 1, 1992, through April 30, 1993.

21. On May 7, 1993, Defendant filed with OFCCP a letter stating that there had been no hiring activity, and hence no contact with linkage or recruitment sources during the period covered by the second report.

22. OFCCP contacted and visited KRT during June and July 1993 in an effort to confirm Defendant's representation that there had been no hiring activity during the six months preceding the May 7, 1993, letter.

23. The letter submitted by Defendant to OFCCP on May 7, 1993, misstated defendant's hiring activity during the preceding six months.

24. During the period from November 1, 1992, through April 30, 1993, Defendant failed to maintain personnel records including hire dates, termination dates and applicant information as required by the June 16, 1992, Conciliation Agreement.

25. Defendant hired a number of individuals during the period from November 1, 1992, through April 30, 1993.

26. Defendant did not contact the linkage organizations agencies regarding vacancies filled during the period from November 1, 1992, through March 30, 1993, and did not request those sources to supply applicants for any of these positions.

27. The acts and practices described in paragraphs 16 through 18, above, breached the June 16, 1992, Conciliation Agreement Defendant entered into with OFCCP.

28. The acts and practices described in paragraphs 23 through 26, above, breached the June 16, 1992, Conciliation Agreement Defendant entered into with OFCCP.

29. The acts and practices described in paragraphs 16 through 18 and 23 through 26, above, violate Executive Order 11246, and the regulations promulgated thereunder, and therefore violate KRT Drywall/Acoustical's contractual obligations to the Federal Government.

30. Plaintiff notified Defendant of its determination that the company had violated its obligations under the Conciliation Agreement. Defendant has not demonstrated that it did abide by the terms of the Conciliation Agreement and so, pursuant to 41 CFR 60–1.34(a), enforcement proceedings may be initiated immediately.

31. KRT failed to contact the linkage organizations referenced in the June 16, 1992, Conciliation Agreement; consequently, Defendant may have failed to consider for employment qualified individuals registered with these organizations.

32. Unless retrained by an Administrative Order, KRT Drywall/Acoustical will continue to violate the obligations imposed upon it by the Executive Order and the rules and regulations issued pursuant thereto.

Wherefore, plaintiff prays for a decision and order pursuant to Section 209 of the Executive Order, 41 CFR 60–1.26 and 41 CFR Part 60–30, permanently enjoining Defendant, and its officers, agents, servants, employees, successors, divisions and subsidiaries and those persons in active concert or participation with it from violating the Executive Order.

Plaintiff further prays for a decision and order debarring Defendant and its officers, agents, servants, employees, successors, divisions and subsidiaries and those persons in active concert or participation with it, from entering into future Government contracts, subcontractors or federally assisted construction contracts until such time as Defendant satisfies the Deputy Assistant Secretary for Federal Contract Compliance Programs that it has undertaken to correct past acts of noncompliance and that it is currently in compliance with the provisions of the Executive Order and the regulations promulgated thereunder, but in no event less than 210 days.

Plaintiff further prays for a decision and order canceling any contracts Defendant may hold by the time a final order is issued.

Plaintiff further prays for such other relief as justice may require.

Respectfully submitted,

Thomas S. Williamson, Jr.,
Solicitor of Labor.
James D. Henry,
Associate Solicitor.
Debra A. Millenson,
Senior Trial Attorney.
L. Denise Galambos,
Attorney.

Certificate of Service

I hereby certify that on this 12th day of July 1994, the foregoing Administrative Complaint has been served upon Kenneth R. Thigpen, President of KRT Drywall/Acoustical, by Federal Express, postage prepaid, at the following address: 1375 West 200 North, Logan, Utah 84321.

Sonya Boyd,
Legal Technician.

Plaintiff's Proposed Findings of Fact and Conclusions of Law [1]

Plaintiff Office of Federal Contract Compliance Programs ("OFCCP") filed this action on July 12, 1994. As is set forth more fully in OFCCP's Motion for a Default Judgment and Entry of Sanctions filed this date, defendant KRT Drywall/Acoustical a/k/a Construction Associates (hereinafter "KRT") failed to answer the Administrative Complaint or to request a hearing within the period provided by the applicable regulations. 41 CFR 60–30.6 and 60–30.32. The Administrative Law Judge therefore is required to enter a default judgment against KRT. 41 CFR 60–30.32(c).

OFCCP proposes that the following Findings of Fact and Conclusions of Law be included in the Order of Judgment issued in this case.

[1] All the statements contained in this document have been drawn from the Administrative Complaint and OFCCP's Requests for Admission. Because KRT failed to answer the Requests for Admission, they should be deemed admitted.

I. Findings of Fact

1. KRT Drywall/Acoustical ("KRT") is a construction contractor specializing in drywall work.

2. At all times pertinent hereto KRT has held a federal or federally assisted construction contract or subcontract of $10,000 or more.

3. On May 12, 1992, OFCCP commenced a compliance review of KRT.

4. On May 26, 1992, OFCCP issued to KRT a Notice of Violation finding that KRT had violated its affirmative action obligations in six specific respects and was not in compliance with the requirements of Executive Order 11246.

5. On June 16, 1992, OFCCP and KRT entered into a Conciliation Agreement resolving the deficiencies identified in the May 26, 1992 Notice of Violation.

6. KRT agreed in the Conciliation Agreement to provide OFCCP with personnel activity reports at six month intervals. These reports were to include information for the relevant six-month period on the number of vacancies for each craft, the number of contacts KRT had with linkage and recruitment sources to fill those vacancies, the number of applications received by KRT from each of its recruitment sources, the number of hires, and the total number of applicants and hires by race, sex and ethnicity.

7. The Conciliation Agreement was to remain in full force and effect until OFCCP determined that KRT had submitted two acceptable reports as defined by the Agreement.

8. KRT agreed in the Conciliation Agreement to notify certain employment and recruitment organizations when job vacancies arose and to seek referrals from those organizations. The organizations to be contacted included the Turning Point Program, the Indian Employment Service and the Utah State Job Service.

9. The first personnel activity summary report was due to OFCCP on November 10, 1992, and was to cover the period of May 1, through October 31, 1992.

10. On November 30, 1992, KRT submitted a report which stated that the company had hired 10 male applicants in the six month period covered by the report.

11. KRT's first personnel activity report was not timely submitted.

12. KRT did not notify the Indian Employment Service or the Turning Point Program of these 10 openings and did not request that these sources supply applicants for any of these positions, as agreed upon in their conciliation agreement.

13. KRT did not specifically request qualified female and minority applicants when it listed job openings with Job Service.

14. KRT did not, during the period May 1, through October 31, 1992 make every good effort to recruit and employ women.

15. On February 4, 1993, OFCCP notified KRT that its untimely filing of the first personnel activity report, its failure to specifically request affirmative action job orders when it contacted the Job Service, and its failure to make every good faith effort to recruit and employ women during the period from May 1, through October 31, 1992, violated the June 16, 1992, Conciliation Agreement.

16. KRT's second personnel activity report was due on May 10, 1993, and was to cover the period from November 1, 1992, through April 30, 1993.

17. On May 7, 1993, KRT filed with OFCCP a letter stating that there had been no hiring activity, and hence no contact with linkage or recruitment sources, during the period covered by the second report.

18. OFCCP contacted and visited KRT during June and July 1993 in an effort to confirm KRT's representation that there had been no hiring activity during the six months preceding the May 7, 1993, letter.

19. KRT's letter to OFCCP of May 7, 1993, misstated KRT's hiring activity during the preceding six months.

20. During the period from November 1, 1992, through April 30, 1993, KRT failed to maintain personnel records including hire dates, termination dates and applicant information as required by the June 16, 1992, Conciliation Agreement.

21. KRT hired at least twenty seven individuals during the period from November 1, 1992, through April 30, 1993.

22. KRT did not contact the linkage organizations agencies regarding vacancies filled during the period from November 1, 1992, through March 30, 1993, and did not request those sources to supply applicants for any of these positions.

23. On September 14, 1993, OFCCP notified KRT of its determination that the company had violated its obligations under the Conciliation Agreement. OFCCP provided KRT 15 days in which to respond.

24. KRT failed to demonstrate within the 15-day period that it did abide by the terms of the Conciliation Agreement.

25. On July 12, 1994, OFCCP filed an Administrative Complaint in this matter and served upon KRT Requests for Admission.

26. To date, KRT has not answered either the Administrative Complaint or the Requests for Admission.

II. Conclusions of Law

1. The Office of Administrative Law Judges has jurisdiction over this matter pursuant to Sections 201, 208, and 209 of Executive Order 11246, and 41 CFR 60–1.26 and 41 CFR Part 60–30 of the Secretary of Labor's implementing regulations, and is empowered to issue a final order determining whether KRT is in current violation of its obligations under the Executive Order and its implementing regulations and to recommend appropriate remedies and sanctions. 41 CFR 60–30.32(c).

2. KRT is a Government contractor, subcontractor or Federally assisted construction contractor within the meaning of the Executive Order. At all material times KRT has been subject to the contractual obligations imposed on Government contractors and subcontractors by the Executive Order, and the implementing regulations issued thereunder.

3. At all material times, KRT has been required to abide by the affirmative action requirements set forth in 41 CFR Part 60–4.

4. KRT breached its obligations under the Conciliation Agreement entered into on June 16, 1992.

5. KRT's actions as described in the Findings of Fact, above, violate Executive Order 11246, and the regulations promulgated thereunder.

6. The Executive Order, and its implementing regulations authorize sanctions, including contract cancellation and debarment. *See,* Section 209 of the Executive Order.

7. Sanctions are appropriate when, as here, a contractor has failed to abide by the terms of a conciliation agreement, and is in violation of the Executive Order.

8. Under the applicable regulation where, as here, a defendant fails to answer an administrative complaint or to request a hearing within 20 days of service of that complaint, its right to a hearing shall be deemed waived and the Administrative Law Judge shall order the sanctions and remedies sought in the administrative complaint. 41 CFR 60–30.32(c).

9. For these reasons, I order that all of KRT's Federal contracts and subcontracts immediately be canceled and that KRT or Construction Associates, its officers, agents, subsidiaries, and successors (including Construction Associates), be declared ineligible to receive any Government contracts or subcontracts or for extensions or other modifications of any

existing Government contracts or subcontracts, for a period of at least 210 days, and thereafter until KRT has demonstrated to the Deputy Assistant Secretary for Federal Contract Compliance Programs that it is currently in compliance with the provisions of the Executive Order and the regulations promulgated thereunder, and that it has undertaken to correct past acts of noncompliance, including identifying and making whole any victims of its past noncompliance, and that it will carry out employment practices in compliance with the Executive Order.

III. Conclusion

OFCCP requests that these proposed Findings of Fact and Conclusions of Law be adopted by the Administrative Law Judge.

Respectfully Submitted,
Thomas S. Williamson, Jr.,
Solicitor of Labor.
James D. Henry,
Associate Solicitor.
Debra A. Millenson,
Senior Trial Attorney.
L. Denise Galambos,
Attorney.

Certificate of Service

I hereby certify that on this 8th day of August, 1994 the foregoing Plaintiff's Proposed Findings of Fact and Conclusions of Law have been served upon Aaron Milligan, Chief Executive Officer of KRT Drywall/Acoustical, by Federal Express, postage prepaid, at the following address: 1375 West 200 North, Logan, Utah 84321.

Sonya Boyd,
Legal Technician.

Service Sheet

Case Name: KRT Drywall/Acoustical
Case Number: 94–OFC–14
Title of Document: Order Granting Plaintiff's Motion for a Default Judgment and Entry of Sanctions

A copy of the above document was sent to the following:

Kenneth R. Thigpen, President, KRT Drywall/Acoustical, Attn: Sonya Boyd, 1375 West 200 North, Logan, Utah 84321
Karen Diddens, Compliance Office, U.S. Department of Labor, 10 West Broadway, Suite 305, Salt Lake City, Utah 84101
T.A. Housh, Jr., Regional Solicitor, Region VII, U.S. Department of Labor, 911 Walnut St., 21st Floor, Kansas City, MO 64106
Thomas S. Williamson, Jr., Solicitor of Labor, Attn: L. Denise Galambos, Esq., Office of the Solicitor/USDOL, Room S–2002, 200 Constitution Avenue, NW., Washington, DC 20210
Director, Office of Admin. Appeals, Department of Labor, Room S–4309, 200 Constitution Avenue, NW., Washington, DC 20210, P194–427–378
Civil Rights Division, Office of the Solicitor, U.S. Department of Labor, Room N–2464, 200 Constitution Avenue, NW., Washington, DC 20210
Special Counsel to the Assistant Secretary of Labor, U.S. Department of Labor, Employment & Training Admin., Room N–4671, 200 Constitution Avenue, NW., Washington, DC 20210
Office of Federal Contract Compliance Programs, U.S. Department of Labor, Room C–3325, 200 Constitution Avenue, NW., Washington, DC 20210

Millie Janey,
Reporter.
Dated: August 18, 1994.
[FR Doc. 94–22602 Filed 9–12–94; 8:45 am]
BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–069]

Intent to Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.
ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant Caratron Industries, Inc., of Warren, Michigan, an exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent No. 5,020,742, entitled "Airborne Rescue System," which was issued on June 4, 1991. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATES: Comments to this notice must be received by November 14, 1994.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: August 29, 1994.
Edward A. Frankle,
General Counsel.
[FR Doc. 94–22598 Filed 9–12–94; 8:45 am]
BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–409]

Dairyland Power Cooperative; La Crosse Boiling Water Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a Confirmatory Order modifying the August 7, 1991, Order (the Decommissioning Order) which authorized the Dairyland Power Cooperative (DPC, the licensee) to decommission the La Crosse Boiling Water Reactor (LACBWR). LACBWR is located 19 miles south of La Crosse, Wisconsin.

Environmental Assessment

Identification of Proposed Action

The proposed action would allow DPC to: (i) make limited changes in the facility or procedures as described the Decommissioning Plan; and (ii) conduct certain tests and experiments not described in the Decommissioning Plan, without prior NRC approval. The licensee requested, by letters dated August 2, and August 5, 1994, that the NRC issue an order that revises the Decommissioning Order to allow DPC limited flexibility under its Decommissioning Plan. This action is consistent with the flexibility under 10 CFR 50.59 afforded to a licensee authorized to operate a production or utilization facility and afforded by other Decommissioning Orders issued by the NRC.

The Need for the Proposed Action

The LACBWR has been shut down since April 30, 1987. All spent fuel has been removed from the reactor and is stored in the fuel element storage well.

The licensee's authority to operate LACBWR was removed by license Amendment No. 56, dated August 4, 1987. The licensee is authorized to possess but not operate the LACBWR. The NRC in its Order (Decommissioning

Order) of August 7, 1991, directed DPC to decommission the reactor facility in accordance with its Decommissioning Plan and the Commission's regulations. This action was taken in response to the licensee's application for authorization to decommission the facility, dated December 21, 1987, as revised February 22, 1988, September 9, 1988, September 30, 1988, January 26, 1989, March 28, 1989, June 6, 1989, October 3, 1989, July 25, 1990, May 10, 1991, and July 25, 1991. Neither the August 7, 1991, Decommissioning Order which directed the licensee to decommission the reactor facility, nor the approved Decommissioning Plan, contained an approved procedure that would allow the licensee to: (i) make changes in the facility or procedures as described the Decommissioning Plan; or (ii) conduct tests or experiments not described in the Decommissioning Plan, without prior NRC approval. The LACBWR is currently in SAFSTOR in accordance with the approved LACBWR Decommissioning Plan. This Confirmatory Order would modify the Decommissioning Order and allow the licensee to: (i) make limited changes in the facility or procedures as described the Decommissioning Plan; or (ii) conduct certain tests or experiments not described in the Decommissioning Plan without prior NRC approval.

Environmental Impact of the Proposed Action

The proposed action, procedural in nature, does not involve any significant environmental impacts. The proposed Confirmatory Order modifies the Decommissioning Order to allow the licensee to: (i) make changes in the facility or procedures as described the Decommissioning Plan; or (ii) conduct tests or experiments not described in the Decommissioning Plan without prior NRC approval provided they do not involve an unreviewed safety question or a significant environmental impact not previously evaluated.

Since the proposed action does not involve a change in plant operation or configuration, there is reasonable assurance that the proposed action would not increase the probability or the consequence of an accident or reduce the margin of safety. No changes would be made in the types or quantities of effluent that may be released offsite. Further, there would be no significant increase in the allowable individual or cumulative radiation exposure.

Accordingly, the NRC concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluent and has no other environmental impact. Therefore, the NRC concludes that there are no significant non-radiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the NRC has concluded that there are no measurable environmental impacts associated with the proposed action, any alternative with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the request. This would not significantly reduce environmental impacts of plant decommissioning and would result in reduced flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Environmental Assessment included as an enclosure to the Decommissioning Order.

Agencies and Persons Consulted

This Environmental Assessment was prepared by the NRC staff, primarily within the Office of Nuclear Material Safety and Safeguards, Rockville, Maryland. The NRC staff consulted with a representative of the State of Wisconsin regarding the environmental impact of the proposed action, and the State did not provide comments.

Finding of No Significant Impact

Based upon this Environmental Assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC has determined not to prepare an Environmental Impact Statement for the proposed Confirmatory Order.

For further details with respect to this action, see the licensee application for the order dated August 2, and August 5, 1994, which is available for public inspection at the Commission Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dated at Rockville, Maryland, this 2nd day of September, 1994.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Acting Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–22594 Filed 9–12–94; 8:45 am]

BILLING CODE 7590–01–M

Privacy Act of 1974; Revisions to System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed revision of an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) is publishing for public comment revisions to an existing system of records, NRC–32, Licensee and Applicant Taxpayer Identification Number Records—NRC. The proposed revisions add six new routine uses which will enhance the NRC's ability to collect certain license fee debts owed to the U.S. Government. Corresponding changes to other portions of the system notice are also being made as a result of the additional routine use disclosures.

DATES: The revised system of records will become effective without further notice on October 24, 1994 unless comments received on or before that date cause a contrary decision. If, based on NRC's review of comments received, changes are made, NRC will publish a new final notice.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments may be examined at the NRC Public Document Room at 2120 L Street, NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jona L. Souder, Privacy Act Program Manager, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555, Telephone: 301–415–7170.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission proposes to amend its system of records entitled "NRC–32, Licensee and Applicant Taxpayer Identification Number Records—NRC," to establish six new routine uses which will enhance the NRC's ability to collect certain license fee debts owed to the U.S. Government. Existing routine use b. is redesignated h. New routine use b. permits the disclosure of information in the system to the Defense Manpower Data Center of the Department of Defense, the United States Postal Service, and other Federal, State, or local agencies for computer matching to identify individuals who are (1) delinquent in their repayment of debts owed to NRC and (2) receiving Federal salary or benefit payments. NRC will

use the information obtained as a result of the matching to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) by voluntary repayment, by administrative or salary offset, or by referral to collection agencies. New routine use c. permits the disclosure of information in the system to the General Accounting Office, Department of Justice, U.S. Attorney, or other Federal agencies for further collection action on delinquent accounts. New routine use d. permits disclosures to commercial credit reporting agencies to obtain or add to a credit history file for use in the administration of debt collection. New routine use e. permits disclosures to any Federal agency where an NRC debtor is employed or receiving remuneration to enable that agency to collect a debt owed to the NRC. New routine use f. permits disclosure to the Internal Revenue Service (IRS) for computer matching under 26 U.S.C. 6103(m)(2) to obtain the mailing address of a taxpayer to collect or to compromise a claim by NRC against a taxpayer under 31 U.S.C. 3711, 3717, and 3718. New routine use g. permits the disclosure of information from the system to the IRS to collect a debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

Other revisions to the system of records notice are also being made. These include changes to (1) clarify the categories of individuals covered, (2) add paper records to the categories of records, (3) update the authority for maintaining the system, and (4) expand the record source categories.

Accordingly, NRC proposes to amend "NRC–32, Licensee and Applicant Taxpayer Identification Number Records—NRC," in its entirety to read as follows:

NRC–32

SYSTEM NAME:

Licensee and Applicant Taxpayer Identification Number Records—NRC.

SYSTEM LOCATION:

License Fee and Debt Collection Branch, Office of the Controller, NRC, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC licensees and individuals or corporations who have filed applications for an NRC license.

CATEGORIES OF RECORDS IN THE SYSTEM:

License Fee and Debt Collection Branch computer systems maintaining taxpayer ID numbers, application or license numbers, and billing information. These computerized data bases also include licensee or applicant names, billing addresses, license or application numbers, fee categories, regional affiliations, and billing histories. Paper forms submitted by licensees and applicants containing taxpayer ID numbers are also maintained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(b)(12); 5 U.S.C. 5514; 15 U.S.C. 1681a(f); 26 U.S.C. 6103(m)(2); 31 U.S.C. 37, subchapters I and II; 31 U.S.C. 3701(a)(3) (1988); 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3717; 31 U.S.C. 3718; 31 U.S.C. 3720A (1988); 42 U.S.C. 2201 (1988); 42 U.S.C. 5841 (1988); Cash Management Improvement Act Amendments of 1992 (Pub. L. 102–589); 10 CFR Parts 15, 16, 170, 171 (1994); Section 206 of Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

b. To the Defense Manpower Data Center, Department of Defense; the United States Postal Service; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals who are delinquent in their repayment of debts owed to the U.S. Government under certain programs or services administered by the NRC in order to collect the debts under the provisions of the Debt Collection Act of 1982 (5 U.S.C. 5514) by voluntary repayment, by administrative or salary offset, or by referral to collection contractors.

c. To the U.S. General Accounting Office, Department of Justice, United States Attorney, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

d. To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

e. To any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the U.S. Government on NRC's behalf by counseling the debtor for voluntary repayment or by initiating administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (5 U.S.C. 5514).

f. To the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NRC against the taxpayer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3717, and 3718. Redisclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agency to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that redisclosure of a mailing address to a commercial reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such mailing address information obtained from the IRS will not be used or shared for any other NRC purpose or disclosed by NRC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purpose.

g. Referral of legally enforceable debts to the Internal Revenue Service to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

h. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(a)(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Information contained in this system is stored on hard copy and on computer media.

RETRIEVABILITY:

Information is retrieved by license number, application number, licensee or applicant name, invoice number, or taxpayer identification number.

SAFEGUARDS:

The hard copy records and data bases are maintained in an area where access is controlled by keycard and limited to those with a need for access to the work

area, and in a building where access is controlled by a security guard force.

These records are under visual control during duty hours. After duty hours, access to the building is controlled by a security guard force and access to each floor is controlled by key card. Computer records are password protected.

RETENTION AND DISPOSAL:

These records are destroyed in accordance with the retention periods provided for in General Records Schedule (GRS) GRS 6–10.b. or when no longer needed, whichever is later. Computer files are deleted after the expiration of the retention period authorized under the General Records Schedule for the disposable hard copy file or when no longer needed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief, License Fee and Debt Collection Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC; NRC licensees and applicants for NRC licenses; employing agency of debtor; collection agencies; and Federal, State, or local agencies furnishing identifying and/or address information.

Dated at Rockville, Maryland, this 2nd day of September 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94–22595 Filed 9–12–94; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Request for Reclearance of SF 2803 and SF 3108

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. Form SF 2803, Application to Make Deposit or Redeposit (CSRS), and SF 3108, Application to Make Service Credit Payment for Civilian Service (FERS), are applications to make payment used by persons who are eligible to pay for Federal service which was not subject to retirement deductions and/or for Federal service which was subject to retirement deductions which were subsequently refunded to the applicant.

There are estimated to be 520 respondents for SF 2803 and 260 respondents for SF 3108. It takes approximately 30 minutes to complete SF 2803 and 30 minutes to complete SF 3108. The annual burden hours for SF 2803 is 260 and the annual burden hours for SF 3108 is 130 for a total annual burden of 390 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received by October 13, 1994.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street NW., Room 3349, Washington, DC 20415; and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief Forms Analysis and Design (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–22446 Filed 9–12–94; 8:45 am]

BILLING CODE 6325–01–M

National Partnership Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting cancellation.

SUMMARY: The Office of Personnel Management (OPM) announces the cancellation of the September 14, 1994, meeting of the National Partnership Council announced in the August 19, 1994, **Federal Register** (59 FR 42873). This notice is required by section 10 of the Federal Advisory Committee Act.

POINT OF CONTACT: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5315, Washington, DC 20415–0001, (202) 606–1000.

SUPPLEMENTARY INFORMATION: Information on future meetings of the National Partnership Council will be announced in the **Federal Register**.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 94–22653 Filed 9–12–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34632; File Nos. SR–Amex–94–21, SR–CBOE–94–10, SR–NYSE–94–22, SR–PSE–94–16, and SR–Phlx–94–09]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of the Chicago Board Options Exchange, and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes and Amendments Thereto by the American Stock Exchange, New York Stock Exchange, Pacific Stock Exchange, and Philadelphia Stock Exchange Relating to Short Sales of Nasdaq National Market Securities

September 2, 1994.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] on March 31, 1994, the Chicago Board Options Exchange, Inc. ("CBOE"), on June 1, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx"), on June 13, 1994, the American Stock Exchange, Inc., on June 16, 1994, the Pacific Stock Exchange, Inc. ("PSE"), and on June 27, 1994, the New York Stock Exchange ("NYSE"), respectively (each individually referred to herein as an "Exchange" and two or more collectively referred to as "Exchanges"), submitted to the Securities and Exchange Commission ("Commission") proposed rule changes designed to allow their members to designate certain short sales of Nasdaq[3] National Market ("NM") securities[4] as bid test exempt

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] Nasdaq is a computerized system that provides brokers and dealers with price quotations for securities traded over the counter.

[4] Nasdaq includes both Nasdaq SmallCap Market and Nasdaq NM securities. In July 1993, the NASD began referring to Nasdaq National Market System

Continued

sales in connection with the bid test applicable to short sales of such securities ("bid test rule" or "short sale rule") recently adopted by the NASD and included in the NASD Manual, Rules of Fair Practice ("NASD Rules").[5] On May 9, 1994, the CBOE filed Amendment No. 1;[6] on June 20, 1994, the Phlx filed Amendment No. 1;[7] on June 21, 1994, the Amex filed Amendment No. 1;[8] on June 30, the PSE filed Amendment No. 1,[9] and on August 3, 1994, the Phlx filed Amendment No. 2.[10] The CBOE proposal was published for comment in the **Federal Register** on May 18, 1994.[11] No comments were received on these proposed rule changes. This order approves the Exchanges' proposals and the Exchanges' Amendments.

II. Description of Proposals

A. Introduction

The Exchanges have submitted substantially similar proposals to the Commission to amend their respective rules[12] so as to coordinate them with the NASD's Rules of Fair Practice relating to a bid test applicable to short sales of NM securities traded through Nasdaq.[13] The proposals require Exchange members who initiate, accept, or transmit for execution, or execute sales of NM securities for the account of another Exchange member, to designate such sales as long sales, short sales, or bid test exempt sales. Accordingly, NASD members who receive orders to sell NM securities from or for the account of Exchange members will have a basis to determine whether such sales are short sales subject to or exempt from the bid test.[14]

Under NASD Rules, Article III, Section 48, sales of NM securities may be designated as bid test exempt if they qualify for one or more of the exemptions from the bid test included in the rule. One of these exemptions applies to short sales effected by "qualified options market makers"[15] ("market maker exemption") to hedge offsetting options positions. This exemption recognizes the need for options market makers to hedge their options positions by buying or selling (including selling short) shares of underlying stocks or underlying component stocks contained in stock indexes.

To benefit from the bid test exemption afforded to qualified options market makers, a market maker must be designated as a qualified options market maker by a "qualified options exchange."[16] The NASD Rules define a "qualified options exchange" as a national securities exchange with Commission approved rules and procedures governing the designation of qualified options makers. In addition, to be deemed a "qualified options exchange," the NASD Rules require an exchange to implement procedures governing the surveillance of its market makers' use of the exemption, as well as to require the exchange to authorize the NASD to limit the designation of a qualified options market maker where the options exchange finds substantial, willful, or continuing violations of its rule governing qualified options market makers.[17]

The Exchanges' rules governing qualified options market makers will be implemented as an eighteen month pilot and will be effective concurrently with the NASD's bid test rule pilot program. The proposals are subject to modification or termination at the end of the pilot period. Additionally, the exchanges will require market makers to designate the NM securities to which the NASD market maker exemption will apply.

If an Exchange determines that a qualified options market maker has failed to comply with the terms of the market maker exemption, that Exchange may withdraw, suspend, or modify the designation of a qualified options market maker based upon that Exchange's determination that such action is warranted in light of the substantial, willful, or continuing nature of the violation. Each Exchange also will notify the NASD of such a determination so that the NASD may take steps to ensure that Nasdaq NM sales are executed in compliance with all applicable NASD rules. Moreover, the Exchanges have designed surveillance procedures to ensure compliance with the proposed rule change. Specifically, these procedures must be implemented to allow the Exchanges to be deemed qualified options exchanges as that term is defined by the NASD pursuant to the options market maker exemption.[18]

B. The CBOE's Proposal

The CBOE proposes to adopt Rule 15.10 to require members to designate sales of Nasdaq NM securities as long sales, short sales, or bid-test exempt sales.[19] The CBOE proposal allows a short sale to be designated as bid-test exempt if the sale qualifies for one of the NASD's bid-test exemptions, or, as further provided in the NASD's rule, if the short sale is an exempt hedge

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or Nasdaq NMS securities as Nasdaq National Market securities.

[5] See Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (File No. SR–NASD–92–12).

[6] In Amendment No. 1, the CBOE removes the term "NMS securities" and replaces it with "Nasdaq National Market securities," National Market securities," or "NM securities." In addition, Amendment No. 1 confirms that surveillance procedures had been or would be implemented by the CBOE in order for the CBOE to be deemed a "qualified Options exchange" that satisfies the requirements of the NASD's short-sale rule (File No. SR–NASD–92–12). See letter from Michael L. Meyer, Schiff Hardin & Waite, to Francois Mazur, Attorney, Division of Market Regulation ("Division"), Commission, dated May 9, 1994. See also Securities Exchange Act Release No. 34277, supra note 5.

[7] See letter from Michele R. Weisbaum, Phlx, to Francois Mazur, Attorney, Division, Commission, dated June 16, 1994. The Phlx's amendment revises the term "NMS securities, and refers instead to "National Market securities" or "NM securities." *Id.*

[8] See letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Division, Commission, dated June 20, 1994. Amendment No. 1 corrects a typographical error made in the original submission.

[9] See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Francois Mazur, Attorney, Division, Commission, dated June 29, 1994. Amendment No. 1 requests the Commission to find good cause for accelerating effectiveness of the PSE's proposal.

[10] See Phlx Amendment No. 2. Amendment No. 2 revises the proposal to allow a Phlx specialist to designate all the Nasdaq NM securities underlying the options or index options which the specialist has been allocated as "designated" NM securities. Under the original proposal, Phlx specialists were limited to designating twenty such securities.

[11] See Securities Exchange Act Release No. 34049 (May 12, 1994), 59 FR 25971.

[12] CBOE Proposed Rule 15.10; Phlx Proposed Rule 1072; Amex Proposed Rule 957(d); and PSE Proposed Rule 4.19.

[13] The NASD bid test prohibits broker-dealers from effecting short sales, for themselves or their customers, at or below the "bid" when the current "inside" or best bid is below the previous inside bid.

[14] An executing NASD member is required to make a good-faith determination whether an order is long, short, or bid test exempt. Thus, an NASD member is prohibited from effecting a short sale for the account of a customer or for its own account directly or through the offices of a third party for the purpose of avoiding the application of the short sale rule. Further, an NASD member is prohibited from knowingly, or with reason to know, effecting sales for the account of a customer or for its own account for the purpose of avoiding the rule. It is the belief of the NASD that NASD members' activities to circumvent the short sale rule through indirect actions such as executions with other members or through facilitation of customer orders while being protected from loss are antithetical to the purposes of the rule. See NASD Rules, Article III, Section 48.

[15] A "qualified options market maker" is an options market maker who has received an appointment as a "qualified options market maker" for certain classes of stock options on Nasdaq National Market securities and index options on qualified stock indexes pursuant to the rules of a "qualified options exchange." See NASD Rules, Article III, Section 48(h)(2)(b). For a definition of a "qualified options exchange," see infra note 16 and accompanying text.

[16] See NASD Rules, Article III, Section 48(h)(2)(c).

[17] *Id.*

[18] *Id.*

[19] See CBOE Proposed Rule 15.10(a).

transaction in a "designated NM security" [20] underlying a class of stock options, or included in an index underlying a class of index options for which the market maker holds an appointment under the CBOE's rules.[21]

Under the CBOE's proposal, a registered market maker will be considered a qualified options market maker in options on properly designated NM securities. Such a market maker is entitled to engage in "exempt hedge transactions" with respect to those NM securities.[22] The CBOE's proposed rule will remain effective for the eighteen month pilot period of the NASD's short sale rule, or for whatever period the market maker short sale exemption remains effective.[23]

The CBOE proposal also provides that if one of its members initiates, accepts for execution, transmits for execution, or executes a short sale of an NM security without properly identifying it, such a sale may violate certain CBOE rules. In addition, if a participant designates a short sale as a bid test exempt sale, including claiming the sale to be exempt by reason of the market maker exemption, but does not satisfy the requirements for such an exemption, or if the sale is made with the purpose of disrupting or manipulating the market in the security that is the subject of the sale of a related option, such a sale may also violate certain CBOE rules.[24] The CBOE has designed surveillance procedures to monitor member compliance with the CBOE's proposed rule once it becomes effective.[25] Finally, the CBOE has stated its commitment to notify the NASD if the CBOE determines that there has been a substantial, willful, or continuing violation of its proposed rule.

C. The Phlx's Proposal

The Phlx proposal is substantially the same as the CBOE proposal. The Phlx's proposal creates new Rule 1072 entitled Reporting Requirements Applicable to Short Sales in NASD/NM Securities. The Phlx proposal applies to Registered Options Traders ("ROTs") and specialists. In its original filing, Phlx ROTs and specialists were both limited to designating Nasdaq NM securities underlying no more than twenty of the options or index options, which the specialist or ROT has been allocated or assigned respectively, as designated Nasdaq NM securities. The Phlx has since amended its proposal to state that a Phlx specialist may designate all Nasdaq NM securities in which it is registered.[26] The Phlx proposal also amends Phlx Rule 455(d)(12) (Short Sales) by adding a reference to its new Rule 1072.

D. The Amex's Proposal

The Amex proposal is substantially the same as the CBOE proposal. The Amex proposal adds a new paragraph (d) to its Rule 957, Accounts, Orders and Records of Registered Traders Specialists and Associated Persons. The Amex refers to options specialists and registered options traders, as those terms have the same basic meaning as the CBOE term "market maker." The Amex proposal also amends Amex Rule 590 (Minor Rule Violation Fine Systems) by adding a reference to new paragraph (d) of its Rule 957.[27]

E. The PSE's Proposal

The PSE proposal is nearly identical to the CBOE proposal. The PSE proposal creates new Rule 4.19, Reporting Requirements Applicable to Short Sales in Nasdaq/NM Securities. The PSE filed an amendment requesting accelerated effectiveness of its proposal.[28] In addition, the PSE's proposal contains a non-substantive difference with respect to format.

F. The NYSE's Proposal

The NYSE's proposal is structured differently from those of the CBOE and other Exchanges, though it is not dissimilar in effect. Instead of referring to "Nasdag NM securities," the NYSE refers to "Nasdag NMS securities," defining such securities as having the meaning that Part I of Schedule D to the By-Laws of the NASD assigns either to NM or NMS securities.[29] The NYSE defines a "qualified options Exchange market maker" to mean either an NYSE options specialist acting in respect of one of his specialty options or an NYSE Competitive Options Trader ("COT") acting in respect of an NYSE listed option.[30]

Unlike the CBOE proposal, the NYSE proposed rule does not state explicitly the prohibition against its members transacting an improper short sale for the account of another NYSE member. Instead, the NYSE states that the market maker exemption is available only if the short sale is related to normal market making activity.[31]

III. Discussion

The Commission believes that the Exchanges' proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. Specifically, the Commission believes the Exchanges' proposals are consistent with the requirements of Section 6(b)(5) of the Act [32] in that they are designed to promote just and equitable principles of trade and to protect investors and the public interest. The proposals coordinate the Exchanges' rules with the NASD's bid test applicable to short sales

[20] "Designated NM security" is defined as an NM security which the market maker has designated as qualifying for the bid-test exemption. See Proposed CBOE Rule 15.10(c)(2)(B).

[21] See CBOE Proposed Rule 15.10(c).

[22] The CBOE defines an "exempt hedge transaction," consistent with the definition in the NASD's short sale rule, as a short sale in an NM security effected to hedge, and which in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale.

With respect to index options, the CBOE will require that the NM security sold short be a component security of the index underlying such index option, that at least 10 percent of the value of the index underlying such index option be represented by one or more NM securities, and that the current aggregate value of the NM securities sold short not exceed the aggregate current index value of the index options position being hedged. Once an underlying index satisfies the 10 percent test, the continued qualification of the index shall be reviewed as of the end of each quarter, and the index shall cease to qualify if the value of the index represented by one or more NM securities is less than 8 percent at the end of any subsequent year. See CBOE Proposed Rule 15.10(c)(2)(ii)(A). See also NASD Rules, Article III, Section 48(h)(2)(d) (defining "qualified stock index").

A transaction unrelated to normal options market making activity, such as index arbitrage or risk arbitrage, that is independent of a market maker's market making functions, will not be considered an exempt hedge transaction. See CBOE Proposed Interpretation and Policy .01, CBOE Proposed Rule 15.10.

[23] See CBOE Proposed Rule 15.10(d).

[24] See CBOE Proposed Rule 15.10(f).

[25] See CBOE Amendment No. 1, supra note 6.

[26] See Phlx Amendment No. 2.

[27] When the Amex originally submitted its rule proposal, its proposed amendment of Rule 590 incorrectly made reference to a Rule 992. The Amex amended its proposal to correct this error. See Amex Amendment No. 1, supra note 8.

[28] See PSE Amendment No. 1, supra note 9.

[29] See Proposed NYSE Rule 759A(a)(iv).

[30] See NYSE Proposed Rule 759A(a)(v).

[31] See NYSE Proposed Rule 759A(a)(i)(C)(3). A short sale effected for such purposes as index arbitrage or risk arbitrage that in either case is independent of a market maker's market making functions is not considered related to normal market making activity. *Id.*

In its filing, the NYSE states that its specialists are subject to market making obligations with respect to all activity in their assigned specialty options and COTs are subject to market making obligations with respect to all activity in all Exchange listed options. Nevertheless, the NYSE proposal also includes a requirement that the market maker exemption only be available for transactions "related to market making activity" in order to accommodate the possibility that the Exchange may someday limit the scope or parameters pursuant to which COTs must fulfill their market making obligations in a manner similar to that of the options market makers on the options exchanges that divide their floors into zones. See File No. SR–NYSE–94–22.

[32] 15 U.S.C. 78f(b)(5) (1988).

of NM securities. The bid test is intended to reduce the potential for abusive short selling practices in the Nasdaq market without restricting options market makers who may need to sell stocks short in order to hedge options positions resulting from their market making activities.

The Commission approved the NASD's short sale rule proposal on June 29, 1994,[33] and in doing so stated that the rule, together with the market maker exemption, is a reasonable approach to short sale regulation of Nasdaq National Market securities. The Commission believes the Exchanges' proposals are consistent with the NASD's bid test rule. Moreover, the Commission believes the Exchanges' proposals address the limitations imposed by the NASD for applicability of the market maker exemption.

Specifically, the Exchanges' proposals will implement rules designed so that each Exchange will satisfy the NASD's definition of a "qualified options exchange."[34] Additionally, the proposals include provisions to allow the Exchanges to designate options market makers, specialists, and their equivalents as "qualified options market makers."[35] This designation will allow these market makers, specialists, and their equivalent to make use of the NASD's market maker exemption to the bid test rule.

The first requirement imposed by the NASD for an exchange to be a "qualified options exchange" is that it have approved rules and procedures for designating market makers as qualified options market makers. These standards must be designed to identify options market makers who regularly engage in market making activities in the particular options class(es). Accordingly, the CBOE proposal states that a CBOE market maker will be considered a "qualified options market maker" in options on properly "designated NM securities."[36] CBOE market makers may designate NM securities underlying options, or included in an index underlying options, for which they hold an appointment at no more than three trading stations at the CBOE.[37] A short sale in a designated NM security that is an "exempt hedge transaction,"[38] is entitled to the NASD's market maker exemption from its bid test rule. The Phlx,[39] Amex,[40] PSE,[41] and NYSE[42] have very similar provisions in their proposals. The Commission believes that these standards should help to ensure that qualified options market makers continue to engage in market making activities in their assigned options, while not allowing the market maker exemption to be extended beyond its original purpose.

The second requirement for an Exchange to be deemed a "qualified options exchange" pursuant to the NASD's rules is that the exchange have procedures providing for the surveillance of its market makers' use of the market maker exemption set forth in NASD Rules, Article III, Section 48(h)(1). The purpose of such procedures is to ensure that short sales effected by qualified options market makers are exempt hedge transactions and that other non-qualified market makers are not using the exemption. The Commission is satisfied that the Exchanges have provided for the implementation of such procedures to become effective with the implementation of the NASD's bid test rule. These procedures are intended to monitor market maker use of the market maker exemption.

Finally, each Exchange, in its respective proposal, has stated that if it determines that a qualified options market maker has failed to comply with the terms of the exemption, the Exchange may withdraw, suspend; or modify the designation of a qualified options market maker based upon the Exchange's determination of the substantial, willful, or continuing nature of the violation.[43] The purpose of this provision is to satisfy the third NASD requirement for an exchange to be deemed a qualified options exchange. That requirement states that an exchange must have rules and procedures authorizing the NASD to withdraw, suspend, or modify the designation of a qualified options market maker if the qualified options exchange has determined that the qualified options market maker has failed to comply with the terms of the market maker exemption, and that such a withdrawal, suspension, or modification of the market maker's exemption is warranted in light of the substantial, willful, or continuing nature of the violation.[44] The Commission also notes that because each Exchange proposal contains a commitment to notify the NASD of such a determination, the Exchanges have provided the NASD with the means to withdraw, suspend, or modify the designation of a qualified options market maker insofar as Nasdaq NM securities are involved.

The Commission approved the NASD's short sale rule on an eighteen month temporary basis, effective September 6, 1994, through March 5, 1996.[45] In doing so, the Commission stated that questions remain whether the market maker exemption from the short sale rule is appropriate on an ongoing basis. The Commission noted that specialists and other market makers do not enjoy similar exemptions from the Commission's short sale rule for listed securities under Rule 10a–1 under the Exchange Act. Consequently, the Exchanges' proposals are approved on a temporary basis, to remain in effect so long as there exists a market maker exemption to the NASD's short sale rule.[46]

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[33] See Securities Exchange Act Release No. 34277, supra note 5.

[34] See supra note 16.

[35] See supra note 15.

[36] See Proposed CBOE Rule 15.10(c)(2)(B), and supra note 20.

[37] *Id.* A Phlx ROT may designate NM securities underlying no more than 20 of the options or index options which the ROT has been allocated or assigned as designated NM securities; a Phlx specialist may designate NM securities underlying all the options or index options for which the specialist is registered. See Phlx Proposed Rule 1072(c)(2) (ii) & (iii). Designated securities of an Amex ROT or options specialist are NM securities underlying a class of stock options or included in an index underlying a class of index options in which the specialist is registered or the ROT is assigned. See Amex Proposed Rule 957(d)(2)(b)(i). A PSE market maker may designate NM securities underlying options or included in an index underlying options for which he holds an appointment on the PSE options floor. See PSE Proposed Rule 4.19(c)(2)(B)(ii). For NYSE specialists and COTS, designated securities include assigned specialty options for NYSE options specialists, and all securities underlying NYSE-listed options with respect to NYSE COTS. See File No. SR–NYSE–94–22.

[38] The CBOE proposal defines an "exempt hedge transaction" as a short sale in an NM security that was effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. See CBOE Proposed Rule 15.10(c)(2)(ii)(A), and supra note 22.

[39] See Phlx Proposed Rule 1072.

[40] See Amex Proposed Paragraph (d) to its Rule 957.

[41] See PSE Proposed Rule 4.19.

[42] See NYSE Proposed Rule 759A.

[43] See Securities Exchange Act Release No. 34049, supra note 11, and File Nos. SR–Amex–94–21, SR–NYSE–94–22, SR–PSE–94–16, and SR–Phlx–94–09.

[44] Moreover, the CBOE, in its proposal, provides that it will not be deemed a violation of the proposed rule when a member designates a short sale as bid test exempt where the member does not know or have reason to know that the criteria for designating such a sale as bid test exempt are not satisfied. See CBOE Proposed Rule 15.10(e). With the exception of the NYSE, the other exchanges have very similar provisions. See Phlx Proposed Rule 1072(e); Amex Proposed Rule 957(d)(4); and PSE Proposed Rule 4.19(e).

[45] See Securities Exchange Act Release No. 34277, supra note 5.

[46] If the NASD later amends its short sale rule in a manner that affects the market maker exemption, including its definition, conditions, and requirements, the Exchanges might be required to amend their respective companion market maker exemption rules so that the Exchanges' members

During the eighteen-month temporary approval period for the NASD's bid test rule, the Commission expects the Exchanges to gather data on the operation and effectiveness of the rules and procedures relating to the market maker exemption. In particular, the Exchanges should focus on: gathering data regarding the number of market makers using the market maker exemption, and the frequency with which they use it; the sufficiency of the surveillance procedures; difficulties in administering the market maker exemption and the accompanying surveillance procedures; and the nature of any violations of the market maker exemption.

The Commission finds good cause for approving File Nos. SR–Phlx–94–09, and Amendment Nos. 1 and 2 thereto; SR–Amex–94–21, and Amendment No. 1, thereto; SR–PSE–94–16, and Amendment No. 1 thereto; and SR–NYSE–94–22 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Each of the Exchanges' proposed rule changes and amendments is consistent with the CBOE's proposal, notice of which was published on May 18, 1994,[47] and contain only minor variations from the CBOE proposal. As a result, the Commission believes that good cause exists for approving the foregoing rule proposals and amendments on an accelerated basis given that the implementation date of the NASD bid test rule is September 6, 1994.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning File Nos. SR–Phlx–94–09, and Amendment Nos. 1 and 2 thereto; SR–Amex–94–21, and Amendment No. 1, thereto; SR–PSE–94–16, and Amendment No. 1 thereto; and SR–NYSE–94–22. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file number(s) in the caption above and should be submitted by October 4, 1994.

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[48] that the proposed rule changes (File Nos. SR–Amex–94–21, SR–CBOE–94–10, SR–NYSE–94–22, SR–PSE–94–16, SR–Phlx–94–09), as amended, are hereby approved on a temporary basis, to remain in effect so long as the current market maker exemption to the NASD's short sale rule remains in effect.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[49]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–22575 Filed 9–12–94; 8:45 am]

BILLING CODE 8010–01–M

may avail themselves of any continued market maker exemption.

[47] See Securities Exchange Act Release No. 34049, supra note 11.

[48] 15 U.S.C. 78s(b)(2) (1988).

[49] 17 CFR 200.30–3(a)(12) (1993).

DEPARTMENT OF STATE

[Public Notice 2073]

United States International Telecommunications Advisory Committee; Radiocommunication Sector, Study Group 1; Meeting

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector, Study Group 1, will meet on September 29, 1994, 9:30 AM to 12:30 PM at the Federal Communications Commission, Room 315, 1919 M Street, NW, Washington, D.C.

ITU–R Study Group 1 is concerned with the development of principles and techniques for effective spectrum management, sharing criteria and methods, techniques for spectrum monitoring and long term strategies for spectrum utilization.

This meeting will begin preparations for the international meeting scheduled for November 10–November 16, 1994 in Geneva.

Members of the General Public may attend the meeting and join in the discussions, subject to the instructions of the U.S. Chairman, Dr. William Ultaut. Anyone planning to attend the meeting is requested to contact Ms. Marcie Geissinger at (303) 497–5993.

Draft Agenda

1. Opening Remarks
2. Approve Agenda
3. Status Reports of Activities in Task Groups
4. Consideration of Contributions to Study Group 1 Meeting, Nov. 10–16
5. Nomination of Delegation to November 10–16 Meeting
6. Discuss/Review Process for Contribution to Rapporteur's Meetings
7. Other Business.

Dated: August 31, 1994.

Warren G. Richards,

Chariman, U.S. ITAC for ITU, Radiocommunication Sector.

[FR Doc. 94–22536 Filed 9–12–94; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 21–39, Aircraft Certification Systems Evaluation Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of Advisory Circular (AC) 21–39, the Aircraft Certification Systems Evaluation Program. Advisory Circular 21–39 provides information and guidance concerning a comprehensive evaluation program employed by the FAA in its overall certificate management and continued airworthiness regulatory program.

ADDRESSES: Copies of AC 21–39 can be obtained from the following: Department of Transportation, Utilization and Storage Section, M443.2, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on August 31, 1994.

Michael Gallagher,

Manager, Production and Airworthiness Certification Division.

[FR Doc. 94–22625 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–94–33]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 3, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 6, 1994.

Donald P. Byrne,

Assistant Chief Counsel of Regulations.

Petitions for Exemption

Docket No.: 13199.

Petitioner: American Airlines.

Sections of the FAR Affected: 14 CFR 61.58(c)(1) and (d), 61.63(d) (1) and (3), 61.157(d) (1) and (2), and Appendix A of part 61.

Description of Relief Sought: To amend condition 6(a) of Exemption No. 4652, as amended. Condition 6(a) requires each instructor, who does not hold a CFI certificate, to hold at least a ground instructor certificate with an instrument rating and an advanced rating. This amendment, if granted, would allow instructors who were previously qualified under current Exemption No. 4652C to continue to be qualified under proposed Exemption No. 4652D.

Docket No.: 27769.

Petitioner: Ballistic Recovery Systems, Inc.

Sections of the FAR Affected: 14 CFR 91.307(c).

Description of Relief Sought: To allow a General Aviation Recovery Device to be used as an alternative to requiring each occupant to wear an approved parachute during certain intentional maneuvers in civil aircraft.

Docket No.: 27850.

Petitioner: Dassault Aviation.

Sections of the FAR Affected: 14 CFR 25.562(c).

Description of Relief Sought: To permit certification of Dassault Aviation's new model Falcon 2000 airplane, while allowing temporary exemption from the occupant injury criteria of the FAR for side-facing sofas until such time that suitable criteria can be established.

Dispositions of Petitions

Docket No.: 23647.

Petitioner: Embry-Riddle Aeronautical University.

Sections of the FAR Affected: 14 CFR 141.65.

Description of Relief Sought/ Disposition: To extend Exemption No. 3859, as amended, which allows ERAU to recommend graduates of its certified flight instructor courses for certification without their taking the FAA flight or written tests.

GRANT, August 26, 1994, Exemption No. 3859H

Docket No.: 26245.

Petitioner: Airline Crew Training Corporation.

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit Airline Crew Training Corporation to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5183C

Docket No.: 26568.

Petitioner: Northwest Aerospace Training Corporation.

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit NATCO to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5338B

Docket No.: 26630.

Petitioner: Erickson Air-Crane Company.

Sections of the FAR Affected: 14 CFR 133.19(a)(3) and 133.51.

Description of Relief Sought/ Disposition: To permit Erickson to perform certain rotorcraft external-load operations (i.e., logging and fire-fighting) in the United States using an Erickson owned Canadian registered S–64 Sikorsky helicopter.

GRANT, August 24, 1994, Exemption No. 5959

Docket No.: 26819.

Petitioner: Vector Air Services, Inc.

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit Vector to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5493A

Docket No.: 26869.

Petitioner: Practical Flight Systems, Inc.

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit PFS to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5497A

Docket No.: 26891.

Petitioner: Jet Flight International, Inc

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit JFI to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5496A

Docket No.: 26915.

Petitioner: Pan Am International Flight Academy, Inc.

Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2) and (d)(2) and (3); 61.65(c), (e)(2), (e)(3), and (g); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); 61.191(c); and appendix A of part 61.

Description of Relief Sought/ Disposition: To permit Pan Am to use FAA-approved simulators to meet certain flight experience requirements of part 61.

GRANT, August 24, 1994, Exemption No. 5495A

Docket No. 27381.

Petitioner: Northwest Airlines, Inc.

Sections of the FAR Affected: 14 CFR 108.17(a)(4).

Description of Relief Sought/ Disposition: To provide relief from the requirement to issue individual dosimeters to each screener at security checkpoints where X-ray systems are in use. This relief is requested for all certificate holders now operations X-ray systems for the inspection of carry-on or checked articles.

DENIAL, August 17, 1994, Exemption No. 5955

Docket No. 27620.

Petitioner: Douglas A. Balasco.

Sections of the FAR Affected: 14 CFR 65.77.

Description of Relief Sought/ Disposition: To permit Mr. Balasco to complete the remainder of his training for a mechanic certificate under the supervision of a certificated airframe and powerplant mechanic in the Albany/Schenectady, New York, area, instead of at a certificated aviation maintenance technician school.

DENIAL, August 17, 1994, Exemption No. 5951

Docket No. 27786.

Petitioner: Douglas Aircraft Company.

Sections of the FAR Affected: 14 CFR 91.511.

Description of Relief Sought/ Disposition: To provide dispatch relief for MD–11 aircraft operators with an inoperative flight management computer.

WITHDRAWAL, August 8, 1994

[FR Doc. 94–22618 Filed 9–12–94; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–94–32]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participating in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 3, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 6, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27405.

Petitioner: British Airways.

Sections of the FAR Affected: 14 CFR 129.18(a).

Description of Relief Sought/ Disposition: To extend Exemption No. 5798, as amended, which allows British Airways to continue to operate its Concorde aircraft that are not equipped with an approved traffic alert and collision avoidance system (TCAS II) between the United States and the United Kingdom.

Docket No.: 27849.

Petitioner: Ilyushin Aviation Complex.

Sections of the FAR Affected: 14 CFR 25.571(e) and 25.631.

Description of Relief Sought/ Disposition: To exempt the petitioner from the bird impact speed requirement of § 25.571(e)(1), Amendment 72, to assure capability of continued flight and landing of the airplane after impact with a 4 pound bird when the velocity of the airplane is equal to Vc at sea level or 0.85 Vc at 8,000 ft, whichever is more critical. The petitioner also requests an exemption from the bird strike weight requirements of § 25.631 to consider only a 4 pound bird impact for empennage strength evaluation, instead of the current 8 pound impact.

Docket No.: 27868.

Petitioner: World Airways, Inc.

Sections of the FAR Affected: 14 CFR 121.383.

Description of Relief Sought: To allow World Airways, Inc., to use the services of Charles L. Beers, Thomas L. Borders, R.N. McCoy, J.T. McElree, Richard E. Overman, K.D. Thomason, Peter Villano, and Russell Wilson as co-pilots after their 60th birthdays and to allow Messrs. Beers, Borders, McCoy, McElree, Overman, Thomason, Villano, and Wilson to serve as co-pilots in operations for World Airways after they have reached their 60th birthdays.

Dispositions of Petitions

Docket No.: 27000.

Petitioner: Puerto Rico Police Department.

Sections of the FAR Affected: 14 CFR 91.111 (a) and (b), 91.117 (a), (b), and (c), 91.119 (c), 91.127(b) [91.126, 91.127], 91.129(b) [91.129(c)], 91.159(a), and 91.209(a).

Description of Relief Sought/ Disposition: To extend Exemption No.

5224. The petitioner also requests relief from the provisions of §§ 91.111(a) and (b), 1.117(c), 1.119(c), and 91.209(a), which were previously requested and denied in Exemption No. 5224. In addition, the petitioner seeks relief from §§ 91.127(b) [91.126, 91.127] and 91.129(b) [91.129(c)]. The petitioner did not request to renew its exemption from § 91.127(c).

PARTIAL GRANT, August 15, 1994, Exemption No. 5224A

Docket No.: 27250.
Petitioner: Buttons, Ltd.
Sections of the FAR Affected: 14 CFR 91.861(a).
Description of Relief Sought/ Disposition: To allow assignment of a base level of "one" to Buttons, Ltd.'s Stage 2 Boeing 727–100, (Registration No. N7271P, Serial No. 18998) airplane.

GRANT, August 22, 1994, Exemption No. 5954

Docket No.: 27436.
Petitioner: Nationwide Advertising Service, Inc.
Sections of the FAR Affected: 14 CFR 91.865.
Description of Relief Sought/ Disposition: To allow assignment of a base level of "one" to Nationwide's Stage 2 BAC 1–11 Series 203AE, (Registration No. N583CC, Serial No. 015) airplane. [NOTE: Although relief was requested from § 91.865, the FAA has determined that the relief required is from § 91.861.]

GRANT, August 22, 1994, Exemption No. 5953

[FR Doc. 94–22619 Filed 9–12–94; 8:45 am]
BILLING CODE 4910–13–M

Civil Tiltrotor Development Advisory Committee; Aircraft Subcommittee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) Aircraft Subcommittee that will be held on September 28, 1994 at the Dallas/Fort Worth Regional Airport in the Flagship Suite opposite Gate 24 in Terminal 3E. The meeting will begin at 10:00 a.m. and conclude by 5:00 p.m.

The agenda for the first Aircraft Subcommittee meeting will include the following:

(1) Review the Aircraft Subcommittee Work Plans and Schedule.
(2) Review Subcommittee Assumptions.
(3) Assign responsibilities for issues papers, report chapters, and other efforts.

Persons who plan to attend the meeting should notify Ms. Deborah Ogunshakin on 202–267–9451. Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Deborah Ogunshakin at least three days prior to the meeting.

Issued in Washington, D.C., September 7, 1994.

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development, Advisory Committee.

[FR Doc. 94–22624 Filed 9–12–94; 8:45 am]
BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on September 14 in Room 600, 301 4th Street, S.W., Washington, D.C. from 9:45 a.m.–12:15 p.m.

The Commission will meet from 9:45–10:30 a.m. with Ambassador Richard Brown, Policy Coordinator for the Summit of the Americas Office, Department of State, and Mr. Alex Almasov, a public affairs officer with the Office to discuss Summit themes, objectives, and public diplomacy issues. From 10:30–11:15 a.m. the Commission will meet with Ms. Anne Sigmund, Director, Office of Eastern Europe and NIS Affairs to discuss public diplomacy issues and operations in the region. From 11:15 a.m.–12:15 p.m. the Commission will meet with Ambassador Jack Matlock, Institute on War and Peace Studies, Columbia University; Professor Jack Millar, Director, Institute of Eurasian and Russian Studies, The George Washington University; and Dr. Daniel Matuszewski, Executive Director, International Research and Exchanges Board; to discuss developments and public diplomacy in Russia and other New Independent States of the former Soviet Union.

FOR FURTHER INFORMATION CONTACT: Please call Betty Hayes, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Rose Royal,

Management Analyst; Federal Register Liaison.

[FR Doc. 94–22628 Filed 9–12–94; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 176
Tuesday, September 13, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, September 20, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–22686 Filed 9–9–94; 11:29 am]

BILLING CODE 6351–01–M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, September 20, 1994.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. MC–95 (Sub-No. 7), *Petition to Amend 49 CFR Part 1063—Adequacy of Intercity Motor Common Carrier Passenger Service.*

Docket No. 40745, *Adirondack Transit Lines, et al. v. Greyhound Lines, Inc.*, Docket No. 40745 (Sub-No. 1), *Adirondack Transit Lines, et al. v. Greyhound Lines, Inc.*, Docket No. 40891, *American Buslines, Inc. v. Greyhound Lines, Inc.;* and Docket No. 41090, *Adirondack Transit Lines, et al v. Greyhound Lines, Inc.*

Finance Docket No. 32479, *Caddo Antoine and Little Missouri Railroad Company—Feeder Line Acquisition—Arkansas Midland Railroad Company Line Between Gurdon and Birds Mill, AR* and Finance Docket No. 32540, *Glenwood and Southern Railroad Company—Acquisition and Operation Exemption—Arkansas Midland Railroad Company.*

Docket No. AB–3 (Sub-No. 103), *Missouri Pacific Railroad Company—Abandonment—In Douglas, Champaign and Vermilion Counties, IL (Westville and Jamaica Branches).*

Finance Docket No. 32374, *Los Angeles County Transportation Commission—Petition for Exemption—Acquisition From Union Pacific Railroad Company* and Finance Docket No. 32375, *Los Angeles County Transportation Commission—Trackage Rights Exemption—Union Pacific Railroad Company.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of Congressional and Press Services, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–22683 Filed 9–9–94; 11:28 am]

BILLING CODE 7035–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 4:15 p.m., September 8, 1994.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTER CONSIDERED:

1. Administrative Action under Sections 206 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that Agency business required that a meeting be held with less than the usual seven days advance notice and that it be closed to the public. Earlier announcement of this was not possible.

The Board voted unanimously to close the meeting under the exemptions stated above. General Counsel Robert Fenner certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 94–22749 Filed 9–9–94; 2:14 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 12, 19, 26, and October 3, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 12

There are no meetings scheduled for the Week of September 12.

Week of September 19—Tentative

There are no meetings scheduled for the Week of September 19.

Week of September 26—Tentative

There are no meetings scheduled for the Week of September 26.

Week of October 3—Tentative

There are no meetings scheduled for the Week of October 3.

ADDITIONAL INFORMATION: By a vote of 3–0 on September 6, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Discussion of Management Issues" (Closed—Ex. 2 and 6) be held on September 6, and on less than one week's notice to the public.

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 FURTHER INFORMATION: William Hill, (301) 504–1661.

Dated: September 9, 1994.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 94–22762 Filed 9–9–94; 2:47 pm]

BILLING CODE 7590–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming meeting of the Board of Directors.

DATE: The meeting will be held Wednesday, September 28, 1994, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: September 8, 1994.

Robert E. McCally,

General Counsel.

[FR Doc. 94–22770 Filed 9–9–94; 3:19 pm]

BILLING CODE 7639–01–M

federal register

Tuesday
September 13, 1994

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 84

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations—Revised OMB Circular A–110; Interim and Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 84

[Docket No. R–94–1736; FR–3639–I–01]

RIN 2501–AB74

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations—Revised OMB Circular A–110

AGENCY: Office of the Secretary, HUD.

ACTION: Interim and final rule.

SUMMARY: Office of Management and Budget (OMB) Circular A–110 provides standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

OMB issued Circular A–110 in 1976 and made a minor revision in February 1987. To update the Circular, OMB established an interagency task force to review the Circular. The task force solicited suggestions for changes to the Circular from university groups, non-profit organizations and other interested parties and compared, for consistency, the provisions of similar provisions applied to State and local governments. On November 29, 1993, OMB issued a revised circular which reflects the results of these efforts. This final rule adopts the revised circular as it pertains to HUD. However, this rule contains, in subpart E, special provisions relating to the use of lump sum grants. Therefore, subpart E will be treated as an interim rule, and the public is invited to submit comments on subpart E.

DATES: Effective date: October 13, 1994.

Comments due date: Comments on subpart E are due on November 14, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding subpart E of this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Aliceann B. Muller, Policy and Evaluation Division, Office of Procurement and Contracts, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5262, Washington, DC 20410. Telephone: (202) 708–0294; TDD: (202) 708–1112. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Office of Management and Budget (OMB) Circular A–110 provides standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

OMB Circular A–110 was issued under the authority of 31 U.S.C. 503 (the Chief Financial Officers Act), 31 U.S.C. 1111, 41 U.S.C. 405 (the Office of Federal Procurement Policy Act), Reorganization Plan No. 2 of 1970, and E.O. 11541 ("Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President").

OMB issued Circular A–110 in 1976 and made a minor revision in February 1987. To update the circular, OMB established an interagency task force to review the circular. The task force solicited suggestions for changes to the circular from university groups, non-profit organizations and other interested parties and compared, for consistency, the provisions of similar provisions applied to State and local governments. On August 27, 1992, OMB published a notice in the **Federal Register**, at 57 FR 39018, requesting comments on proposed revisions to OMB Circular A–110. Interested parties were invited to submit comments. OMB received over 200 comments from Federal agencies, non-profit organizations, professional organizations and others. All comments were considered in developing the final revision. On November 29, 1993, at 58 FR 62992, OMB issued a revised circular which reflects the results of these efforts. This final rule represents HUD's adoption of the revised circular as part 84 of title 24 of the Code of Federal Regulations and sets forth the provisions and procedures HUD will follow in compliance with the uniform requirements set for Federal agencies in the newly revised OMB Circular A–110 regarding the administration of grants to and agreements with institutions of higher education, hospitals, commercial organizations and international organizations when operating domestically, and other non-profit organizations. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the statute shall govern.

Recipients shall apply the provisions of this Circular to subrecipients performing substantive work under grants and agreements that are passed through or awarded by the primary recipient. This rule does not apply to grants, contracts, or other agreements between HUD and units of State or local governments covered by OMB Circular A–102, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," as codified in 24 CFR part 85. In addition, subawards and contracts to State or local governments are not covered by this rule. However, this rule applies to subawards made by State and local governments to organizations covered by this rule. HUD shall apply the provisions of this part to commercial organizations and international organizations (when operating domestically).

The definition of "award" does not include technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, capital advances under the Sections 202 and 811 programs, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations. Therefore, this rule does not apply to these types of activities. Consequently, this rule does not apply to any matter involving funds which would be covered by a regulatory agreement between a mortgagor and the Secretary, executed under Sections 201, 207(b), 232(d)(1), 242(d)(1), and 236 (including Rental Assistance Payments) of the National Housing Act; Section 101(a) of the Housing and Urban Development Act of 1965; and Section 201(a) of the Housing and Community Development Amendments of 1978.

Other Matters

Justification for Interim and Final Rule

The Department has determined that notice and public comment are unnecessary and contrary to the public interest before making this rule effective because the substance of the rule received public comment when the circular was published on August 27 1992. All comments received were reviewed and considered in the development of the revised circular. However, the Department will accept and review any comments received on subpart E because of the selective use of certain provisions as they apply to the use of lump sum grants.

Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and review, issued by the President on September 30, 1993. Any changes made in the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection with the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. It pertains only to the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being. It pertains only to the administration of grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

Semiannual Agenda of Regulations

This rule was listed as item number 1527 in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20434) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR part 84

Accounting, Colleges and universities, Grant programs—Housing and community development, Loan programs—Housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, subtitle A of title 24 of the Code of Federal Regulations is amended to add a new part 84, consisting of subparts A through E and appendix A, as follows:

PART 84—GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

Subpart A—General

Sec.
84.1 Purpose.
84.2 Definitions.
84.3 Effect on other issuances.
84.4 Deviations.
84.5 Subawards.

Subpart B—Pre-Award Requirements

84.10 Purpose.
84.11 Pre-award policies.
84.12 Forms for applying for Federal assistance.
84.13 Debarment and suspension; Drug-Free Workplace.
84.14 Special award conditions.
84.15 Metric system of measurement.
84.16 Resource Conservation and Recovery Act.
84.17 Certifications and representations.

Subpart C—Post-Award Requirements

Financial and Program Management

84.20 Purpose of financial and program management.
84.21 Standards for financial management systems.
84.22 Payment.
84.23 Cost sharing or matching.
84.24 Program income.
84.25 Revision of budget and program plans.
84.26 Non-Federal audits.
84.27 Allowable costs.
84.28 Period of availability of funds.

Property Standards

84.30 Purpose of property standards.
84.31 Insurance coverage.
84.32 Real property.
84.33 Federally-owned and exempt property.
84.34 Equipment.
84.35 Supplies and other expendable property.
84.36 Intangible property.
84.37 Property trust relationship.

Procurement Standards

84.40 Purpose of procurement standards.
84.41 Recipient responsibilities.
84.42 Codes of conduct.
84.43 Competition.
84.44 Procurement procedures.
84.45 Cost and price analysis.
84.46 Procurement records.
84.47 Contract administration.
84.48 Contract provisions.

Reports and Records

84.50 Purpose of reports and records.
84.51 Monitoring and reporting program performance.
84.52 Financial reporting.
84.53 Retention and access requirements for records.

Termination and Enforcement

84.60 Purpose of termination and enforcement.
84.61 Termination.
84.62 Enforcement.

Subpart D—After-the-Award Requirements

84.70 Purpose.
84.71 Closeout procedures.
84.72 Subsequent adjustments and continuing responsibilities.
84.73 Collection of amounts due.

Subpart E—Use of Lump Sum Grants

84.80 Conditions for use of Lump Sum (fixed price or fixed amount) grants.
84.81 Definition.
84.82 Provisions applicable to lump sum grants.
84.83 Property standards.
84.84 Procurement standards.
84.85 Reports and records.
84.86 Termination and enforcement.
84.87 Closeout procedures, subsequent adjustments and continuing responsibilities.

Appendix A to Part 84—Contract Provisions

Authority: 42 U.S.C. 3535(d).

Subpart A—General

§ 84.1 Purpose.

This part establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. Additional or inconsistent requirements shall not be imposed, except as provided in §§ 84.4, and 84.14 or unless specifically required by Federal statute or executive order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

§ 84.2 Definitions.

Accrued expenditures means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and

(3) Other amounts becoming owed under programs for which no current services or performance is required.

Accrued income means the sum of:

(1) Earnings during a given period from:

(i) Services performed by the recipient; and

(ii) Goods and other tangible property delivered to purchasers; and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

Acquisition cost of equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

Advance means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

Award means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by HUD to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, capital advances under the Sections 202 and 811 programs, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

Cash contributions means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout means the process by which HUD determines that all applicable administrative actions and all required work of the award have been completed by the recipient and HUD.

Contract means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

Cost sharing or matching means that portion of project or program costs not borne by HUD.

Date of completion means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which HUD sponsorship ends.

Disallowed costs means those charges to an award that HUD determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Excess property means property under the control of HUD that, as determined by the Secretary, is no longer required for its needs or the discharge of its responsibilities.

Exempt property means tangible personal property acquired in whole or in part with Federal funds, where HUD has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

Federal awarding agency means the Federal agency that provides an award to the recipient.

Federal funds authorized means the total amount of Federal funds obligated by HUD for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by HUD regulations or implementing instructions.

Federal share of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

Funding period means the period of time when Federal funding is available for obligation by the recipient.

Intangible property and debt instruments means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership, whether considered tangible or intangible.

Obligations means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

Outlays or expenditures means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

Personal property means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

Prior approval means written approval by an authorized official evidencing prior consent.

Program income means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in §§ 84.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in HUD regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

Project costs means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the

contributions made by third parties in accomplishing the objectives of the award during the project period.

Project period means the period established in the award document during which HUD sponsorship begins and ends.

Property means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

Recipient means an organization receiving financial assistance directly from HUD to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term includes commercial organizations, international organizations when operating domestically (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers. The term does not include mortgagors that receive mortgages insured or held by HUD or mortgagors or project owners that receive capital advances from HUD under the Section 202 and 811 programs.

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

Small awards means a grant or cooperative agreement not exceeding $100,000 or the small purchase threshold fixed at 41 U.S.C. 403(11), whichever is greater.

Subaward means:

(1) An award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award".

(2) For Community Development Block Grants, the term "subaward" does not include the arrangement whereby the prime recipient transfers funds to another entity and that entity is the project. A distinction is made between such a transfer for the furtherance of the prime recipient's goals and the transfer of funds to a subrecipient who carries out activities and is accountable to the prime recipient. For example, in a CDBG award where a prime recipient has as its program goal the revitalization of a downtown area, the funds transferred to a business in the downtown area to remodel its store would not be considered a subaward subject to this part 84.

Subrecipient means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term includes commercial organizations and international organizations operating domestically (such as agencies of the United Nations).

Supplies means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

Suspension means an action by HUD that temporarily withdraws HUD sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by HUD. Suspension of an award is a separate action from suspension under HUD regulations implementing E.O. 12549 and E.O. 12689, "Debarment and Suspension," at 24 CFR part 24.

Termination means the cancellation of HUD sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

Third party in-kind contributions means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Unliquidated obligations, for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

Unobligated balance means the portion of the funds authorized by HUD that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

Unrecovered indirect cost means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

Working capital advance means a procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 84.3 Effect on other issuances.

For awards subject to this part, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this part shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 84.4.

§ 84.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this rule when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this rule shall be permitted only in unusual circumstances. HUD may apply more restrictive requirements to a class of recipients when approved by OMB. HUD may apply less restrictive requirements when awarding small awards and when approved by OMB, except for those requirements which are

statutory. Exceptions on a case-by-case basis may also be made by HUD.

§ 84.5 Subawards.

Unless sections of this part specifically exclude subrecipients from coverage, the provisions of this part shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals, commercial organizations and international organizations operating domestically, or other non-profit organizations. State, local and Federally recognized Indian tribal government subrecipients are subject to the provisions of regulations implementing the grants management common rule, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," (24 CFR part 85).

Subpart B—Pre-Award Requirements

§ 84.10 Purpose.

Sections 84.11 through 84.17 prescribe forms and instructions and other pre-award matters to be used in applying for HUD awards.

§ 84.11 Pre-award policies.

(a) *Use of Grants and Cooperative Agreements, and Contracts.* In each instance, HUD shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, "substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement." Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) *Public Notice and Priority Setting.* HUD shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

§ 84.12 Forms for applying for Federal assistance.

(a) HUD shall comply with the applicable report clearance requirements of 5 CFR part 1320, "Controlling Paperwork Burdens on the Public," with regard to all forms used by HUD in place of or as a supplement to the Standard Form 424 (SF-424) series.

(b) Applicants shall use the SF-424 series or those forms and instructions prescribed by HUD.

(c) For Federal programs covered by E.O. 12372, "Intergovernmental Review of Federal Programs," the applicant shall complete the appropriate sections of the SF-424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the *Catalog of Federal Domestic Assistance*. The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

§ 84.13 Debarment and suspension; Drug-Free Workplace.

(a) HUD and its recipients and subrecipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, "Debarment and Suspension," at 24 CFR part 24. This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

(b) HUD and its recipients and subrecipients shall comply with the certification requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701), as set forth at 24 CFR part 24, subpart F.

§ 84.14 Special award conditions.

If an applicant or recipient:

(a) Has a history of poor performance;

(b) Is not financially stable;

(c) Has a management system that does not meet the standards prescribed in this part;

(d) Has not conformed to the terms and conditions of a previous award; or

(e) Is not otherwise responsible, HUD may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 84.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of federally-funded activities. HUD shall follow the provisions of E.O. 12770, "Metric Usage in Federal Government Programs."

§ 84.16 Resource Conservation and Recovery Act.

Under the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94-580, 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247 through 254). Accordingly, State and local institutions of higher education, hospitals, commercial organizations and international organizations when operating domestically, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 84.17 Certifications and representations.

Unless prohibited by statute or codified regulation, HUD is authorized and encouraged to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 84.20 Purpose of financial and program management.

Sections 84.21 through 84.28 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 84.21 Standards for financial management systems.

(a) HUD shall require recipients to relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 84.52. If a recipient maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for their reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, HUD, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) HUD may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

§ 84.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(1) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and

(2) Financial management systems that meet the standards for fund control and accountability as established in § 84.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by HUD to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special HUD instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. HUD may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, HUD shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and HUD has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, HUD may provide cash on a working capital advance basis. Under this procedure, HUD shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, HUD shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements,

audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, HUD shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraphs (h)(1) or (h)(2) of this section apply.

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A–129, "Managing Federal Credit Programs." Under such conditions, HUD may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, HUD shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women- owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless paragraphs (k)(1), (k)(2), or (k)(3) of this section apply.

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. In keeping with Electronic Funds Transfer rules (31 CFR part 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIRE Deposit system. Recipients which do not have this capability should use a check. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this rule, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.

(1) *SF–270, Request for Advance or Reimbursement.* HUD has adopted the SF–270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. HUD has the option of using this form for construction programs in lieu of the SF–271, "Outlay Report and Request for Reimbursement for Construction Programs."

(2) *SF–271, Outlay Report and Request for Reimbursement for Construction Programs.* HUD has adopted the SF–271 as the standard form to be used for requesting reimbursement for construction programs. However, HUD may substitute the SF–270 when HUD determines that it provides adequate information to meet Federal needs.

§ 84.23 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by HUD.

(7) Conform to other provisions of this part, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of HUD.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If HUD authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of paragraphs (c)(1) or (c)(2) of this section.

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation.

(2) *The current fair market value.* However, when there is sufficient justification, HUD may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies.

Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award, if paragraphs (g)(1) or (g)(2) of this section apply.

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that HUD has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 84.24 Program income.

(a) HUD shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) of this section, program income earned during the project period shall be retained by the recipient and, in accordance with HUD regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following.

(1) Added to funds committed to the project by HUD and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When HUD authorizes the disposition of program income as described in paragraphs (b)(1) or (b)(2) of this section, program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3) of this section.

(d) In the event that HUD does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) of this section shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) of this section shall apply automatically unless HUD indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 84.14.

(e) Unless HUD regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by HUD regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards (See §§ 84.30 through 84.37).

(h) Unless HUD regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 84.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon HUD requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from HUD for one or more of the following program or budget related reasons.

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by HUD.

(6) The inclusion, unless waived by HUD, of costs that require prior approval in accordance with OMB Circular A–21, "Cost Principles for Institutions of Higher Education," OMB Circular A–122, "Cost Principles for Non-Profit Organizations," or 45 CFR part 74 Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, HUD is authorized, at its option, to waive cost-related and administrative prior written approvals required by Circular A–110 and OMB Circulars A–21 and A–122. Such waivers may include authorizing recipients to do any one or more of the following.

(1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of HUD. All pre-award costs are incurred at the recipient's risk (i.e., HUD is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify HUD in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) For awards that support research, unless HUD provides otherwise in HUD's regulations, the prior approval requirements described in paragraph (e) of this section are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) of this section applies.

(f) HUD may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by HUD. HUD shall not permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j) of this section, do not require prior approval.

(h) For construction awards, recipients shall request prior written approval promptly from HUD for budget revisions whenever paragraphs (h)(1), (h)(2) or (h)(3) of this section apply.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in § 84.27.

(i) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(j) When HUD makes an award that provides support for both construction and nonconstruction work, HUD may require the recipient to request prior approval from HUD before making any fund or budget transfers between the two types of work supported.

(k) For both construction and nonconstruction awards, HUD shall require recipients to notify HUD in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(l) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless HUD indicates a letter of request suffices.

(m) Within 30 calendar days from the date of receipt of the request for budget revisions, HUD shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, HUD shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 84.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," as codified in 24 CFR part 45.

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501-7) and HUD regulations implementing OMB Circular A–128, "Audits of State and Local Governments," at 24 CFR part 44.

(c) Hospitals are covered by the audit provisions of OMB Circular A–133, as codified in 24 CFR part 44.

(d) Commercial organizations shall be subject to the audit requirements of HUD or the prime recipient as incorporated into the award document.

§ 84.27 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, "Cost Principles for State and Local Governments." The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, "Cost Principles for Non-Profit Organizations." The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, "Cost Principles for Educational Institutions." The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals." The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

§ 84.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by HUD.

Property Standards

§ 84.30 Purpose of property standards.

Sections 84.31 through 84.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. HUD shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property

management standards and procedures provided it observes the provisions of §§ 84.31 through 84.37.

§ 84.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 84.32 Real property.

HUD prescribes the following requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards:

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of HUD.

(b) The recipient shall obtain written approval by HUD for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by HUD.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from HUD or its successor Federal awarding agency. HUD shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by HUD and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 84.33 Federally-owned and exempt property.

(a) *Federally-owned property.* (1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to HUD. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to HUD for further HUD utilization.

(2) If HUD has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless HUD has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by HUD.

(b) *Exempt property.* When statutory authority exists, HUD has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions HUD considers appropriate. Such property is "exempt property." Should HUD not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 84.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the equipment without approval of HUD. When the equipment is no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by HUD which funded the original project; then

(2) Activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by HUD that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by HUD. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of HUD.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates HUD for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify HUD.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to HUD or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from HUD. HUD shall determine whether the equipment can be used to meet HUD's requirements. If no requirement exists within HUD, the availability of the equipment shall be reported to the General Services Administration by HUD to determine whether a requirement for the equipment exists in other Federal agencies. HUD shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse HUD an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by HUD for such costs incurred in its disposition.

(4) HUD may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) HUD shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If HUD fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When HUD exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 84.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, as long as the Federal Government retains an interest in the supplies.

§ 84.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. HUD reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) Unless waived by HUD, the Federal Government has the right to paragraphs (c)(1) and (c)(2) of this section.

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of HUD. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 84.34(g).

§ 84.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. HUD may require recipients to record liens or other appropriate notices of

record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 84.40 Purpose of procurement standards.

Sections 84.41 through 84.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by HUD upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.

§ 84.41 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to HUD, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 84.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 84.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. The other factors shall include the bidder's or offeror's compliance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), hereafter referred to as "Section 3." Section 3 provides that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws, and regulations, economic opportunities generated by certain HUD financial assistance shall be directed to low- and very low-income persons. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

§ 84.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (a)(1), (a)(2) and (a)(3) of this section apply.

(1) Recipients avoid purchasing unnecessary items.

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

(3) Solicitations for goods and services provide for all of the following.

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular

procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); record of past performance; financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by implementation of E.O.s 12549 and 12689, "Debarment and Suspension," at 24 CFR part 24.

(e) Recipients shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in HUD's implementation of Circular A–110.

(2) The procurement is expected to exceed $100,000 or the small purchase threshold fixed at 41 U.S.C. 403 (11), whichever is greater, and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

§ 84.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 84.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(a) Basis for contractor selection;

(b) Justification for lack of competition when competitive bids or offers are not obtained; and

(c) Basis for award cost or price.

§ 84.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 84.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, HUD may accept the bonding policy and requirements of the recipient, provided HUD has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this rule, as applicable.

Reports and Records

§ 84.50 Purpose of reports and records.

Sections 84.51 through 84.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 84.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project,

program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 84.26.

(b) HUD shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in § 84.51(f), performance reports shall not be required more frequently than quarterly or less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. HUD may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify HUD of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) HUD may make site visits, as needed.

(h) HUD shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 84.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) SF–269 or SF–269A, Financial Status Report.

(i) HUD requires recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. HUD has the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) HUD shall prescribe whether the report shall be on a cash or accrual basis. If HUD requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) HUD shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) HUD requires recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by HUD upon request of the recipient.

(2) SF–272, Report of Federal Cash Transactions.

(i) When funds are advanced to recipients HUD shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272a. HUD shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) HUD may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(iii) When practical and deemed necessary, HUD may require recipients to report in the "Remarks" section the amount of cash advances received and retained in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. HUD may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) HUD may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in HUD's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or

(C) When the electronic payment mechanisms provide adequate data.

(b) When HUD needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, HUD shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

(2) When HUD determines that a recipient's accounting system does not meet the standards in § 84.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. HUD, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) HUD will shade out any line item on any report if not necessary.

(4) HUD may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) HUD may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

§ 84.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. HUD shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as

authorized by HUD. The only exceptions are the following.

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by HUD, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocation plans, etc. as specified in § 84.53(g).

(c) Copies of original records may be substituted for the original records if authorized by HUD.

(d) HUD shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, HUD may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) HUD, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph (e) are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, HUD shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when HUD can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to HUD.

(g) *Indirect cost rate proposals, cost allocation plans, etc.* Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records—indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the recipient submits to HUD or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the recipient is not required to submit to HUD or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Enforcement

§ 84.60 Purpose of termination and enforcement.

Sections 84.61 and 84.62 set forth uniform suspension, termination and enforcement procedures.

§ 84.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraphs (a)(1), (a)(2) or (a)(3) of this section apply.

(1) By HUD, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By HUD with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to HUD written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if HUD determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a)(1) or (a)(2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 84.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 84.62 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, HUD may, in addition to imposing any of the special conditions outlined in § 84.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by HUD.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, HUD shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless HUD expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraphs (c)(1) and (c)(2) of this section apply.

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under E.O.s 12549 and 12689 and HUD's implementing regulations at 24 CFR part 24 (see § 84.13).

Subpart D—After-the-Award Requirements

§ 84.70 Purpose.

Sections 84.71 through 84.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 84.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. HUD may approve extensions when requested by the recipient.

(b) Unless HUD authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in HUD instructions.

(c) HUD shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that HUD has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, HUD shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 84.31 through 84.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, HUD shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 84.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following.

(1) The right of HUD to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 84.26.

(4) Property management requirements in §§ 84.31 through 84.37.

(5) Records retention as required in § 84.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of HUD and the recipient, provided the responsibilities of the recipient referred to in § 84.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 84.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, HUD may reduce the debt by paragraphs (a)(1), (a)(2) or (a)(3) of this section.

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, HUD shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

Subpart E—Use of Lump Sum Grants

§ 84.80 Conditions for use of Lump Sum (fixed price or fixed amount) grants.

(a) Heads of awarding activities (HAAs) shall determine and publish the funding arrangement for award programs having a published program regulation or Notice of Funding Availability. For other awards, discretion may be provided to Grant Officers to determine the funding arrangement on a transaction basis. In such cases, Grant Officers shall document the basis for selection of the funding arrangement in the negotiation record. Appropriate consideration to fixed amount (lump sum) awards shall be made if one or more of the following conditions are present:

(1) The HUD funding amount is definitely less than the total actual cost of the project.

(2) The HUD funding amount does not exceed $100,000 or the small purchase threshold fixed at 41 U.S.C. 403 (11), whichever is greater.

(3) The project scope is very specific and adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the recipient will realize no increment above actual cost.

(b) [Reserved]

§ 84.81 Definition.

(a) A lump sum award is an award for a predetermined amount, as set forth in the grant agreement, which amount does not vary with the amount of the recipient's actual incurred costs. Under this type of award, HUD does not pay the recipient for its incurred costs but rather for completing certain defined events in the work or achievement of some other well-defined milestone. Some of the ways in which the grant amount may be paid are, but are not limited to:

(1) In several partial payments, the amount of each agreed upon in advance, and the "milestone" or event triggering the payment also agreed upon in advance, and set forth in the grant;

(2) On a unit price basis, for a defined unit or units (such as a housing counseling unit), at a defined price or prices, agreed to in advance of performance of the grant and set forth in the grant; or,

(3) In one payment at grant completion.

(b) The key distinction between a lump sum and a cost reimbursement grant is the lack of a direct relationship between the costs incurred by the recipient and the amount paid by HUD in the lump sum arrangement.

§ 84.82 Provisions applicable only to lump sum grants.

In addition to the provisions of this subpart E, subparts A and B of this part apply to lump sum grants.

(a) *Financial and program management.* Paragraphs (b) through (e) of this section prescribe standards for financial management systems, methods for making payments, budget revision approvals, and making audits.

(b) *Standards for financial management systems.*

(1) Records that identify adequately the source and application of funds for federally-sponsored activities are required. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(2) Effective control over and accountability for all funds, property and other assets are required. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(3) Comparison of outlays with budget amounts for each award is required. Whenever appropriate, financial information should be related to performance and unit cost data.

(4) Where HUD guarantees or insures the repayment of money borrowed by the recipient, HUD, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(5) HUD may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(6) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

(c) *Payment.* (1) The standard governing the use of banks and other institutions as depositories of funds advanced under awards is, HUD shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(3) Except as noted elsewhere in this part, only the following forms shall be authorized for the recipients in requesting payments. HUD shall not require more than an original and two copies of these forms.

(i) *SF-270, Request for Advance or Reimbursement.* HUD has adopted the SF-270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. The SF-270 shall also be used for lump sum payment requests. HUD, however, has the option of using this form for construction programs in lieu of the SF-271, "Outlay Report and Request for Reimbursement for Construction Programs."

(ii) *SF-271, Outlay Report and Request for Reimbursement for Construction Programs.* HUD has adopted the SF-271 as the standard form to be used for requesting reimbursement for construction programs. However, HUD may substitute the SF-270 when HUD determines that it provides adequate information to meet HUD's needs.

(d) *Revision of budget and program plans.* (1) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon HUD requirements. It shall be related to performance for program evaluation purposes whenever appropriate.

(2) Recipients are required to report deviations from program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(3) For nonconstruction awards, recipients shall request prior approvals from HUD for one or more of the following program or budget related reasons.

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) The need for additional Federal funding.

(iii) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(4) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(5) Except for requirements listed in paragraphs (d)(3)(i) and (d)(3)(ii) of this section, HUD is authorized, at its option, to waive cost-related and administrative prior written approvals required by Circular A–110 and OMB Circulars A–21 and A–122. Such waivers may include authorizing recipients to do any one or more of the following.

(i) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify HUD in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This action may be taken unless:

(A) The terms and conditions of award prohibit the extension.

(B) The extension requires additional Federal funds.

(C) The extension involves any change in the approved objectives or scope of the project.

(6) For construction awards, recipients shall request prior written approval promptly from HUD for budget revisions whenever paragraphs (d)(6)(i) or (d)(6)(ii) of this section apply.

(i) The revision results from changes in the scope or the objective of the project or program.

(ii) The need arises for additional Federal funds to complete the project.

(7) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(8) When HUD makes an award that provides support for both construction and nonconstruction work, HUD may require the recipient to request prior approval from HUD before making any fund or budget transfers between the two types of work supported.

(e) *Non-Federal audits.* (1) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," as codified in 24 CFR part 44.

(2) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31 U.S.C. 7501–7) and HUD regulations implementing OMB Circular A–128, "Audits of State and Local Governments," at 24 CFR part 45.

(3) Hospitals are covered by the audit provisions of OMB Circular A–133, as codified in 24 CFR part 44.

(4) Commercial organizations shall be subject to the audit requirements of HUD or the prime recipient as incorporated into the award document.

§ 84.83 Property standards.

(a) *Purpose of property standards.* Paragraphs (b) through (g) of this section set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. HUD shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of paragraphs (b) through (g) of this section.

(b) *Insurance coverage.* Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

(c) *Real property.* HUD prescribes the following requirements for recipients concerning the use and disposition of

real property acquired in whole or in part under awards:

(1) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of HUD.

(2) The recipient shall obtain written approval by HUD for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by HUD.

(d) *Federally-owned and exempt property.* (1) Federally-owned property.

(i) *Title to federally-owned property remains vested in the Federal Government.* Recipients shall submit annually an inventory listing of federally-owned property in their custody to HUD. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to HUD for further HUD utilization.

(ii) If HUD has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless HUD has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (I)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, "Improving Mathematics and Science Education in Support of the National Education Goals.") Appropriate instructions shall be issued to the recipient by HUD.

(2) *Exempt property.* When statutory authority exists, HUD has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions HUD considers appropriate. Such property is "exempt property." Should HUD not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

(e) *Equipment.* (1) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(2) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the equipment without approval of HUD. When the equipment is no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(i) Activities sponsored by HUD which funded the original project; then

(ii) Activities sponsored by other Federal awarding agencies.

(3) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by HUD that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by HUD.

(4) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following.

(i) Equipment records shall be maintained accurately and shall include the following information.

(A) A description of the equipment.

(B) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(C) Source of the equipment, including the award number.

(D) Whether title vests in the recipient or the Federal Government.

(E) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(F) Location and condition of the equipment and the date the information was reported.

(ii) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(iii) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(iv) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify HUD.

(v) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(5) HUD may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) HUD shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If HUD fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When HUD exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

(f) *Intangible property.* (1) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. HUD reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(2) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(3) Unless waived by HUD, the Federal Government has the right to paragraphs (f)(3)(i) and (f)(3)(ii) of this section.

(i) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(ii) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(4) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose.

(g) *Property trust relationship.* Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. HUD may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

§ 84.84 Procurement standards.

(a) *Purpose of procurement standards.* Paragraphs (b) through (i) of this section set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by HUD upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.

(b) *Recipient responsibilities.* The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to HUD, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

(c) *Codes of conduct.* The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

(d) *Competition.* All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. The other factors shall include the bidder's or offeror's compliance with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), hereafter referred to as "Section 3." Section 3 provides that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws, and regulations, economic opportunities generated by certain HUD financial assistance shall be directed to low- and very low-income persons. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so.

(e) *Procurement procedures.* (1) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that paragraphs (e)(1)(i), (e)(1)(ii) and (e)(1)(iii) of this section apply.

(i) Recipients avoid purchasing unnecessary items.

(ii) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the recipient.

(iii) Solicitations for goods and services provide for all of the following.

(A) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(B) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(C) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(D) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.

(E) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(F) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(2) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(i) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(ii) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(iii) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(iv) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(v) Use the services and assistance, as appropriate, of such organizations as the

Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(3) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

(4) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity; compliance with public policy, including, where applicable, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u); record of past performance; financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.'s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24.

(5) Recipients shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(i) A recipient's procurement procedures or operation fails to comply with the procurement standards in HUD's implementation of Circular A–110.

(ii) The procurement is expected to exceed $100,000 or the small purchase threshold fixed at 41 U.S.C. 403 (11), whichever is greater, and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(iii) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.

(iv) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

(f) *Cost and price analysis.* Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(g) *Procurement records.* Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained; and

(3) Basis for award cost or price.

(h) *Contract administration.* A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

(i) *Contract provisions.* The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(1) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, HUD may accept the bonding policy and requirements of the recipient, provided HUD has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(i) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(ii) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(iii) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(iv) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

(4) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(5) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this rule, as applicable.

§ 84.85 Reports and records.

(a) *Purpose of reports and records.* Paragraphs (b) and (c) of this section set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the

necessary standard reporting forms. They also set forth record retention requirements.

(b) *Monitoring and reporting program performance.*

(1) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 84.82(e).

(2) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (b)(6) of this section, performance reports shall not be required more frequently than quarterly or less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(3) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(4) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(i) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(ii) Reasons why established goals were not met, if appropriate.

(5) Recipients shall not be required to submit more than the original and two copies of performance reports.

(6) Recipients shall immediately notify HUD of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(7) HUD may make site visits, as needed.

(8) HUD shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

(c) Retention and access requirements for records.

(1) This paragraph (c) sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.

(2) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by HUD. The only exceptions are the following.

(i) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(ii) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(iii) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.

(3) Copies of original records may be substituted for the original records if authorized by HUD.

(4) HUD shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, HUD may make arrangements for recipients to retain any records that are continuously needed for joint use.

(5) HUD, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph (c)(5) are not limited to the required retention period, but shall last as long as records are retained.

(6) Unless required by statute, HUD shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when HUD can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to HUD.

§ 84.86 Termination and enforcement.

(a) *Termination.* (1) Awards may be terminated in whole or in part only if paragraphs (a)(1)(i), (a)(1)(ii), or (a)(1)(iii) of this section apply.

(i) By HUD, if a recipient materially fails to comply with the terms and conditions of an award.

(ii) By HUD with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(iii) By the recipient upon sending to HUD written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if HUD determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a)(1)(i) or (a)(1)(ii) of this section.

(2) If costs are allowed under an award, the responsibilities of the recipient referred to in § 84.87(a)(1), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

(3) If costs are allowed, the cost principles in § 84.27 apply, even though the award was made on a lump-sum basis. Alternatively, a termination settlement may be reached by prorating the grant amount against the percentage of completion or by some other method as determined by the Grant Officer, as long as the method used results in an equitable settlement to both parties.

(b) *Enforcement.* (1) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, HUD may, in addition to imposing any of the special conditions outlined in § 84.14, take one or more of the following actions, as appropriate in the circumstances.

(i) Temporarily withhold cash payments pending correction of the

deficiency by the recipient or more severe enforcement action by HUD.

(ii) Wholly or partly suspend or terminate the current award.

(iii) Withhold further awards for the project or program.

(iv) Take other remedies that may be legally available.

(2) *Hearings and appeals.* In taking an enforcement action, HUD shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(3) *Effects of suspension and termination.* Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless HUD expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if paragraphs (b)(3)(i) and (b)(3)(ii) of this section apply.

(i) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable.

(ii) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(4) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under E.O.s 12549 and 12689 and HUD's implementing regulations at 24 CFR part 24 (see § 84.13).

§ 84.87 Closeout procedures, subsequent adjustments and continuing responsibilities.

(a) *Closeout procedures.*

(1) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. HUD may approve extensions when requested by the recipient.

(2) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 84.83(b) through (g).

(b) *Subsequent adjustments and continuing responsibilities.*

(1) The closeout of an award does not affect any of the following:

(i) Audit requirements in § 84.26.

(ii) Property management requirements in §§ 84.83(b) through (g).

(iii) Records retention as required in § 84.53.

(2) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of HUD and the recipient, provided the responsibilities of the recipient are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

Appendix A to Part 84—Contract Provisions

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)*—All contracts and subgrants in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to HUD.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to HUD.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333)*—Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are

forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

9. *Drug-Free Workplace Requirements*—The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

Dated: September 1, 1994.

Henry G. Cisneros,

Secretary.

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Part III

Department of Transportation

Coast Guard

46 CFR Part 28
Commercial Fishing Industry Vessel Regulations for Aleutian Trade Act Vessels; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 94–025]

RIN 2115–AE77

Commercial Fishing Industry Vessel Regulations for Aleutian Trade Act Vessels

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise regulations for U.S. commercial fishing industry vessels subject to the Aleutian Trade Act (ATA) of 1990. This proposed rule would promulgate a new subpart regulating certain equipment requirements and operating procedures for fish tender vessels operating in the Aleutian trade. These regulations would allow for the continued cargo service by water to remote communities in Alaska while ensuring increased safety standards for the vessels engaged in this trade.

DATES: Comments must be received on or before November 14, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–025), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Mark D. Bobal, Office of Marine Safety, Security and Environmental Protection (G–MVI–4), Room 1405, U.S. Coast Guard Headquarters, Washington, DC 20593–0001, (202) 267–2307.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94–025) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Mark D. Bobal, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

On April 19, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) for Commercial Fishing Industry Vessels (55 FR 14924). In the NPRM, the Coast Guard proposed to regulate U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels, including vessels engaged in the Aleutian Trade, to implement the provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. Subsequent to the NPRM, Congress enacted the Aleutian Trade Act of 1990 (ATA), significantly affecting the impact of the proposed regulations on vessels engaged in the Aleutian trade. The ATA provides for continued cargo service to remote communities in Alaska while ensuring increased safety standards for fish tender vessels operating in the Aleutian trade. As a result of the ATA, the Coast Guard published a supplemental notice of proposed rulemaking, (SNPRM), in the **Federal Register** on October 27, 1992 (57 FR 48670).

In response to the SNPRM, the Coast Guard received over 206 comments specifically opposing, and only 4 comments favoring, the proposed ATA regulations. In a second SNPRM, the Coast Guard is now proposing to increase the safety standards for these vessels consistent with the comments received to the first SNPRM and establish a separate subpart in 46 CFR Part 28 for vessels engaged in the Aleutian trade.

Background and Purpose

The Aleutian Trade Act of 1990. On November 16, 1990, the President signed Pub. L. 101–595, The Aleutian Trade Act of 1990 ("the ATA"). The ATA applies only to fish tender vessels engaged in the transportation of cargo (including fishery related products) for hire to or from a place in Alaska west of 153° West longitude and east of 172° East longitude and only, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska). The ATA requires these fish tender vessels to meet new safety and manning standards over a specified period of time. Additional background information concerning the ATA and the Coast Guard's interpretation of the Act, may be found at page 48670 of the SNPRM published October 27, 1992.

Discussion of Comments

In response to the SNPRM of October 27, 1992, the Coast Guard received four comments supporting the ATA. They were from a common carrier, a ship yard, a naval architect and an interested party that did not identify its affiliation. Additionally, the Coast Guard received 206 comments opposing the ATA. These comments were from fishermen, fishing vessel companies, naval architects, shipyards, the State Legislature and Governor of Alaska, an insurance company, and the general public.

The primary objections to the proposed requirements were: (1) The potential for severe economic hardship to the operators of ATA vessels, and the people and companies the vessels serve in the outlying areas; (2) the possibility that common carriers serving the Aleutian area would have a monopoly on seaborne commerce in this area and could significantly increases rates; and (3) the lack of need for additional regulations when considering the positive safety record of ATA vessels. Additionally, comments opposed the proposed rules by arguing that: (1) The Coast Guard greatly underestimated the cost of compliance; (2) the Commercial Fishing Industry Vessel Safety Act states that the Coast Guard cannot require alterations to existing vessels; and (3) the standards proposed are excessive and greater than those required of an inspected cargo vessel.

Discussion of Proposed Rules

In response to the large number of comments opposing the first SNPRM, the Coast Guard will revise its proposed regulations and issue a second SNPRM. The Coast Guard believes this SNPRM proposes standards that would upgrade safety requirements aboard ATA vessels and yet be responsive to the comments received to the first SNPRM. In this SNPRM, the Coast Guard is proposing a new subpart G, to be entitled Aleutian Trade Act Vessels. Each section is summarized in the following paragraphs.

Subpart A—General Provisions

Section 28.040 Incorporation by Reference

This section lists the industry standards that are incorporated by reference and the corresponding sections where each standard is reference as the governing requirement.

In the interest of keeping the regulations as uncomplicated as possible, the number of standards incorporated by reference has been minimized.

National Fire Protection Association, NFPA, sections 310–13 and 310–15 of NFPA 70 is referenced in § 28.865.

Society of Automotive Engineers, SAE, section J1475 is needed for compliance in § 28.880.

Underwriters Laboratories, UL, standard 217–1985, "Single and Multiple Station Smoke Detectors" to supplement the information in § 28.830

Subpart G—Aleutian Trade Act Vessels

Section 28.800 Applicability and General Requirements

This section describes the revised applicability for ATA vessels proposed for this subpart. Fish tender vessels engaged in the Aleutian trade are subject to inspection under the provisions of 46 U.S.C. 3301 (1), (6), or (7) except those that:

1. Are not more than 500 gross tons;
2. Have an incline test performed by a marine surveyor; and
3. Have written stability instructions posted on board the vessel.

Section 28.805 Launching of Survival Craft

This section would require ATA vessels to comply with 46 CFR subpart B, which requires inflatable liferafts (SOLAS A Packs) for 100% complement coverage. To facilitate the manual launching of survival craft which have a mass of more than 110 pounds, (50 kg), each vessel must have a gate or another opening in its bulwarks, deck rails, or lifelines.

Section 28.810 Deck Rails, Lifelines, Storm Rails and Hand Grabs

This section would adopt the same requirements of subpart D, which are essentially identical to those found in subchapter I.

Section 28.815 Bilge Pumps, Bilge Piping, and Dewatering Systems

This section would require two power bilge pumps, each with a separate source of power (e.g. one electric pump and one mechanically driven or power take-off (PTO) pump) connected to a fixed system. However, a portable powered pump could substitute for one of the required pumps as long as it meets specific criteria as promulgated in these regulations. In contrast, subpart D requires one powered bilge pump connected to a fixed system while subchapter I requires three powered pumps for cargo vessels.

Section 28.820 Fire Pumps, Fire Mains, Fire Hydrants, and Fire Hoses

This section would require one power driven fire pump, connected to fixed piping, capable of delivering water at a minimum of 50 gallons per minute. In addition, a portable pump must be carried that has a capacity of 9500 gallons per hour and is capable of being connected to the firemain and hoses. However, if the vessel already has a portable pump satisfying the second bilge pump requirement, no additional portable pump would be required as long as it is properly equipped to handle both firefighting and flood control.

Section 28.825 Excess Fire Detection and Protection Equipment

This section would cover excess fire detection and protection equipment and is in lieu of § 28.155.

Section 28.830 Fire Detection System

This section would grandfather existing systems and equipment within specific limits and regulations, and provides acceptance latitude. It would require that accommodation spaces to be fitted with modular smoke detectors, and require manual remote shutdown of certain machinery outside of certain spaces.

Section 28.835 Fuel Systems

This section would incorporate applicable regulations of subchapter F for any replacement and or alteration to the existing grandfathered piping. It would also add the requirement for remote shutoff valves on certain fuel tanks, metal shields under filters, and limits the length of nonmetallic flexible hose used (for vibration purposes only).

Note: Some of the piping aboard ex-Navy yard oilers used in the Aleutian trade was built and installed to Navy specifications and was encased in cement ballast. This arrangement would be grandfathered. In contrast, subpart D requires all fuel lines to be constructed of seamless material only, except short lengths of flex hose for vibration. Cargo vessels have the same requirements and, additionally, all valves and fittings must meet specific regulations of subchapter F.

Section 28.840 Means for Stopping Pumps, Ventilation, and Machinery

This section would contain requirements for remote controls similar to those applicable to cargo vessels.

Section 28.845 General Requirements for Electrical Systems

This section would adopt nearly all of the requirements of subpart D which provide for acceptance of recognized standards such as Underwriters Laboratory (UL). An added grandfathering clause would allow acceptance of existing materials and installations, on a case by case basis. For example, existing cables and wiring runs could be allowed to remain as presently constructed and routed. However, any replacement wiring or new installations would have to meet specific requirements. In comparison, the installation of all electrical systems and interior communications as to design, construction, and material acceptance for cargo vessels must be done in accordance with subchapter J.

Section 28.850 Main Source of Electrical Power

This section proposes general requirements for electrical systems that are presently found on ATA vessels.

Section 28.855 Electrical Distribution Systems

This section requires that a distribution system which has neutral bus or conductor have the neutral bus or conductor grounded. It also requires a grounded distribution system to have only one connection to ground. The one connection to ground must be at the switchboard, or on a nonmetallic vessel at the common ground point.

Section 28.860 Overcurrent Protection and Switched Circuits

This section would require the same standards found in subpart D, which are similar to the requirements for inspected vessels contained in 46 CFR subchapter J—Electrical Engineering Regulations.

Section 28.865 Wiring Methods and Materials

This section would require the same standards for wires and conductors found in subpart D.

Section 28.870 Emergency Source of Electrical Power

This section would require an emergency source of electrical power which is capable of supplying connected loads for at least 3 hours and which is physically separated from the main machinery space. This segregation would help ensure that one casualty did not disable all sources of electrical power. If the source is a battery, specific regulations would have to be satisfied. Note: No emergency generator is required—it is believed the combination of a duty engineer and back-up fire & bilge pumps as well as additional powered portable pump should be sufficient. Subpart D requires an independent source of electrical power located outside the machinery space capable of supplying all loads listed above plus the steering gear, and fire & bilge pumps continuously for 3 hours. Cargo vessels require emergency lighting for 6 hours.

Section 28.875 Radar, Depth Sounding, and Auto-pilot

This section would adopt the equipment requirements of subpart D for radar and depth sounding devices. In addition, procedures would be proposed for the use of an auto-pilot.

Section 28.880 Hydraulic Equipment

This section would grandfather some existing hydraulic hose runs and materials. It provides specifics for fluid, hose, fittings, and compatibility for use. It adds the requirement for fail-safe system components and provides requirements that enhance operator safety. It reduces existing overuse of nonmetallic hydraulic flex hose by limiting its use in runs where flexibility is not specifically required. However, any retrofit of hydraulic hoses would have to be accomplished over a period of time, such as replacing the flex hose with hard piping only whenever renewals, replacements or alterations are being accomplished. In comparison, subpart D specifically limits the allowable length of nonmetallic flexible hose to 30" while subchapter I requires specific material approval in applicable sections of subchapter F.

Section 28.885 Cargo Gear

This section would take the cargo equipment found presently on these vessels and incorporate them with subchapter I requirements.

Section 28.890 Examination and Certification of Compliance

This section would require that each ATA vessel be examined for compliance once every two years. The examination would be performed by the American Bureau of Shipping (ABS), a similarly qualified organization, or another accepted organization. The organization performing the examination would be required to provide the owner and the cognizant Coast Guard District Commander, (Attention: Fishing Vessel Safety Coordinator) with a copy of the signed certification letter if the vessel was found to be in compliance. A copy of a certification letter would also be required to be maintained on board the vessel. With respect to the inspection provisions, 46 U.S.C. 3302(c) was amended by exempting fishing, fish processing, and fish tender vessels of not more than 500 gross tons from consideration as a freight vessel, a seagoing barge, or a seagoing motor vessel under 46 U.S.C. 3301 (1), (6), and (7) if, when the vessel transports cargo to or from Alaska, that place does not receive weekly common carrier service by water from a place in the United States; or the cargo is of a type not accepted by that common carrier service; or in the case of a fish tender vessel, the vessel is not engaged in the Aleutian trade.

A fish tender vessel engaged in the Aleutian trade is not subject to inspection under the provisions of 46 U.S.C. 3301 (1), (6), and (7), if the vessel is not more than 500 gross tons, has an incline test performed by a marine surveyor, and has written stability instructions posted on board. These provisions were effective May 16, 1991.

Section 28.895 Survey and Classification

This proposed section would require each ATA vessel which undergoes a major conversion completed after July 27, 1990, to be classed by the ABS or another organization determined by the Commandant to be similarly qualified.

Section 28.900 Loadlines

This section would require that a fish tender vessel of not more than 500 gross tons, engaged in the Aleutian trade, obtain a loadline certificate.

Section 28.905 Post Accident Inspection

This proposed section was suggested by a common carrier during the first SNPRM to require that an ATA vessel undergo a general or partial survey by a Coast Guard Representative following an accident or if a defect is discovered which affects the safety of the vessel. This requirement would be similar to that found in subchapter I for cargo vessels, however a third party would be conducting this post accident inspection.

Section 28.910 Repairs and Alterations

This proposed section, again suggested during the first SNPRM, would require the managing operators of an ATA vessel to notify a Coast Guard Representative prior to making repairs or alterations to an ATA vessel that may affect the safety of the vessel.

Section 28.915 Manning and Crew

This proposed section would establish manning requirements for a fish tender vessel of not more than 500 gross tons, engaged in the Aleutian trade.

This section also proposes that machinery spaces be under the control, when at sea, of an engineer designated as in charge. This designation may be: (a) In writing by the owner, operator, or master; (b) by an entry in the ship's log if one is maintained; or (c) by a designation on the emergency instructions required under § 28.265. If designated engineers are not part of the vessel's complement, then all the requirements of subpart D would have to be met in addition to this subpart. Any component or system on a vessel found to be in conflict between the regulations found in subparts D and G, then the higher standard will apply. ATA amended 46 U.S.C. 8702 to require that a fish tender vessel engaged in the Aleutian trade comply with the crew requirements set out in § 8702, but allowed the percentage of the deck crew, who are required to have merchant mariners documents endorsed for a rating of at least able seaman, to be reduced from 65 to 50 percent of crew size. These provisions were effective November 16, 1991.

Lastly, the ATA amended 46 U.S.C. Chapter 73 to allow acceptance of service on an ATA vessel to be used by an individual to qualify for an endorsement as an "able seaman—fishing industry", "able seaman—unlimited" or "able seaman—special." If the service is on board a vessel of at least 100 gross tons, the service may be accepted to qualify as an "able seaman—limited"

Incorporation by Reference

Additional material would be incorporated by reference and listed in 46 CFR 28.040: National Fire Protection Association (NFPA 70–1987), sections 310–13 and 310–15 would be incorporated in § 28.865; Society of

Automotive Engineers, SAE, section J1475 would be incorporated in § 28.880; and Underwriters Laboratories, UL, standard 217–1985, "Single and Multiple Station Smoke Detectors" would be incorporated in § 28.830. Copies of this material will be available for inspection where indicated under **ADDRESSES**, and from the sources listed in § 28.040.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard estimates that only 20 vessels out of an estimated U.S. commercial fishing fleet in excess of 120,000 vessels would be affected by this rule. This proposed rule includes a number of grandfathered provisions. Therefore, the Coast Guard believes that existing equipment onboard these 20 vessels should be upgraded and replaced only when the existing equipment is no longer serviceable.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include: (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and (2) governmental jurisdictions with populations of less than 50,000.

An estimated 20 commercial fishing industry vessels are involved in the Aleutian Trade Act. A number of these vessels are owned or operated by small entities. However, the Coast Guard estimates that the cost of complying with these revised proposed regulations will be minor. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a comment (see **ADDRESSES**) explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This notice proposes regulations for ATA vessels only. Since this rule affects specific vessels both inside and outside state waters, the Coast Guard intends to preempt State action addressing the same subject matter.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.lB, this proposal is categorically excluded from further environmental documentation. These proposed rules are to enhance certain safety equipment requirements and general operating procedures of ATA vessels and have no significant effect on the environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR part 28 as follows:

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

1. The authority citation for part 28 is revised to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4506, 6104, 8104, 10603; 49 U.S.C. 5103; 49 CFR 1.46.

2. Section 28.40(b) is revised to read as follows:

§ 28.40 Incorporation by reference.

* * * * *

(b) The material approved for incorporation by reference in this part and the sections affected are:

American Boat and Yacht Council (ABYC),	
P.O. Box 747, 405 Headquarters Dr., Suite 3, Millersville, MD 21108–0747:	
E–1–1972—Bonding of Direct Current Systems	28.345
E–8–1985—Alternating Current (AC) Electrical Systems on Boats	28.345
E–9–1981—Recommended Practices and Standards Covering Direct Current (DC) Electrical Systems on Boat	28.345
H–2–1989—Ventilation of Boats Using Gasoline	28.340
H–25–1986—Portable Fuel Systems for Flammable Liquids	28.335
H–33–1989—Diesel Fuel Systems	28.335
P–1–1986—Installation of Exhaust Systems for Propulsion and Auxiliary Engines	28.380
International Maritime Organization (IMO),	
Publications Section, 4 Albert Embankment, London SE1 7SR, England:	
Resolution A.658(16) "Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances", dated November 1989	28.135
National Fire Protection Association (NFPA),	
60 Batterymarch Park, Quincy, MA 02269:	
70–1990—National Electrical Code (also known as ANSI/NFPA 70–1990)	28.350 28.370
302–1989—Pleasure and Commercial Motor Craft	28.335 28.340 28.345
17–1985—Dry Chemical Extinguishing Systems	28.330
17A–1986—Wet Chemical Extinguishing Systems	28.330

310–13—Conductor Construction and Applications 28.865
310–15—Ampacity 28.865
Society of Automotive Engineers (SAE),
400 Commonwealth Drive, Warrendale, PA 15096:
SAE J 1475–1984—Hydraulic Hose Fitting for Marine Applications 28.880
SAE J 1942–1989—Hose and Hose Assemblies for Marine Applications 28.405
Underwriters Laboratories, Inc. (UL),
333 Pfingsten Rd., Northbrook, IL 60062:
UL 217–1985—Single and Multiple Station Smoke Detectors 28.325
28.830
UL 710–1990—Exhaust Hoods for Commercial Cooking Equipment 28.330

3–4. Section 28.50 is amended by adding the following definitions in alphabetical order to read as follows:

§ 28.50 Definition of terms used in this part.

* * * * *

Aleutian trade means the transportation of cargo, including fishery related products, for hire on board a fish tender vessel to or from a place in Alaska west of 153 degrees West longitude and east of 172 degrees East longitude if that place receives weekly common carrier service by water, to or from a place in the United States, except a place in Alaska.

* * * * *

Coast Guard Representative means a person employed by the U.S. Coast Guard, an accepted organization, or a similarly qualified organization approved in examining commercial fishing industry vessels. Contact Chief, Fishing Vessel and Offshore Safety Branch, Commandant, (G–MVI–4), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001 for a current list of accepted organizations or similarly qualified organizations.

* * * * *

5. The heading of subpart C is revised to read as follows:

Subpart C—Requirements for Documented Vessels That Operate Beyond the Boundary Lines or With More Than 16 Individuals On Board, or for Fish Tender Vessels Engaged in the Aleutian Trade

6. Section 28.200 is revised to read as follows:

§ 28.200 Applicability.

Each documented commercial fishing industry vessel must meet the requirements of this subpart in addition to the requirements of subparts A and B of this part if it:

(a) Operates beyond the Boundary Lines;

(b) Operates with more than 16 individuals on board; or

(c) Is a fish tender vessel engaged in the Aleutian trade.

7. Part 28 is amended by adding subchapter G to read:

Subpart G—Aleutian Trade Act Vessels

Sec.
28.800 Applicability and general requirements.
28.805 Launching of survival craft.
28.810 Deck rails, lifelines, storm rails and hand grabs.
28.815 Bilge pumps, bilge piping, and dewatering systems.
28.820 Fire pumps, fire mains, fire hydrants, and fire hoses.
28.825 Excess fire detection and protection equipment.
28.830 Fire detection system.
28.835 Fuel systems.
28.840 Means for stopping pumps, ventilation, and machinery.
28.845 General requirements for electrical systems.
28.850 Main source of electrical power.
28.855 Electrical distribution systems.
28.860 Overcurrent protection and switched circuits.
28.865 Wiring methods and materials.
28.870 Emergency source of electrical power.
28.875 Radar, depth sounding, and auto-pilot.
28.880 Hydraulic equipment.
28.885 Cargo gear.
28.890 Examination and certification of compliance.
28.895 Survey and classification.
28.900 Loadlines.
28.905 Post accident inspection.
28.910 Repairs and alterations.
28.915 Manning and crew requirements.

Subpart G—Aleutian Trade Act Vessels

§ 28.800 Applicability and General Requirements.

(a) This subpart applies to each fish tender vessel engaged in the Aleutian trade that has not undergone a major conversion and:

(1) Was operated in the Aleutian trade before September 8, 1990; or

(2) Was purchased to be used in the Aleutian trade before September 8, 1990, and entered into service in the Aleutian trade before June 1, 1992.

(b) Except as noted otherwise in this subpart, a vessel subject to this subpart must also comply with the requirements of subparts A, B, and C of this part.

(c) Each fish tender vessel engaged in the Aleutian trade that undergoes a major conversion after September 15, 1991 must comply with the additional requirements of subpart D of this part.

(d) A fish tender vessel engaged in the Aleutian trade is subject to inspection under the provisions of 46 U.S.C. 3301 (1), (6), or (7) unless it:

(1) Is not more than 500 gross tons;

(2) Has an incline test performed by a marine surveyor; and

(3) Has written stability instructions posted on board the vessel.

(e) A vessel that does not have a designated engineer as part of its complement must comply with the requirements of subpart D of this part in addition to the requirements of this subpart.

§ 28.805 Launching of survival craft.

In addition to the survival craft requirements in subpart B of this part, each vessel must have a gate or other opening in the deck rails, lifelines, or bulwarks adjacent to the stowage location of each survival craft which has a mass of more than 110 pounds (50 KG), so that the survival craft can be manually launched.

§ 28.810 Deck rails, lifelines, storm rails and hand grabs.

(a) Except as otherwise provided in paragraph (d) of this section, deck rails, lifelines, grab rails, or equivalent protection must be installed near the periphery of all weather decks accessible to individuals. Where space limitations make deck rails impractical, hand grabs may be substituted.

(b) The height of deck rails, lifelines, or bulwarks must be at least 39½ inches (1 meter) from the deck, except where this height would interfere with the normal operation of the vessel, a lesser height may be substituted.

(c) All deck rails or lifelines must be permanently supported by stanchions at intervals of not more than 7 feet (2.3 meters). Stanchions must be through bolted or welded to the deck.

(d) Portable stanchions and lifelines may be installed in locations where permanently installed deck rails would impede normal cargo operations or emergency recovery operations.

(e) Deck rails or lifelines must consist of evenly spaced courses. The spacing between courses must not be greater than 15 inches (0.38 meters). The opening below the lowest course must

not be more than 9 inches (0.23 meters). Lower courses are not required where all or part of the space below the upper rail is fitted with a bulwark, chain link fencing, wire mesh, or an equivalent.

(f) A suitable storm rail or hand grab must be installed where necessary in a passageway, at a deckhouse side, at a ladder, and a hatch where an individual might have access.

§ 28.815 Bilge pumps, bilge piping, and dewatering systems.

Instead of § 28.255, each vessel to which this subpart applies must meet the following requirements:

(a) Each vessel must be equipped with a fixed, self priming, powered, bilge pump connected to a bilge manifold and piping capable of draining any watertight compartment, other than tanks and small buoyancy compartments, under all service conditions. Large spaces, such as engine rooms and cargo holds, must be fitted with more than one suction line.

(b) In addition, each vessel must be fitted with a fixed second, or back-up bilge pump having an independent and separate source of power from the pump required in paragraph (a) of this section. One of the bilge pumps may be attached to the propelling engine.

(c) A portable bilge pump may substitute for the secondary pump required above, as long as it is:

(1) Self priming and provided with a suitable suction hose of adequate length to reach the bilges of each watertight compartment it must serve and is fitted with a built-in check valve and strainer;

(2) Fitted with a discharge hose of adequate length to ensure overboard discharge. A portable pump must be capable of dewatering each space it serves at a rate of at least 2 inches (51 millimeters) of water depth per minute; and

(3) Capable of being quickly and efficiently attached to the vessel's fixed bilge suction main or discharge piping (such as with "camlocks", etc.) for alternate emergency use.

(d) Except where an individual pump is provided for a separate space or for a portable pump, each individual bilge suction line must be provided with a stop valve at the manifold and a check valve at some accessible point in the bilge line to prevent unintended flooding of a space.

(e) Each bilge suction line and dewatering system must be fitted with a suitable strainer to prevent clogging of the suction line. Strainers must have an open area of not less than three times the open area of the suction line.

(f) Except for a fire pump required by 46 CFR 28.820, a bilge pump may be used for other purposes.

(g) Each vessel must comply with the oil pollution prevention requirements of 33 CFR parts 151 and 155.

§ 28.820 Fire pumps, fire mains, fire hydrants, and fire hoses.

(a) Each vessel must be equipped with a portable fire pump and a self-priming, power driven fire pump connected to a fixed piping system.

(1) The fixed fire pump must be capable of delivering an effective stream of water from a hose connected to the highest outlet. It must have a minimum capacity of 50 gallons per minute at a pressure of not less than 60 pounds per square inch at the pump outlet. If multiple pumps are installed, they may be used for other purposes provided at least one pump is kept available for use on the fire system at all times.

(2) The portable fire pump must have a minimum capacity of 9500 gallons per hour and be capable of being connected to National Standard Fire Hose of the size utilized on board the vessel. A single portable pump carried to satisfy the bilge system requirements of § 28.815(c) may also satisfy the requirements of this section.

(b) All parts of the firemain located on exposed decks shall either be protected against freezing or be fitted with both cut-out and drain valves.

(c) Each vessel must have a sufficient number of fire hydrants to reach any part of the vessel using a single length of hose.

(d) Each fire hydrant must have at least one length of fire hose connected to the outlet at all times, a spanner, and a hose rack or other device for stowing the hose at all times.

(e) Each length of fire hose must be a minimum of 1½" diameter lined commercial fire hose and be fitted with a nozzle made of corrosion resistant material capable of providing a solid stream and a spray pattern. Firehose shall not be used for any other purpose other than fire extinguishing, drills, and testing.

§ 28.825 Excess fire detection and protection equipment.

In lieu of § 28.155, each vessel to which this subpart applies must meet the following requirements:

(a) Installation of fire detection and protection equipment in excess of that required by the regulations in this subpart is permitted provided that the excess equipment does not endanger the vessel or individuals on board in any way. The excess equipment must, at a minimum, be listed and labeled by an independent, nationally recognized testing laboratory and be in accordance with an appropriate industry standard for design, installation, testing, and maintenance.

(b) An existing fixed gas fire extinguishing system that is in excess of the required fire protection equipment required by subparts A, B, and C of this part, may remain in place and continued in service as long as all parts of the system are maintained in good condition to the satisfaction of the Coast Guard Representative, and subject to the following:

(1) A fixed fire extinguishing system capable of automatic discharge upon heat detection, may only be installed in a normally unoccupied space. For the purpose of this section, the machinery space aboard a fish tender operating in the Aleutian trade is considered occupied.

(2) A fixed fire extinguishing system must:

(i) Be capable of manual actuation from outside the space protected;

(ii) Produce an audible alarm to indicate the discharge of the extinguishing agent for 20 seconds before the agent is released into the space;

(iii) The branch line valves of all fire extinguishing systems shall be plainly and permanently marked indicating the spaces serviced;

(iv) The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems shall be distinctly marked in conspicuous red letters at least 2 inches high:

"STEAM FIRE APPARATUS"
"CARBON DIOXIDE FIRE APPARATUS"
"FOAM FIRE APPARATUS", or
"WATER SPRAY FIRE APPARATUS" as the case may be;

(v) Instructions for the operation of the system must be located in a conspicuous place at or near all pull boxes, stop valve controls, and in the agent storage space;

(vi) If the space or enclosure containing the supply or controls is to be locked, a key to the space or enclosure shall be in a break-glass-type box conspicuously located adjacent to the opening, and;

(vii) Be equipped with a sign at the alarm stating: "WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED", or list other fire extinguishing agent.

(3) Any modification, alteration, or new installation of a fixed gas fire extinguishing system must meet the additional requirements of subpart D of this part.

§ 28.830 Fire detection system.

(a) Each accommodation space must be equipped with an independent modular smoke detector or a smoke actuated fire detecting unit installed in accordance with § 76.33 of this chapter.

(b) An independent modular smoke detector must meet UL 217 and be listed as a "Single Station Smoke Detector—Also Suitable for Use in Recreational Vehicles."

§ 28.835 Fuel systems.

(a) Portable fuel systems including portable tanks and related fuel lines and accessories are prohibited except where used for outboard engines or portable bilge/fire pumps.

(b) Each integral fuel tank must be fitted with a vent pipe connected to the highest point of the tank terminating in a 180 degree (3.14 radians) bend on a weather deck and be fitted with a flame screen.

(c) Test cocks must not be fitted to fuel oil tanks.

(d) Valves for removing water or impurities from diesel fuel oil systems will be permitted in the machinery space provided they are away from any potential source of ignition. Such valves shall be fitted with caps or plugs to prevent leakage.

(e) Oil piping drains, strainers and other equipment subject to normal oil leakage must be fitted with drip pans or other means to prevent oil draining into the bilge.

(f) All nonmetallic filters and strainers must be fitted with a metal shield attached to their base in such a way as to prevent direct flame impingement in the case of a fire.

(g) Shutoff valves shall be installed in the fuel supply piping lines, one as close to each tank as practicable, and one as close to each fuel pump as practicable. Valves shall be accessible at all times.

(h) Fuel oil piping subject to internal head pressure from diesel oil in a tank must be fitted with a positive shutoff valve, installed to close against the flow at the tank. This valve is to be capable of remote actuation from outside the space in which the tank/piping is located, accessible at all times, and suitably marked.

(i) Except as permitted in this paragraph (i), the fuel supply piping shall be of seamless steel, annealed seamless copper, brass, nickel copper, or copper nickel alloy having a minimum wall thickness of 0.035 inches (0.9 millimeters). Existing fuel oil piping may remain in service as long as it is serviceable to the satisfaction of the Coast Guard Representative. Any replacement, alterations, modifications or new installations to the fuel oil piping system must be made in accordance with the material requirements of this section. A short length (no more than 30 inches, (762mm)), suitable metallic or nonmetallic flexible tubing or hose is permitted in the fuel supply line at or near the engine to prevent damage by vibration. If nonmetallic flexible hose is used it must:

(1) Not exceed the minimum length needed to allow for vibration;

(2) Be visible, easily accessible, and must not penetrate a watertight bulkhead;

(3) Be fabricated with an inner tube and outer-covering of synthetic rubber or other suitable material reinforced with wire braid;

(4) Be fitted with suitable, corrosion resistant, compression fittings; and

(5) Be installed with two hose clamps at each end of the hose, if designed for use with clamps. Clamps must not rely on spring tension and must be installed beyond the bead or flare or over the serrations of the mating spud, pipe, or hose fitting.

§ 28.840 Means for stopping pumps, ventilation, and machinery.

All electrically driven fuel oil transfer pumps, fuel oil unit and service pumps, and ventilation fans shall be fitted with remote controls from a readily accessible position outside of the space concerned so that they may be stopped in the event of fire occurring in the compartment in which they are located. These controls shall be suitably protected against accidental operation or tampering and shall be suitably marked.

§ 28.845 General requirements for electrical systems.

(a) Electrical equipment exposed to the weather or in a location exposed to seas must be waterproof or watertight, or enclosed in a watertight housing.

(b) Aluminum must not be used for current carrying parts of electrical equipment or wiring.

(c) As far as practicable, electrical equipment must not be installed in lockers used to store paint, oil, turpentine, or other flammable or combustible liquids. If electrical equipment, such as lighting, is necessary in these spaces, it must be explosion-proof or intrinsically safe.

(d) Explosion-proof and intrinsically safe equipment must meet the requirements of § 111.105 of this chapter.

(e) Metallic enclosures and frames of electrical equipment must be grounded.

§ 28.850 Main source of electrical power.

(a) Applicability: Each vessel that relies on electricity to power any of the following essential loads must have at least two electrical generators to supply:

(1) The propulsion system and its necessary auxiliaries and controls;

(2) Interior lighting;

(3) Steering systems;

(4) Communication systems;

(5) Navigation equipment and navigation lights;

(6) Fire protection or detection equipment;

(7) Bilge pumps; and

(8) General alarm system.

(b) Each generator must be attached to an independent prime mover.

§ 28.855 Electrical distribution systems.

(a) Each electrical distribution system which has a neutral bus or conductor must have the neutral bus or conductor grounded.

(b) A grounded electrical distribution system must have only one connection to ground. This ground connection must be at the switchboard.

§ 28.860 Overcurrent protection and switched circuits.

(a) Each power source must be protected against overcurrent. Overcurrent devices for generators must be set at a value not exceeding 115 percent of the generators full load rating.

(b) Except for a steering circuit, each circuit must be protected against both overload and short circuit. Each overcurrent device in a steering system power and control circuit must provide short circuit protection only.

(c) Each ungrounded current carrying conductor must be protected in accordance with its current carrying capacity by a circuit breaker or fuse at the connection to the switchboard or distribution panel bus.

(d) Each circuit breaker and each switch must simultaneously open all ungrounded conductors.

(e) The grounded conductor of a circuit must not be disconnected by a switch or an overcurrent device unless all ungrounded conductors of the circuit are simultaneously disconnected.

(f) Navigation light circuits must be separate, switched circuits having fused disconnect switches or circuit breakers so that only the appropriate navigation lights can be switched on.

(g) A separate circuit with overcurrent protection at the main distribution panel or switchboard must be provided for each radio installation.

§ 28.865 Wiring methods and materials.

(a) All cable and wire must have insulated, stranded copper conductors

of the appropriate size and voltage rating of the circuit.

(b) Each conductor must be No.22 AWG or larger. Conductors in power and lighting circuits must be No.14 AWG or larger. Conductors must be sized so that the voltage drop at the load terminals is not more than 10 percent.

(c) Cable and wiring not serving equipment in high risk fire areas such as a galley, laundry, or machinery space must be routed as far as practicable from these spaces. As far as practicable, cables serving duplicated essential equipment must be separated so that a casualty that affects one cable does not affect the other. Existing cables and wires may remain as routed; however, any replacement wiring, new cabling and/or alterations must be routed as specified above.

(d) No unused or dead ended cables may remain after the permanent removal or alteration of an electrical device.

(e) Cable and wire for power and lighting circuits must:

(1) For circuits of less than 50 volts, meet 33 CFR 183.425 and 183.430; and

(2) For circuits of 50 volts or greater:

(i) Meet sections 310–13 and 310–15 of NFPA 70, except that asbestos insulated cable and dry location cable must not be used;

(ii) Be listed by Underwriters Laboratories Inc. as UL Marine Boat or UL Marine Shipboard cable; or

(iii) Meet § 111.60 of this chapter.

(f) All metallic cable armor must be electrically continuous and grounded to the metal hull or the common ground point at each end of the cable run, except that final sub-circuits (those supplying loads) may be grounded at the supply end only.

(g) Wiring terminations and connections must be made in a fire retardant enclosure such as a junction box, fixture enclosure, or panel enclosure.

(h) Existing cable and wire may remain in place and continue in use as long as it is deemed serviceable to the satisfaction of Coast Guard Representative. Any new installation, replacement, modification or alteration must be done in accordance with the requirements of this section.

§ 28.870 Emergency source of electrical power.

(a) The following electrical loads must be connected to an independent emergency source of power capable of supplying all connected loads continuously for at least three hours:

(1) Navigation lights;

(2) Fire protection and detection systems;

(3) Communications equipment;

(4) General alarm system; and

(5) Emergency lighting;

(b) The emergency power source must be aft of the collision bulkhead, outside of the machinery space, and above the uppermost continuous deck.

(c) An emergency source of power supplied solely by storage battery must also meet the following requirements:

(1) Each battery must be a lead-acid or alkaline type and be able to withstand vessel pitch, vibration, roll, and exposure to a salt water atmosphere;

(2) A battery cell must not spill electrolyte when the battery is inclined at 30 degrees from the vertical;

(3) Each battery installation must be in a battery room, in a box on deck, or in a well ventilated compartment. The batteries must be protected from falling objects;

(4) Each battery tray must be secured to prevent shifting with the roll and pitch of the vessel and lined with a material that is corrosion resistant to the electrolyte of the battery;

(5) Each battery bank installation must be fitted with its own drip-proof charging system; and

(6) Each deck box used for battery storage must be weathertight, and have holes near the top to allow gas to escape.

§ 28.875 Radar, depth sounding, and autopilot.

(a) Each vessel must be fitted with a general marine radar system for surface navigation with a radar screen mounted at the operating station, and facilities on the bridge for plotting radar readings.

(b) Each vessel must be fitted with a suitable echo depth sounding device.

(c) Except as provided in 33 CFR 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that:

(1) It is possible to immediately establish manual control of the unit's steering;

(2) A competent person is ready at all times to take over steering control; and

(3) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

§ 28.880 Hydraulic equipment.

(a) Each hydraulic system must be so designed and installed that proper operation of the system is not affected by back pressure in the system.

(b) Piping and piping components must be designed with a burst pressure of not less than four times the system's maximum operating pressure.

(c) Each hydraulic system must be equipped with at least one pressure relieving device set to relieve at the system's maximum operating pressure.

(d) All material in a hydraulic system must be suitable for use with the hydraulic fluid used and must be of such chemical and physical properties as to remain ductile at the lowest operating temperature likely to be encountered by the vessel.

(e) Except for hydraulic steering equipment, controls for hydraulic equipment must be located where the operator has an unobstructed view of the hydraulic equipment and the adjacent working area. Protection shall be afforded to the operator of hydraulic equipment against falling or swinging objects and/or cargo.

(f) Controls for hydraulic equipment must be so arranged that the operator is able to quickly disengage the equipment in an emergency.

(g) Hydraulically operated machinery must be fail-safe or equipped with a holding device to prevent uncontrolled movement or sudden loss of control due to loss of hydraulic system pressure. A system is considered to be fail-safe if a component failure will result in a slow and controlled release of the load so as not to endanger personnel.

(h) Nonmetallic flexible hose assemblies must only be used between two points of relative motion, limited to the least amount of length that would afford maximum multidirectional movement of the equipment served.

(i) Hose end fittings must comply with SAE J1475, (Hydraulic Hose Fittings For Marine Applications). Field attachable fittings must be installed following the manufacturer's recommended practice (method).

(j) Nonmetallic flexible hose shall be marked with the manufacturer's name or trademark, type or catalog number and maximum allowable working pressure.

(k) Existing hydraulic piping, nonmetallic hose assemblies, and components may be continued in service so long as they are maintained in good condition to the satisfaction of the Coast Guard Representative, but all new installations, or replacements shall meet the applicable specifications or requirements of this section.

§ 28.885 Cargo gear.

(a) The safe working load (SWL) for the assembled gear shall be marked on the heel of each cargo boom, crane, or derrick. These letters and figures are to be in contrasting colors to the background and at least one inch in height. The SWL is construed to be the

load the gear is approved to lift, excluding the weight of the gear itself.

(b) All wire rope, chains, rings, hooks, links, shackles, swivels, blocks and any other loose gear used or intended to be used in cargo loading or unloading must be commensurable with the SWL rating in paragraph (a) of this section. This gear shall be visually inspected by the vessel's captain or his designee at frequent intervals, and in any event not less than once in each operating month.

(c) In addition to the inspection required in paragraph (b) of this section, a biennial thorough examination and proof load test, at a minimum of the SWL rating, shall be performed and witnessed by competent personnel. The proof load applied to the winches, booms, derricks, cranes and all associated gear shall be lifted with the ship's normal tackle with the boom or derrick at the lowest practicable angle. When the load has been lifted, it shall be swung as far as possible in both directions.

(d) After satisfactory completion of the tests and examinations required in paragraphs (b) and (c) of this section, all results and notations together with the date and location of each shall be maintained and available to Coast Guard representatives upon request.

§ 28.890 Examination and certification of compliance.

(a) At least once in every two years each ATA vessel must be examined for compliance with the regulations of this subchapter by the ABS, a similarly qualified organization, or a surveyor of an accepted organization.

(b) Each individual performing an examination under paragraph (a) of this section, upon finding the vessel to be in compliance with the requirements of this chapter, must provide a written certification of compliance to the owner or operator of the vessel.

(c) Each certification of compliance issued under paragraph (b) of this section must:

(1) Be signed by the individual that performed the examination;

(2) Include the name of the organization the individual performing the examination represents or the name of the accepted organization the individual belongs to; and

(3) State that the vessel has been examined and found to meet the specific requirements of this chapter.

(d) A certification of compliance issued under paragraph (b) of this section must be retained on board the vessel until superseded.

(e) A copy of the certification of compliance issued under paragraph (b) of this section must be forwarded by the organization under whose authority the examination was performed to the Coast Guard District Commander (Attention: Fishing Vessel Safety Coordinator) in charge of the district in which the examination took place.

§ 28.895 Survey and classification.

(a) Each vessel which undergoes a major conversion completed after July 27, 1990, must be classed by the ABS, or a similarly qualified organization.

(b) Each vessel which is classed under paragraph (a) of this section must:

(1) Have on board a certificate of class issued by the organization that classed the vessel.

(2) Meet all survey and classification requirements prescribed by the organization that classed the vessel.

§ 28.900 Loadlines.

(a) A fish tender vessel of not more than 500 gross tons, engaged in the Aleutian trade, with no load line assigned at any time prior to June 1, 1992 is not subject to the loadline provisions of 46 U.S.C. Chapter 51 if it is not on a foreign voyage and:

(1) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 12, 1980; or

(2) was converted for use as a fish tender vessel before January 1, 1983.

(b) Prior to January 1, 2003, this section does not apply to a fish tender vessel engaged in the Aleutian trade if the vessel:

(1) operated in that trade before September 8, 1990 and has not undergone a major conversion; or

(2)(i) Was purchased to be used in that trade before September 8, 1990, and entered into that service before June 1, 1992; and

(ii) Has not had a load line assigned at any time before November 16, 1990.

§ 28.905 Post accident inspection.

The owner of or master of the vessel shall ensure that a general or partial survey is performed by a Coast Guard Representative every time an accident occurs, a defect is discovered which affects the safety of the vessel or the efficacy or completeness of its lifesaving appliances, firefighting or other equipment, or whenever any repairs or alterations are made that affect the safety of the vessel. Repairs or alterations which affect the safety of the vessel include, but are not limited to: Replacement, repair, or refastening of deck or hull planking, plating, and structural members; repair of plate or frame cracks; damage repair or replacement, other than replacement in kind, of electrical wiring, fuel lines, tanks, boilers and other pressure vessels, and steering, propulsion and power supply systems; alterations affecting stability; and repair or alteration of lifesaving, fire detecting, or fire extinguishing equipment. The survey shall be such as to insure that the necessary repairs or renewals have been effectively made, that the material and the workmanship of such repairs or renewals are in all respects satisfactory, and that the vessel complies in all respects with the regulations in this part.

§ 28.910 Repairs and alterations.

Repairs or alterations which affect the safety of the vessel including repairs or alterations to the hull, machinery, or equipment, may not be made unless the owner, operator or master notifies a Coast Guard Representative. Repairs or alterations which affect the safety of the vessel include, but are not limited to, the: Replacement, repair, or refastening of deck or hull planking, plating, and structural members; repair of plate or frame cracks; damage repair or replacement, other than replacement in kind, of electrical wiring, fuel lines, tanks, boilers and other pressure vessels, and steering, propulsion and power supply systems; alterations affecting stability; and repair or alteration of lifesaving, fire detecting, or fire extinguishing equipment.

§ 28.915 Manning and crew requirements.

(a) A fish tender vessel of not more than 500 gross tons and engaged in the Aleutian trade, when at sea, shall be manned with sufficient licensed individuals and crew members to maintain at least 3 separate watches. However, if a fish tender vessel of not more than 500 gross tons is a "qualified vessel", then the licensed individuals and crew members shall be divided, when at sea, into at least 2 separate watches.

(b) Machinery spaces of a fish tender engaged in the Aleutian trade, when at sea, must be under the control of an engineer designated as in charge.

(1) This designation shall be:

(i) In writing and signed by the owner, operator or master;

(ii) Entered in the ship's log if one is maintained; or

(iii) On the emergency instructions required by § 28.265.

(2) If a vessel does not have a designated engineer as part of its complement, then it must comply with the requirements of subpart D of this part in addition to the requirements of this subpart.

(c) At least 50 percent of the members of the deck crew on a fish tender vessel

engaged in the Aleutian trade must have merchant mariners documents endorsed for a rating of at least able seaman.

Dated: September 1, 1994.

J.F. McGowan,

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

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federal register

Tuesday
September 13, 1994

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 5
Reference in Employment; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 5

RIN 1076–AD05

Preference in Employment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to amend its Preference in Employment Regulations, 25 CFR part 5, by the removal of Paragraph (e) in § 5.1 *Definitions*, which extended the application of Indian preference to persons of the Osage Tribe of Oklahoma, who were at least one-quarter degree Indian ancestry and whose rolls were closed by an act of Congress.

On January 5, 1989, paragraph (e) was extended for one additional year to give the Osage Tribe the opportunity to organize and establish current membership standards.

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

ADDRESSES: Mail or hand deliver comments to Mercedes C. Lewis, Bureau of Indian Affairs, Department of the Interior, MS 320 SIB, 1849 C St., N.W., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Mercedes C. Lewis, Division of Personnel Management, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone number (202) 208–2506.

SUPPLEMENTARY INFORMATION: Indians, as defined in the Indian Reorganization Act of June 18, 1934, receive employment preference in appointments in the Bureau of Indian Affairs. The preference conferred in 25 U.S.C. 472 must be applied in the filling of every vacant position within the Bureau of Indian Affairs, *Freeman* v. *Morton*, 499 F.2d 492 (DC Cir. 1974). The Secretary issued a final rule for the definition of "Indian" on January 17, 1978. A fifth criterion applied to the Five Civilized Tribes of Oklahoma and to the Osage Tribe whose rolls were closed by Acts of Congress and who had not as yet reorganized so as to establish current membership standards. Many such persons have received preference based on the one-quarter degree standard previously established by the Secretary. In order that they would not be deprived of that eligibility and made to meet the one-half degree standard, in 1978, the tribes were allowed 3 years, until July 17, 1981, in which to establish membership standards. Almost 13 years later, the Osage Tribe is the only remaining tribe that has not organized.

The complexities of the Osage's unique history have been described in the litigation surrounding the organization of the tribe and the authority of the Tribal Council. See *Logan* v. *Andrus*, 457 F. Supp. 1318 (D. Okla., 1978), *affirmed* 640 F.2d 269 (10th Cir. 1981). It is apparent that the Osages have a uniquely difficult task in organizing, since they are the only tribe which is excluded from organizing under the provisions of the Indian Reorganization Act and the Oklahoma Indian Welfare Act. Also, the Secretary's regulations under the 1906 Osage Allotment Act permit only Osage headright holders to vote for the tribal council.

On October 4, 1984, the Bureau of Indian Affairs published a final rule (49 FR 39157) to amend 25 CFR Part 5, Preference in Employment. Paragraph (e) of § 5.1 specified the date of October 4, 1985, as the final date for making appointments of persons of one-quarter degree Indian ancestry. On September 15, 1986, the Bureau of Indian Affairs published a final rule (51 FR 32632) to revise 25 CFR Part 5, Preference in Employment. Paragraph (e) of § 5.1 of this part specified the date of September 15, 1988, as the final date for making appointments of persons of one-quarter degree Indian ancestry. The last final rule published (54 FR 282, January 5, 1989), extended Paragraph (e) of § 5.1 to January 5, 1990. Paragraph (e) of § 5.1 has expired and should be removed.

Osage Tribal persons who are employed by the Bureau of Indian Affairs and who received preference in any previous appointment will continue to be preference eligible so long as they are continuously employed. However, Osage tribal members who are seeking Federal employment must now meet category (c) of § 5.1 of this part.

The primary author of this document is Mercedes Lewis, Supervisory Personnel Staffing Specialist, Division of Personnel Management, Bureau of Indian Affairs, telephone number, (202) 208–2506.

This is not a significant regulatory action under Executive Order 12866 and therefore will not require a review by the Office of Management and Budget.

This rule 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.). This rule involves potential Osage Tribal members only, who would be seeking Federal employment in the BIA. There is no other tribe affected.

The information collection requirements contained in this rule do not require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding the proposed rule to the locations identified in the **ADDRESSES** section of this document.

Civil Justice Reform (E.O. 12778)

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

Takings Implication Assessments

In accordance with E.O. 12630, the Department has determined that this rule does not have significant takings implications.

Federalism Assessment (E.O. 12612)

The Department has determined that this rule does not have significant federalism effects.

NEPA Statement

The Department of the Interior has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

List of Subjects in 25 CFR Part 5

Employment, Government employees, Indians.

For the reasons set out in the preamble, Part 5 of Title 25, Chapter I of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 5—PREFERENCE IN EMPLOYMENT

1. The authority citation for Part 5 is revised to read as follows:

Authority: 25 U.S.C. 43; 25 U.S.C. 46; 25 U.S.C. 44; 25 U.S.C. 348; and 25 U.S.C. 472 and 479.

2. In Section 5.1 paragraph (e) is removed.

Dated: August 11, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–22516 Filed 9–12–94; 8:45 am]

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federal register

Tuesday
September 13, 1994

Part V

Environmental Protection Agency

Protection of Stratospheric Ozone; Labeling; Petitions for Exemption; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5070–8]

Protection of Stratospheric Ozone; Labeling; Petitions for Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice for proposed decision.

SUMMARY: On February 11, 1993, the U.S. Environmental Protection Agency (EPA) published the final labeling regulations implementing section 611 of the Clean Air Act (CAA), as amended by the Clean Air Act Amendments (CAAA) of 1990. The regulations include a section which permits a manufacturer to petition EPA to temporarily exempt a product manufactured with a class I substance from the labeling requirements. The company must prove that there are no substitutes that: do not rely on the use of a class I substance; reduce the overall risk to human health and the environment; and, are currently or potentially available. Through this action, EPA proposes to grant petitions for such exemptions for the two specific applications of products manufactured with class I substances described below, because substitutes that do not rely on the use of class I substances and reduce the overall risk to human health and the environment are neither potentially nor currently available. The effect of this action will be to provide the extensions necessary for these two petitioners to develop potentially available substitutes.

ADDRESSES: Copies of information relevant to these petitions are available for inspection in public docket A–91–60 at the Air Docket (LE–131) of the EPA, room M–1500, 401 M Street, SW., Washington, DC 20460 between the hours of 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. Monday through Friday.

Any comments, in duplicate, from interested parties should be addressed to the docket with a copy forwarded to Mavis Sanders, Stratospheric Protection Division (6205–J), Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mavis Sanders, Stratospheric Protection Division (6205–J), Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 233–9737.

SUPPLEMENTARY INFORMATION:

I. Background

Section 611 of the Clean Air Act, as amended, requires EPA to promulgate regulations requiring labeling of products manufactured with, and products and containers containing, ozone-depleting substances. On February 11, 1993 at 58 FR 8136, EPA published the final regulations at 40 CFR part 82, subpart E (40 CFR 82.100 *et seq*). Section 82.120 of the final labeling regulations (40 CFR 82.120), states that a company may petition EPA to temporarily exempt a product manufactured with a class I substance. To get the exemption, the company must prove that there are no substitutes that: (1) Do not rely on the use of a class I substance; (2) reduce the overall risk to human health and the environment; and (3) are currently or potentially available. In the regulations, EPA defines "potentially available" to mean that adequate information exists to support a determination that a substitute for a class I substance is environmentally acceptable, economically viable, and technologically feasible.

The petition provision allows the Agency to exempt products manufactured with class I substances from the labeling requirements where a company shows that it has been unsuccessful in identifying a commercially or potentially available alternative substance or manufacturing process for its current use of the class I substance and where the Agency finds that no such alternative substance or process is "potentially available." The two petitions claimed that alternatives were not "potentially available" at this time. In one case, the argument was made that additional time is required in order to accommodate an extensive evaluation and approval process required by another Federal entity; and, in the other case, implementation of possible substitutes/manufacturing processes remain uncertain, requiring additional development of the possible alternative process before full-scale construction of three new manufacturing facilities can begin.

As part of the petition review process, EPA developed criteria by which to evaluate the submissions. Unlike the Significant New Alternatives Policy Program (SNAP) petitions naming acceptable substitutes for eight sectors of industry submitted under section 612 of the CAA, the petitions submitted under section 611 are reviewed on a case-by-case basis with careful attention given to each application of a class I substance in a manufacturing process. The Agency considered all of the factors below in determining whether to accept or reject a petition with regard to the technological feasibility and the environmental acceptability of a substitute.

In evaluating technological feasibility, EPA considers when the company first began investigating alternative substances or processes to replace their uses of class I substances; EPA's knowledge about the product/manufacturing process and possible substitutes; whether parallel manufacturers of similar products have come up with substitutes; whether a timeline has been developed for implementation of a substitute, including research and development of a substitute process where applicable; and, whether the timeline seems reasonable where no substitute is commercially available. In addition, the Agency considers a company's constraints (technology, other Federal requirements, etc.) in order to determine whether a change is within the control of the company; whether a company is able to state what it must specifically do to implement the substitute; whether training and procurement of equipment and manufacturing materials are accessible; what measures have been taken to understand and solve the "unknowns;" whether vendors exist that can meet the product's manufacturing needs; and whether the company has discussed its manufacturing needs with these vendors.

In evaluating environmental acceptability, EPA considers whether a substitute is environmentally implementable in terms of the available technology.

In general these criteria were considered collectively. However, EPA believes that for most companies, implementation of an alternative, whether it be a drop-in replacement or a complete overhaul of the production process, often entails significant cost and time constraints. EPA recognizes that companies need lead time in establishing a labeling program or installing an alternative technology where companies have chosen to switch from a class I substance to a substitute in order to comply with the regulations. Companies that have not implemented a substitute are required to label their products until they have implemented a substitute. Therefore, where a company's early efforts to replace its uses of controlled substances are prevented through *unavoidable* obstacles beyond its control, such as a required Federal review or permit program, or where a substitute requires

additional development through testing due to unknown or unavoidable impediments, EPA has placed greater weight on such circumstances in developing its determinations, because the ability of a company to switch to an alternative is seriously hampered by circumstances outside of its control.

EPA emphasizes that its process of evaluating a company's request for exemption from the labeling requirements is a different review process from the essential use exemption authorized by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Parties) and could well reach different conclusions. Under the Montreal Protocol process, member countries can put forth nominations for essential use exemptions that would allow for continued production of ozone-depleting substances after the production phaseout, to be used in an application for which there are no suitable substitutes. The Parties receive and review these applications individually and may decide to grant particular exemption requests. If the Parties agree that a particular applications is essential, additional production of an ozone-depleting substance will be authorized for that particular application after the phaseout has taken effect.

EPA published a notice in the **Federal Register** on May 20, 1993 (58 FR 29410), requesting essential use nominations for CFCs, carbon tetrachloride, methyl chloroform and HBFCs by July 19, 1993. The Agency requested nominations for essential uses of halons on February 12, 1993 (58 FR 6788). Companies nominated their specific applications of a controlled substance to receive an exemption from the production and consumption phaseout schedule. These nominations are reviewed first by EPA and then by the Montreal Protocol Parties. The Parties recognized the need for such exemptions because of the accelerated phaseout dates. Exemptions, if any, will be granted at the Sixth Meeting of the Parties, which may be held as early as June 1994. Nominations for halon essential uses will be considered earlier since halons are subject to an even more rapid phaseout schedule. Nominations for essential uses will continue to be considered each year at subsequent meetings of the Parties; thus, companies will have additional opportunities to request an essential use exemption in the future. The process will entail a rigorous international review process, which is described in Decision IV/25 of the Fourth Meeting of the Protocol. Therefore, if a company requests a temporary exemption from the labeling requirements through § 82.120 of the labeling regulations, and also wishes to request an exemption for use of controlled substances beyond the phaseout date, the company must separately nominate its use for an essential use exemption to EPA.

II. Petitions for Exemption

Today, EPA proposes to accept two petitions. The first petition, submitted by the Upjohn Company (Upjohn), contends that Upjohn has a substitute for its use of CFC–12 as a sterilant; however, a review and evaluation period is required by the Food and Drug Administration (FDA) before the alternative can be approved and then implemented. The company therefore contends that a substitute is not potentially available until the FDA review is completed. EPA is proposing to grant this exemption until August 31, 1994.

The other petition, submitted by the E.I. DuPont de Nemours & Co. (DuPont), is classified as confidential business information and thus, EPA cannot disclose the name of its product. (Dupont has produced a petition containing nonconfidential information that has been placed into the docket). This product, which consists of certain fine synthetic fibers, uses CFC–11 as a basic process solvent in the fiber manufacturing process. Although Dupont has identified a possible substitute, it must develop, implement and test a major process change to replace the existing manufacturing facilities. Therefore, Dupont contends that a substitute is not potentially available until this process has been identified and current facilities have been successfully modified to ensure that this alternative can in fact be accommodated.

A. The Upjohn Company

The Upjohn Company (Upjohn) submitted a petition to exempt six of its pharmaceutical products that are currently sterilized using CFC–12 from the labeling requirements. The products are Hydrocortisone, Isoflupredone Acetate, Methylprednisolone acetate, Medroxyprogesterone acetate, Neomycin Sulfate and Prednisolone Hydrous USP. The company has submitted a request to the Food and Drug Administration (FDA) to accept Spectinomycin Hydrochloride, a non-ozone-depleting substance, as a replacement for CFC–12. The alternative is currently used by Upjohn to sterilize some of its other products; however, FDA review and evaluation is required before it can make a change. Therefore, Upjohn is submitting this petition based on the premise that the above mentioned products are not currently or potentially available until FDA approval is obtained. There are no environmental concerns identified with this substitution; the company clearly has an alternative which it has instituted in other applications and requires additional time before it can use the substitute in the above applications.

Without an exemption, the company asserts that it would be required to label the five products until FDA concludes its review, which would result in a substantial financial loss with little if any environmental benefit. The company also maintains that by labeling its five products while FDA reviews their submission, users could become confused by the warning statement and could decide to discontinue use of the products against the advice of their physicians. Upjohn indicates that such an outcome could result in increased absenteeism from work and potentially severe negative health effects and expenses incurred by society.

B. DuPont

DuPont currently manufactures a fine synthetic fiber using a chlorofluorocarbon (CFC–11). DuPont began searching for an alternative in 1987 and initiated a research and development (R&D) program to find an alternative substance for the CFC–11. The R&D program was comprised of the following activities: identifying all non-CFC candidates for replacements; acquiring or fabricating (where none were commercially available) all potential candidates for testing; conducting tests to ascertain that each candidate possessed the desired properties; further evaluating those which passed the initial tests in laboratory reviews; performing additional examinations once the candidates passed the laboratory tests; then performing testing to determine the acceptability of the test product. For six years, DuPont has researched over 100 potential candidates which hold specific properties required for production of the fiber. This search has included all reasonable chemical classes including (but not limited to): HCFCs, HFCs, perfluorinated hydrocarbons, alcohols, and amines. After consideration of these and other potential alternatives, Dupont determined that no drop-in or replacement compound (i.e. a substitute that does not require retrofitting of equipment) for the current manufacturing process was possible. Dupont identified only one or two possible replacement candidates, which

will require complete testing and development and which, even if successful, will require specially designed and engineered new production facilities. All of the unsuccessful replacement candidates failed to possess at least one of the physical and chemical properties needed in the manufacturing process. The critical properties include corrosion characteristics, critical temperature, toxicity, boiling point and ozone depletion potential. Moreover, use of the possible non-CFC replacement at the current manufacturing facilities is not compatible with the existing plant process and permits, as well as OSHA and other safety code restrictions. Thus, testing of any non-CFC replacement must occur at new specially designed and engineered facilities.

Although a candidate substance has been identified as a possible substitute, Dupont continues to face various technical difficulties in implementing a new process change. Once a substitute is identified as a possible replacement, pilot testing of the candidate in a smaller version of a large-scale production facility, the preparation of the design of the larger facilities, and construction of the plants must ensue in order for the alternative to be tested for large scale production. DuPont has obtained the necessary local, state and Federal operating permits and general approval from the appropriate environmental authorities to design, construct and test the pilot plant which will further verify the production technology and equipment, the new process, and establish new procedures and practices for the facility operators. In May 1993, this specially engineered and constructed pilot plant was constructed.

DuPont indicates that it will spend millions of dollars over the next several years for implementation and production trials in the new facilities. Two years of development activities are planned for the pilot facility in order to test and refine the manufacturing process. The plant continues to be modified as the need for technical adjustments arise from the trial runs. This occurs simultaneously with the design of the first facility, selection of a contractor and construction of the facility. There will be additional actions required to prepare for the first round of commercial production trials once the facility is built. DuPont will need to certify that each end use for the new fiber product meets the standards of each customer base, including industry, local, state, and Federal standards. The standards vary, requiring distinct examinations in order to determine whether for each end use, the product is capable of the same performance standards as the product made with a CFC. In addition, personnel require retraining, a new workforce is necessary to carry out the tests for product standards and certifications, and process control systems need monitoring.

DuPont contends that until all of the plants have been constructed, fully evaluated for their productability, and full-scale production of the saleable fiber product has been initiated following completion of the standards testing, no substitute is potentially available. Because of these various technical difficulties in design, and process changes to accommodate further investigation of the potential alternative, the Agency concurs that Dupont has subsequently shown that an alternative is neither potentially nor currently available.

Although DuPont estimates it will be unable to meet the global demand for its product by the end of 1996, the substitute would then be considered to be potentially available, as some of the plants will have undergone equipment quality checks and production tests and begun producing the product.

III. Proposed Decisions

EPA proposes to accept these two petitions for temporary exemptions from the labeling requirements until the dates specified by the petitioners. No company may exceed its deadline without first obtaining approval by the EPA. If the need for an additional extension is required by either company, an addendum to the petition must be submitted to the Agency requesting an extension.

A. Upjohn

EPA believes that in this case, the alternative identified in the petition is neither potentially nor currently available, due to additional Federal requirements regarding approval or disapproval of the substitute, which preclude the company from implementing the change until after a determination under such requirements is made. The circumstances are outside of the company's control. Absent the FDA requirements, Upjohn would be able to introduce the alternative substance to its sterilizing operation. This proposed determination is consistent with regulations implementing section 610 of the Clean Air Act Amendments of 1990 which state that companies seeking Federal approval of substitute chemicals or reformulations may receive a temporary exemption (ninety days) from the product ban requirements (58 FR 69667). In those regulations, EPA recognized that other Federal approval processes can be time-consuming and beyond the control of the manufacturer. Until approval is obtained, a substitute is not potentially available. EPA maintains that it would be inappropriate for the federal government to deny a manufacturer a temporary exemption from the labeling regulations while at the same time preventing them from implementing a substitute pending receipt of a required Federal approval for their alternative substance or process.

B. DuPont

EPA believes that DuPont's request for a temporary exemption from the labeling requirements is appropriate given the task and the uncertainties it has encountered and continues to face in developing a substitute and implementing a major process change to replace an existing system that currently depends on the use of a CFC. DuPont contends that its alternative process is not potentially available until the company is certain that the alternative process works in its facilities. In order for the company to ensure that large scale production is possible, it must first construct new facilities, test the functioning of the new systems and perform full scale production tests. Until production tests are completed in these facilities, due to significant differences in technical design, no substitutes are potentially available. DuPont indicates that current problems it is experiencing with the pilot facility are due to unanticipated and unknown factors, requiring delays in testing of the new design until the problems are resolved and the necessary modifications are made to the system. However, as the new system is undergoing the required tests, DuPont is constructing its new facilities. The designs of the facilities are based solely on the results of the trials at the pilot facility, rather than on existing designs, thereby creating unknown obstacles which can significantly impede the company's switch to an alternative process.

EPA believes that a substitute process is not potentially available for the fiber product, which currently depends on a process that uses a CFC, until the company can be reasonably assured that its new systems actually work with the candidate substitute and can produce a product that meets the company's and its customers' quality standards in a large scale production process. While EPA believes that this waiver should be granted until January 1, 1996, EPA

would like any information on whether extending the waiver to this January 1, 1996 is appropriate.

IV. Changes to the Conditions of the Petition

EPA proposes to establish provisions to ensure that petitioners meet the conditions agreed upon in a petition exemption. Companies that receive a temporary exemption from the labeling requirements must notify EPA if the agreed-upon conditions of the exemption change in any way, such as a modification in a Federal entity's schedule for evaluation, slippage in a company's implementation of an alternative substance or process, or a shift in corporate priorities. Failure to notify the Agency of such changes to the agreement will result in the Agency's withdrawal of the exemption.

V. Statutory Authority

Authority for the action proposed in this notice is section 611(e) of the Clean Air Act, as amended (42 U.S.C. 7625–1(a)(1)).

VI. Administrative Designation and Regulatory Analysis

Under Executive Order (EO) 12866, the Agency must judge whether a regulation is "significant" and thus subject to OMB review. The decision proposed today is not a regulation, rule or significant regulatory action, as defined in EO 12866; therefore, no OMB review is necessary.

VII. Impact on Small Entities

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever the Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact on small entities. Since today's proposed decision does not have a significant impact on a substantial number of small entities, no regulatory flexibility analysis has been prepared.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Dated: September 6, 1994.

Mary D. Nichols,

Assistant Administrator.

[FR Doc. 94–22586 Filed 9–12–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
September 13, 1994

Part VI

Office of the United States Trade Representative

President's Advisory Committee for Trade Policy and Negotiations; Notice

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

President's Advisory Committee for Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of closed meeting. The September 13, 1994 meeting of the President's Advisory Committee for Trade Policy (ACTPN) will be closed to the public.

SUMMARY: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

DATES: The meeting is scheduled for September 13, 1994, unless otherwise notified.

ADDRESSES: The meeting will be held at the United States Trade Representative from 10:00 am to 12:00 noon unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Michaelle Burstin, Director of Public Liaison, Office of the United States Trade Representative, Executive Office of the President at (202) 395–6120.

Michael Kantor,

United States Trade Representative.

[FR Doc. 94–22822 Filed 9–12–94; 10:49 am]

BILLING CODE 3190–01–M

federal register

Tuesday
September 13, 1994

Part VII

The President

Proclamation 6717—National Gang Violence Prevention Week, 1994

Federal Register
Vol. 59, No. 176
Tuesday, September 13, 1994

Presidential Documents

Title 3—

The President

Proclamation 6717 of September 10, 1994

National Gang Violence Prevention Week, 1994

By the President of the United States of America

A Proclamation

Robert Sandifer was 8 years old the first time he was arrested by police. He was 11 years old when he died, a victim, police believe, of a gang-related killing. He was also suspected of killing Shavon Dean, an innocent victim of an earlier gang-related shooting. In Shavon and Robert's hometown, the number of gang homicides has nearly tripled since 1980. And in neighborhoods across America, too many mothers and fathers have experienced the anguish of losing a child to the meanness of the streets. For them and for all of us, it is past time to end the violence.

At younger and younger ages, boys and girls are turning to gangs. For a child without an involved family, a gang offers a feeling of belonging. For a young person without options for tomorrow, a gang offers a sense of purpose. For all those born in a home cordoned off against danger, with bars on the windows and chains on the doors, life on the streets seems all too often a taste of freedom they have never known. But American freedom is better than that. We know this. We see freedom at work every day in the determined faces of parents striving to make a better life for themselves and their children. And we see it every day in big cities and small towns across the country as Americans come together to put the spirit of community to work.

Confronted with the horror of children planning their own funerals, our Nation has begun planning for the future. Our first, best hope is in the common cause of those around us. A community that shares life's experiences can be an important source of strength and understanding in a world that seems filled with growing violence and diminishing hope. Families and communities are coming together across the country to bring hope to even our most troubled youth. In Birmingham, Alabama, where police officers are sponsoring athletic teams and tutoring programs in 52 neighborhoods, youth crime has dropped by 30 percent. In Los Angeles, teachers and sheriffs are working in teams to show kids alternative methods of resolving conflicts, encouraging them to develop a sense of self-worth apart from gangs. The 1994 crime bill seeks to provide grassroots programs like these the resources they need to push forward in their efforts and to succeed in their fight.

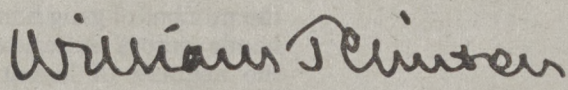
In an invaluable victory for citizens across the country, the Congress passed, and I will soon sign, a crime bill that is designed to save the lives of children like Shavon and Robert. This path-breaking legislation will punish hardened young criminals by requiring stronger penalties, and it will expand the use of community boot camps, drug courts, and other alternative sanctions to stop first-time offenders from beginning a lifetime of crime. It bans 19 of the deadliest assault weapons, and it goes a long way toward keeping guns out of the hands of juveniles. With strong measures of discipline and training, drug treatment and education, this bill takes on the sickness of gangs and drugs and gives our young people a new chance at life. Ours is important work: It is about trying to save a generation of children and to secure the future life of a country. It is a job we can surely do.

Ours remains the greatest Nation the world has ever known because we have not shied away from challenges. Rather, we have consistently sought

to surmount them. The problem of gang violence is among the most profound we as a people have ever faced. We must respect our young people enough to give them a positive choice for the future. We must take responsibility for teaching them to choose what is right. The solutions are within our reach. The power to change America is within ourselves. Together, we must work to redeem the promise that every young life holds.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 12 through September 16, 1994, as "National Gang Violence Prevention Week." I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of September, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.



[FR Doc. 94–22846
Filed 9–12–94; 11:41 am]
Billing code 3195–01–P

Editorial note: For the President's remarks deploring gang violence during his radio address, see issue 37 of the *Weekly Compilation of Presidential Documents.*

Federal Register

Tuesday
September 13, 1994

Part VIII

Executive Office of the President

Policy Dialog Advisory Committee to Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles; Establishment and Open Meeting

EXECUTIVE OFFICE OF THE PRESIDENT

Establishment and Open Meeting of Policy Dialog Advisory Committee to Assist in the Development of Measures to Significantly Reduce Greenhouse Gas Emissions From Personal Motor Vehicles

AGENCY: Executive Office of the President.

ACTION: First Meeting of Policy Dialog Advisory Committee.

SUMMARY: The Executive Office of the President has established a Policy Dialog Advisory Committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles. This committee has been authorized under the President's Climate Change Action Plan and Presidential Review Directive NEC–1. Pursuant to section 9(c) of the Federal Advisory Committee Act (FACA, 5 U.S.C. App. 2, sec. 9(c)), a copy of the Committee Charter has been filed with the Administrator of General Services and with the Library of Congress.

The first meeting of this committee will be held on September 28 and 29, 1994. The purposes of the meeting is to discuss the charge to the committee as stated in the Committee Charter, consider information pertaining to the scope and purpose of the committee and how the committee will operate, develop a schedule for committee deliberations and reports, and begin discussion of issues the committee will address. The committee meeting is open to the public without need for advance registration.

DATES: The committee will meet on September 28, 1994 from 8:15 a.m. to 6 p.m., and on September 29, 1994 from 8:30 a.m. to 5 p.m.

ADDRESSES: The September 28 portion of the meeting will be held in room 2230 at the United States Department of Transportation, 400 7th Street, SW., Washington, DC. The September 29 portion of the meeting will be held at the White House Conference Center, 726 Jackson Place, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For information pertaining to the substantive issues to be dealt with by the advisory committee, contact: Ellen Seidman, Special Assistant to the President for Economic Policy, Washington, DC 20500, phone (202) 456–2802, fax (202) 456–2223; Henry Kelly, Assistant Director for Technology, Office of Science and Technology Policy, phone (202) 456–6034, fax (202) 456–6023; Wesley Warren, Associate Director, Office on Environmental Policy, phone (202) 456–6224, fax (202) 456–2710; or Alan Krupnick, Senior Economist, Council of Economic Advisors, phone (202) 395–5012, fax (202) 395–6853. For information pertaining to the establishment of the advisory committee and associated administrative matters contact: Deborah Dalton, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, phone (202) 260–5495.

SUPPLEMENTARY INFORMATION:

I. Background

On April 14, 1994, the Executive Office of the President published in the **Federal Register** a notice of intent to form a 30-member policy dialog advisory committee to assist in the development of measures to significantly reduce greenhouse gas emissions from personal motor vehicles. That notice set forth the purpose of the committee and its goals, and asked for suggestions from the public for members of the committee. The period for public comment in response to the notice ended May 4, 1994. Over 160 comments, suggesting more than 170 potential committee members, were submitted in response to the notice.

As set forth in the April 14, 1994 notice, the policy dialog arises out of the President's Climate Change Action Plan, issued in October 1993. The committee will develop recommendations on the sets of policies that would, if adopted, most cost-effectively obtain a return to 1990 levels of greenhouse gas emissions from personal motor vehicles by the years 2005, 2015 and 2025, with no upturn thereafter. This framework of achievement of 1990 emissions levels in three alternative years is intended to focus the issues and the recommendations to be considered by the committee. Decisions on the amount and timing of reductions in greenhouse gas emissions from personal motor vehicles, and the policies to attain them, remain the responsibility of the federal government. The Administration has stated that it is committed to significant reductions in greenhouse gas emissions from personal motor vehicles.

The committee will, as stated in the April 14, 1994 notice, include representatives from state and local governments; the automobile industry and related parties; labor; transportation fuels; and public interest groups, including the driving public. Thirty individuals have been tentatively selected to be members of the committee, though any formal appointments will be subject to final checks on availability and other issues. It is contemplated that these checks will be completed prior to the committee's first meeting on September 28. Announcement of the full committee membership will be made as soon as all members are appointed.

II. Schedule for the Committee's Work

The Committee Charter provides that the committee's work shall be completed, and its report issued, within one year of its first meeting, unless such period is extended by the President. The Charter also provides that the committee shall issue an interim report not later than six months after the date of its first meeting.

III. Committee Procedures

The following procedures and guidelines shall apply to the committee unless they are modified by the committee.

A. Facilitator

The committee shall be chaired by a neutral facilitator. Suzanne Orenstein, of Resolve, Inc., has been retained by the federal government to perform this function. The facilitator will not take positions about substantive outcomes of the committee's work. The facilitator's role is to chair committee meetings, help the committee process run smoothly, and help participants define and reach consensus.

B. Support for Agreement

The committee is charged to work toward a set of consensus policy options that committee members can, for the foreseeable future, support individually and on behalf of the constituencies they represent.

C. Meetings

Meetings will be held in Washington, DC and at other locations at the convenience of the committee. The Executive Office of the President will announce committee meetings in the **Federal Register** in accordance with the FACA. Such meetings will be open to the public as provided in and subject to the provisions of the FACA.

D. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for committee meetings which they consider most appropriate.

E. Use of Electronic Communications

Subject to the further decision of the committee, the committee's agendas, meeting summaries and related items

will be available to the public through the Technology Transfer Network of the Office of Air Quality Planning & Standards of the Environmental Protection Agency. The public may also communicate with the committee and the facilitator through this facility. The system will be able to be accessed electronically (for modems up to 14,400 bps) starting October 10, 1994, by calling (919) 541–5742. Help in accessing the system can be obtained by calling (919) 541–5384 between 1:00 and 5:00 Eastern Daylight Savings Time. Neither of these numbers is a toll-free number

F. Record of Meetings

A record will be kept of all advisory committee meetings. This record will be placed in EPA Air Docket #A–94–24, and will be available in the EPA Reading Room and on the Technology Transfer Network.

Dated: September 12, 1994.

W. Bowman Cutter,

Deputy Assistant to the President for Economic Policy.

John H. Gibbons,

Director, Office of Science and Technology Policy.

Kathleen A. McGinty,

Director, Office on Environmental Policy.

[FR Doc. 94–22873 Filed 9–12–94; 1:27 pm]

BILLING CODE 3195–01–M

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Vol. 59, No. 176

Tuesday, September 13, 1994

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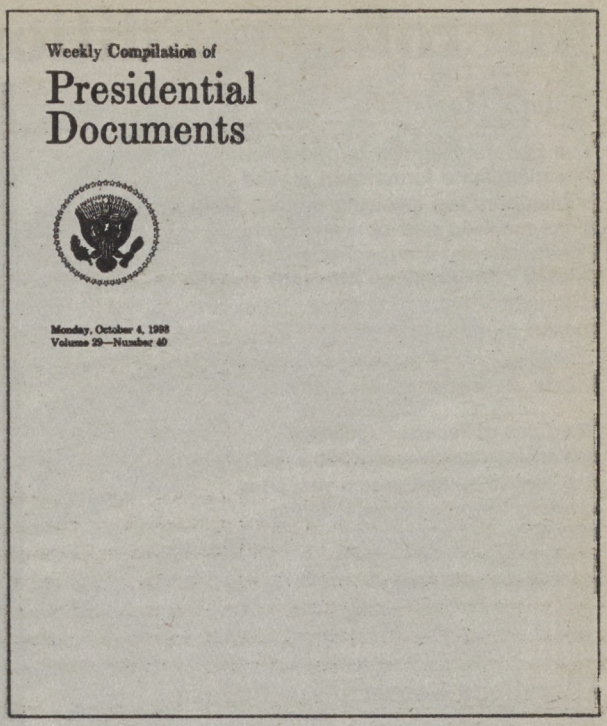
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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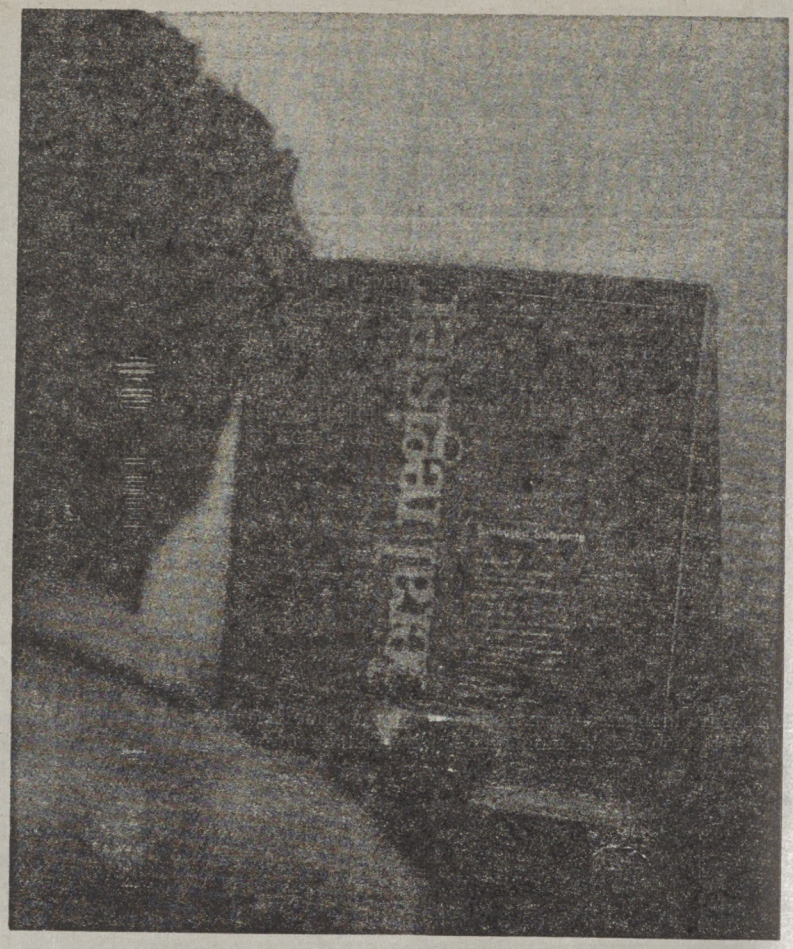
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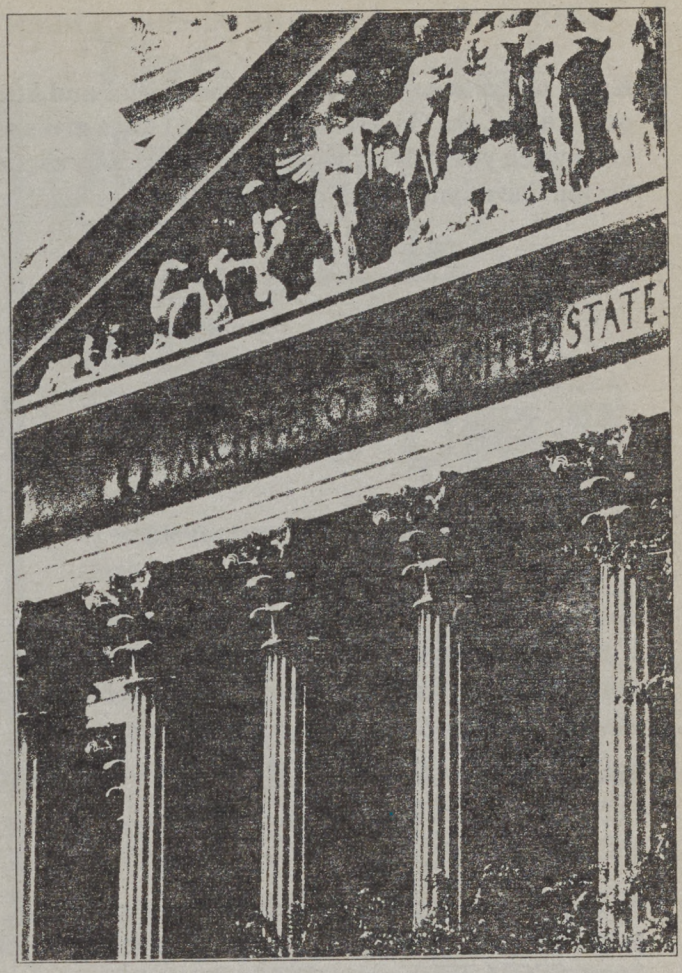
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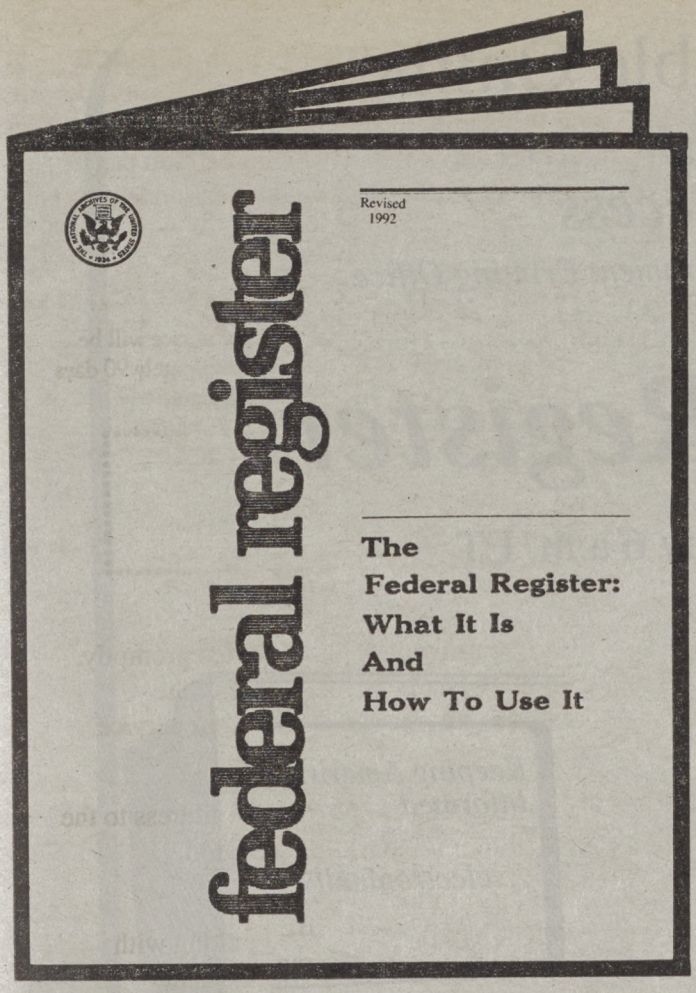
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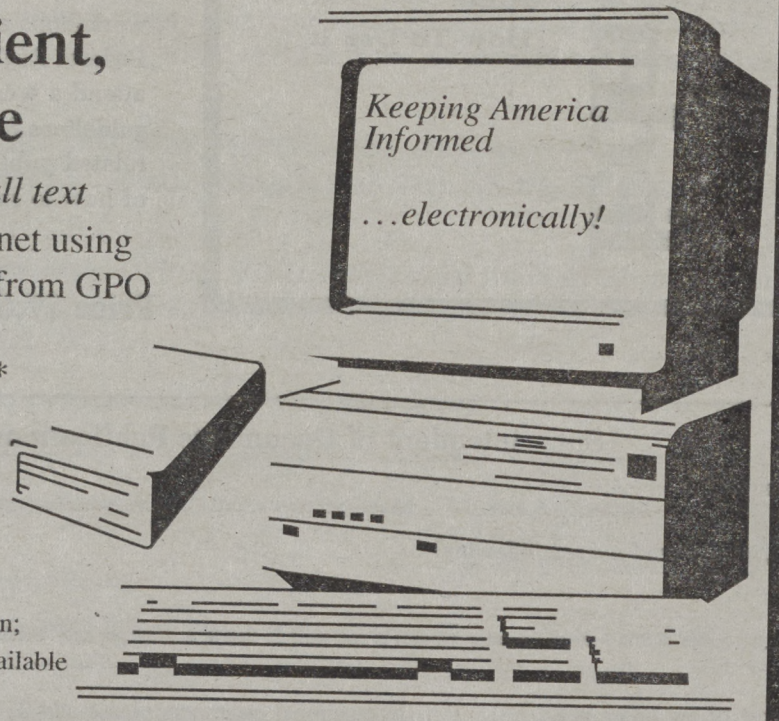
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