6–30–94
Vol. 59 No. 125

federal register

Thursday
June 30, 1994

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

OFFICIAL BUSINESS
Penalty for private use, $300

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

6–30–94
Vol. 59 No. 125
Pages 33641–33896

Thursday
June 30, 1994

Federal Register

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

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

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

The **Federal Register** is published in paper, 24x microfiche and as an online database through *GPO Access,* a service of the U.S. Government Printing Office. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. It is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. The annual subscription fee for a single workstation is $375. Six-month subscriptions are available for $200 and one month of access can be purchased for $35. Discounts are available for multiple-workstation subscriptions. To subscribe, Internet users should telnet to wais.access.gpo.gov and login as newuser (all lower case); no password is required. Dial in users should use communications software and modem to call (202) 512–1661 and login as wais (all lower case); no password is required; at the second login prompt, login as newuser (all lower case); no password is required. Follow the instructions on the screen to register for a subscription for the **Federal Register** Online via *GPO Access*. For assistance, contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids.gpo.gov, or a fax to (202) 512–1262, or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $444, or $490 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $403. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $6.00 for each issue, or $6.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 59 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Assistance with public subscriptions	512–2303

Online:

Telnet wais.access.gpo.gov, login as newuser <enter>, no password <enter>; or use a modem to call (202) 512–1661, login as wais, no password <enter>, at the second login as newuser <enter>, no password <enter>.

Assistance with online subscriptions	202–512–1530

Single copies/back copies:

Paper or fiche	783–3238
Assistance with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

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

Contents

Federal Register

Vol. 59, No. 125

Thursday, June 30, 1994

Separate Parts In This Issue

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 59, No. 125
Thursday, June 30, 1994

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1627

Service of Process Upon the Resolution Trust Corporation

CFR Correction

In title 7 of the Code of Federal Regulations, parts 1500 to 1899, revised as of January 1, 1994, on page 41 remove the entry for part 1627, and on page 50 remove part 1627 in its entirety.

BILLING CODE 1505-01-D

Food Safety and Inspection Service

9 CFR Parts 318, 319, 325 and 381

[Docket No. 90-010F]

Incorporation by Reference; Updating of Text

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat and poultry products inspection regulations to update references to the "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)" Book of Methods. The 15th edition of this AOAC publication was published in 1990, after its previous incorporation by reference in certain sections of the Federal meat and poultry products inspection regulations. The AOAC's page numbers have changed and therefore the citations in the Federal meat and poultry products inspection regulations also need to be changed. To make it easier for the reader to find the referenced analytical methods in past editions and the current edition of this AOAC publication, the new citations in the regulations reflect the chapters where the referenced methods can be found in this AOAC publication, rather than the page numbers.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-7163.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12778

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

Effect on Small Entities

The Administrator, FSIS, has determined that this final 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). This final rule updates references to a publication previously approved for incorporation by reference and changes cites for referenced analytical methods from page numbers to chapters.

Background

Title 1 of the Code of Federal Regulations (1 CFR Part 51) requires that an Agency seeking approval of a change to a publication that is approved for incorporation by reference in the Code of Federal Regulations publish notice of the change in the **Federal Register** and amend the Code of Federal Regulations. The Agency must also ensure that a copy of the amendment or revision is on file at the Office of the Federal Register and notify the Director of the Federal Register in writing that the change is being made.

The 15th edition of the AOAC's "Book of Methods" for various kinds of chemical analyses was published in 1990. Certain sections of the Federal meat and poultry products inspection regulations containing references to this AOAC publication refer the reader to page numbers in the previous edition. Therefore, these page numbers are not accurate for the current edition of this AOAC publication. Also, some methods included in the 15th edition are not fully set out in it, but are included only by reference to previous editions. Such methods can be found in their entirety in the 10th, 11th, 12th, 13th and/or 14th editions, which are not obsolete and should not be destroyed.

To make it easier for the reader to find the referenced analytical methods in past editions and the current edition of this AOAC publication, FSIS is amending its regulations to cite the chapters, rather than the page numbers, where the referenced AOAC analytical methods can be found in any edition of this AOAC publication.

This publication has been previously approved for incorporation by reference. Therefore, it is found upon good cause that public participation in this rulemaking procedure is impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the **Federal Register** (5 U.S.C. 553). A copy of the 1990 edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists" is on file at the Office of the Federal Register. Copies of this publication may be purchased directly from the AOAC at the address noted below.[1]

List of Subjects

9 CFR Part 318

Accredited laboratory program, Cured pork products, Incorporation by reference, Meat inspection.

9 CFR Part 319

Incorporation by reference, Food labeling, Margarine and oleomargarine, Meat and meat food products, Meat inspection, Mechanically separated (species), Standards of identity or composition.

[1] Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.

9 CFR Part 325

Incorporation by reference, Denaturing procedures, Meat inspection.

9 CFR Part 381

Accredited laboratory program, Incorporation by reference, Poultry products inspection.

For the reasons set out in the preamble, 9 CFR parts 318, 319, 325, and 381 are amended as set forth below.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 318.19(b) is amended by adding two sentences after the first sentence and moving and revising footnote number 1 to read as follows:

§ 318.19 Compliance procedure for cured pork products.

* * * * *

(b) *Normal Compliance Procedures.* * * * Analyses shall be conducted in accordance with the "Official Methods of Analysis of the Association of Official Analytical Chemists §§ 950.46 and 928.08 (Chapter 39).[2] The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.* * *

* * * * *

3. Section 318.21(a) is amended by revising the definition of ADAC methods and the footnote as follows:

§ 318.21 Accreditation of chemistry laboratories.

(a) * * *

AOAC methods—Methods of chemical analysis, Chapter 39, Association of Official Analytical Chemists (AOAC), published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990.[1] The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

4. Section 318.21(b)(3)(viii) and footnote number 4 are revised to read as follows:

§ 318.21 Accreditation of chemistry laboratories.

* * * * *

(b) * * *

(3) * * *

(viii) Use official AOAC methods[4] on official and check samples. The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

5. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

6. Section 319.5 (e)(2) is amended by revising the ninth sentence to read as follows:

§ 319.5 Mechanically Separated (Species).

* * * * *

(e) * * *

(2) * * * Finished product samples shall be analyzed in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists," (AOAC), 15th edition, 1990, §§ 960.39, 976.21, 928.08 (Chapter 39), and 940.33 (Chapter 45), which is incorporated by reference, or if no AOAC method is available, in accordance with the "Chemistry Laboratory Guidebook," U.S. Department of Agriculture, Washington, DC, March 1986 edition, sections 6.011–6.013, Revised June 1987 (pages 6–35 through 6–65). The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.* * *

* * * * *

7. Section 319.700(a) is amended by revising the first sentence and footnote number 2 to read as follows:

§ 319.700 Margarine or oleomargarine.[1]

(a) Margarine or oleomargarine is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under § 938.06 (Chapter 33) of the "Indirect Methods" in "Official Methods of Analysis of the Association of Official Analytical Chemists", 15th edition, 1990.[2] The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.* * *

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

8. The authority citation for Part 381 continues to read as follows:

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

9. Section 381.153(a) is amended by revising the definition of *AOAC methods* and the footnote to read as follows:

§ 381.153 Accreditation of chemistry laboratories.

(a) * * *

AOAC methods—Methods of chemical analysis, Chapter 39, Association of Official Analytical Chemists published in the "Official Methods of Analysis of the Association of Official Analytical Chemists", 15th edition 1990.[1] The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with

---

[2] A copy of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.

[1] A copy of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.

[5] A copy of the "Official Methods of Analysis of the Association of Analytical Chemists," 15th edition, 1990, is on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.

[1] Insofar as the standard contains provisions relating to margarine or oleomargarine which do not contain any meat food products, such provisions merely reflect the applicable standard under the Federal Food, Drug, and Cosmetic Act.

[2] A copy of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is on file with the Director Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard Suite 400, Arlington, Virginia 22201.

[1] A copy of the "Official Methods of Analysis of the Association of Analytical Chemists," 15th edition, 1990, is on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201, 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

10. Section 381.153(b)(3)(viii) is amended by revising footnote number 4 and amending paragraph (b)(3)(viii) to read as follows:

* * * * *

(b) * * *

(3) * * *

(viii) Use official AOAC methods[4] on official and check samples. The "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th edition, 1990, is incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

Done at Washington, DC, on: June 22, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–15837 Filed 6–29–94; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1994–10]

Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On April 12, 1994 the Commission published the text of revised regulations governing special fundraising projects and other use of candidate names by unauthorized committees. The Commission announces that these rules are effective as of June 30, 1994.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of Title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. These revisions to 11 CFR Part 102 were transmitted to Congress on April 6, 1994. Thirty legislative days expired in the Senate on June 8, 1994, and in the House of Representatives on June 10, 1994.

Commission regulations at 11 CFR 102.14(a) generally prohibit an unauthorized committee from using a candidate's name in the title of a special fundraising project or other communication on behalf of the unauthorized committee. This amendment adds new paragraph 102.14(b)(3), which permits such use if the title clearly indicates opposition to the named candidate.

Announcement of Effective Date: 11 CFR 102.14(b)(3), as published at 59 FR 17267, is effective as of June 30, 1994.

Dated: June 24, 1994.

Trevor Potter,

Chairman, Federal Election Commission.

[FR Doc. 94–15823 Filed 6–29–94; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–13–AD; Amendment 39–8953; AD 94–14–01]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With General Electric CF6–80A or Pratt and Whitney JT9D–7R4 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires replacement of the thrust reverser flow restrictor devices with one-way (check) valve restrictors. This amendment is prompted by reports of piston seal leakage found during actuator overhaul on certain Model 767 series airplanes. The actions specified by this AD are intended to prevent possible deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane.

DATES: Effective August 1, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 1, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Simonson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2683; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on March 16, 1994 (59 FR 12207). That action proposed to require replacement of the thrust reverser flow restrictor devices with one-way (check) valve restrictors.

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

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 119 Model 767 series airplanes equipped with General Electric CF6–80A engines of the affected design in the worldwide fleet. The FAA estimates that 69 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators of Model 767 series airplanes equipped with General Electric CF6–80A engines is estimated to be $121,440, or $1,760 per airplane.

There are approximately 95 Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 engines of the affected design in the worldwide fleet. The FAA estimates that 30 airplanes of U.S. registry will be affected by this AD,

[4] A copy of the "Official Methods of Analysis of the Association of Analytical Chemists," 15th edition, 1990, is on file with the Director, Office of the Federal Register, and may be purchased from the Association of Official Analytical Chemists, Inc., 2200 Wilson Boulevard, Suite 400, Arlington, Virginia 22201.

that it will take approximately 30 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators of Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 engines is estimated to be $49,500, or $1,650 per airplane.

Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $170,940.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 the following new airworthiness directive: 94–14–01 BOEING: Amendment 39–8953. Docket 94–NM–13–AD.

Applicability: Model 767 series airplanes equipped with General Electric CF6–80A or Pratt & Whitney JT9D–7R4 engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the thrust reverser flow restrictor devices with one-way (check) valve restrictors in accordance with Boeing Alert Service Bulletin 767–78–0064 (for Model 767 series airplanes equipped with General Electric CF6–80A engines) or 767–78–0065 (for Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 engines), both dated July 16, 1992, as applicable.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(c) 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 airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Boeing Alert Service Bulletin 767–78–0064, dated July 16, 1992, or Boeing Alert Service Bulletin 767–78–0065, dated July 16, 1992, as applicable. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 1, 1994.

Issued in Renton, Washington, on June 21, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–15474 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Part 39

[Docket No. 94–NM–01–AD; Amendment 39–8955; AD 94–14–03]

Airworthiness Directives; Nordskog Water Heaters and Coffee Makers as Installed in Various Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Nordskog water heaters and coffee makers. This amendment requires an inspection to determine whether certain discrepant pressure relief valves have been installed in certain galley water heaters and coffee makers; and either replacement of the discrepant valves, or discontinued use of the water heaters or coffee makers and installation of placards indicating that these units are not to be used. This amendment is prompted by reports of injuries to cabin crew members that resulted from explosions of galley water heaters. The actions specified by this AD are intended to prevent explosions of galley water heaters and coffee makers, and subsequent injuries to passengers or cabin crew members.

DATES: Effective August 1, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 1, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Aircraft Products Company, 12807 Lake Drive, P.O. Box 130, Delray Beach, Florida 33447–0130. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los

Angeles ACO, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5336; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Nordskog water heaters and coffee makers was published in the **Federal Register** on March 16, 1994 (59 FR 12203). That action proposed to require an inspection to determine whether certain discrepant pressure relief valves have been installed in certain galley water heaters and coffee makers; and either replacement of the discrepant valves, or discontinued use of the water heaters or coffee makers and installation of placards indicating that these units are not to be used.

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

Several commenters support the proposal.

Another commenter supports the proposed AD action, but requests that it be issued as an immediately adopted rule, in light of the potential for serious injury to passengers and cabin crew members that is associated with exploding water heaters and coffee makers. This commenter points out that AD 93–23–01, amendment 39–8735 (58 FR 61618, November 22, 1993), addressed this same problem in other water heaters and coffee makers using the same pressure relief valves, and it was made effective immediately, without prior opportunity for notice and public comment. This commenter questions whether the unsafe condition is any "less" for the units addressed by the proposal than for those addressed by AD 93–23–01. The FAA responds by noting that the incident reports that prompted the issuance of AD 93–23–01 involved units equipped with an integral check valve: AD 93–23–01 applies only to units with the integral check valve installation. At the time that AD 93–23–01 was issued, the FAA was in the process of evaluating the need for additional AD action to address other installations that incorporate the same pressure relief valve design. The FAA found that Nordskog water heaters and coffee makers without the integral check valve could use the same pressure relief valve in other applications and, therefore, could also be subject to the same unsafe condition. However, because there had been no service history of incidents involving units without the integral check valve, the FAA could not demonstrate that the safety concern was so critical that it should preclude the opportunity for prior notice and public comment on this rule.

Two commenters do not consider that AD action is appropriate to address a "non-critical" application of the subject valve. These commenters point out that AD 93–23–01 implemented the recommendations of Nordskog Service Bulletin 93–34, which targeted the "critical" valve installations. However, the proposed AD would implement the recommendations of Nordskog Service Bulletin 93–35, which addresses "non-critical" installations of the valve. In light of this, the commenters contend that the AD is unnecessary. The FAA does not concur. The FAA acknowledges that AD 93–23–01 addresses units that incorporate the subject valve as an integral check valve, which may be viewed as a "critical" application of the valve; it was a unit equipped with this integral check valve that exploded during the incident that prompted issuance of that AD. However, as discussed in the previous comment, the FAA has determined that water heaters and coffee makers that are not equipped with the integral check valve but use the same pressure relief valve addressed by AD 93–23–01, may also be subject to the same unsafe condition addressed by that AD. Although the commenters may view the component design of the units addressed by this AD action as "less critical" than those addressed by AD 93–23–01, the FAA has received no data to demonstrate that the subject relief valve is not necessary to assure system safety. Therefore, the FAA considers this AD action to be both appropriate and warranted.

One commenter requests that the proposed rule be revised the permit the installation of the discrepant NUPRO pressure relief valve after the effective date of the AD and until the compliance time for inspection. This commenter points out that proposed paragraph (b) would require that, as of the effective date of the rule, no operator would be allowed to install a discrepant valve on any airplane; however, operators would have up to 12 months to remove any discrepant valve that is currently installed on the airplane. The FAA does not concur in this case. Removing an unsafe condition that already exists on an airplane necessarily involves performing maintenance on the airplane, and the FAA always provides some kind of "grace period" in order to minimize disruption of operations. On the other hand, prohibiting installation of spares that have been determined to create an unsafe condition does not require any additional maintenance activity; it simply requires use of one part rather than another. In general, once an unsafe condition has been determined to exist, it is the FAA's normal policy not to allow that condition to be introduced into the fleet. In developing the technical information on which every AD is based, one of the important considerations is the availability of parts that the AD will require to be installed. When it is determined that those (safe) parts are immediately available to operators, it is the FAA's policy to prohibit installation of the unsafe parts after the effective date of the AD.

Further, the FAA considers that the period of time between publication of the final rule AD in the **Federal Register** and the effective date of the final rule (usually 30 days) is sufficient to provide operators with an opportunity to determine their immediate need for modified spares and to obtain them. Of course, in individual cases where this is not possible, every AD contains a provision that allows an operator to obtain an extension of compliance time based upon a specific showing of need. The FAA considers that this policy does increase safety and does not impose undue burdens on operators.

One commenter is concerned about the thermostat installed on the water heaters and coffee makers equipped with the subject NUPRO pressure relief valves, and its involvement in the incident of explosion of the water heater. This commenter assumes that the incident was the result of one of two possible failure paths: Either the thermostat failed closed and the pressure relief valve failed closed; or the power relay failed closed and the pressure relief valve failed closed. This commenter indicates that the proposed rule does not address these possible failure paths or the fact that failures of the thermostat or relay are non-indicating by themselves. The FAA acknowledges that this commenter's assumptions about the failure paths is reasonable. Although a failure other than that of the relief valve could not be identified, some failure apparently occurred in the temperature control system to cause the pressure to build up beyond its normal level. Generally, it is expected that the temperature control system will fail sometime during its service life; the relief valve is in the system to address that failure. Although increased redundancy and failure monitoring in the temperature control system would be two ways of improving system safety, those methods are not considered necessary in this case.

Replacement of the discrepant valve with the improved valve will address the failure scenario that actually occurred.

This commenter also is concerned about part identification of inserts in the affected water heaters and coffee makers, and the need for a possible design change of NUPRO relief valves that have a common design type. Since these issues do not directly concern this rulemaking action, the FAA has passed the commenter's suggestions on to the appropriate manufacturer.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA is aware that the subject water heaters and coffee makers are installed in various airplanes. There are approximately 300 of these airplanes in the worldwide fleet, the FAA estimates that 200 airplanes are of U.S. registry. It will take approximately 2 work hours per airplane to accomplish the proposed actions, and the average labor rate is $55 per work hour. (There are approximately 4 water heaters and/or coffee makers installed on each airplane.) The cost of required parts is expected to be negligible. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $22,000, or $110 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 the following new airworthiness directive:

94–14–03 Nordskog Industries, Inc.: Amendment 39–8955. Docket 94–NM–01–AD.

Applicability: Nordskog water heaters and coffee makers, as listed in Nordskog Industries, Inc., Service Bulletin SB–93–35, dated October 21, 1993; as installed in, but not limited to, Boeing Model 727, 737, 747, 757, and 767 series airplanes; McDonnell Douglas Model DC–9, DC–9–80, and DC–10 series airplanes, and MD–11 airplanes; Lockheed Model L–1011 series airplanes; Airbus Industrie Model A300, A310, and A320 series airplanes; Gulfstream Model G–1159 series airplanes and Model G-IV airplanes; de Havilland, Inc., Model DHC–8 series airplanes; Dassault-Aviation Model Mystere-Falcon 50, 200, and 900 series airplanes; Canadair Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A and -3R) and CL–600–2B19 series airplanes; and Fokker Model F27 and F28 series airplanes; certificated in any category.

To prevent explosions of galley water heaters and coffee makers, and subsequent injuries to passengers or cabin crew members, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a one-time inspection to determine whether a NUPRO pressure relief valve having part number (P/N) SS–2C4–65 has been installed, in accordance with Nordskog Industries, Inc., Service Bulletin SB–93–35, dated October 21, 1993. If any NUPRO pressure relief valve having P/N SS–2C4–65 has been installed, prior to further flight, accomplish either paragraph (a)(1) or (a)(2) of this AD.

(1) Remove the NUPRO pressure relief valve having P/N SS–2C4–65 and install a new, improved NUPRO pressure relief valve having P/N SS-CHF2–65, in accordance with the service bulletin. Or

(2) Deactivate any Nordskog water heater or coffee maker listed in the service bulletin on which a NUPRO pressure relief valve having P/N SS–2C4–65 has been installed, and install a placard stating, "Not to be used."

(b) As of the effective date of this AD, no person shall install a NUPRO pressure relief valve having P/N SS–2C4–65 on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) 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 airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection and installation shall be done in accordance with Nordskog Industries, Inc., Service Bulletin SB–93–35, dated October 21, 1993. 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 Aircraft Products Company, 12807 Lake Drive, P.O. Box 130, Delray Beach, Florida 33447–0130. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 1, 1994.

Issued in Renton, Washington, on June 22, 1994.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–15597 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Part 39

[Docket No. 93–NM–143–AD; Amendment 39–8954; AD 94–14–02]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce RB211–535C Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD),

applicable to certain Boeing Model 757 series airplanes, that requires tests of the thrust reverser system, and repair, if necessary; installation of a modification that would terminate those tests; and repetitive operational checks of that installation, and repair, if necessary. This amendment is prompted by results of a safety review, which revealed that in-flight deployment of a thrust reverser could result in a significant reduction in the controllability of the airplane. The actions specified by this AD are intended to prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane.

DATES: Effective August 1, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 1, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; and Rolls-Royce plc, P.O. Box 31, Derby DE24 8BJ, England, ATTN: Technical Publications Department. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey Duven, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2688; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes was published in the **Federal Register** on October 4, 1993 (58 FR 51589). That action proposed to require tests of the thrust reverser system, and repair, if necessary; installation of a modification that would terminate those tests; and repetitive operational checks of that installation, and repair, if necessary.

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

One commenter supports the proposed rule.

Boeing requests that specific references to page numbers and revision dates of the Boeing 757 Airplane Maintenance Manual (AMM) be eliminated from the proposed rule, and that the proposal be amended to include copies of the required test procedures so that reference to the AMM would not be necessary.

Boeing explains that the AMM's are customized for each operator to reflect all of the equipment in that operator's fleet. Therefore, the number of pages for any given procedure is variable, depending on the number of different equipment configurations documented in an operator's AMM. Boeing also indicates that AMM procedures are revised periodically for non-technical reasons. Boeing adds that changes to the structure of the procedures are necessary to accommodate an upgrade of the publishing system that is currently under way, which, in addition to repagination, will necessitate the issuance of revised AMM pages.

Boeing states that the effect of specifying AMM page numbers and revision dates in the AD is that operators may be unable to use the procedure contained in the AMM to perform certain tests required by the AD. Each operator would be required to maintain an obsolete version of the procedure, or to request FAA approval of an alternative method of compliance with the AD that would allow the use of the current version of the AMM.

The FAA concurs partially. In light of the information submitted by the commenter, the FAA finds that specific AMM page numbers and dates should not be specified in the final rule. Therefore, such references have been removed from paragraphs (a)(1) and (a)(2) of the final rule. However, for those paragraphs, the FAA does not agree that copies of the specific procedures should be included in the final rule. Therefore, paragraphs (a)(1) and (a)(2) of the final rule have been revised to cite only the appropriate section and task title specified in the AMM for accomplishment of the tests required by those paragraphs.

The FAA's objective in proposing periodic operational checks of the sync-lock device, as specified in paragraph (c) of this AD, is to ensure the integrity of the locking function. However, subsequent to the issuance of the proposal and the receipt of Boeing's comments to the proposal, Boeing has submitted to the FAA separate procedures for accomplishment of the operational check of the sync-lock integrity. These procedures have been defined in paragraph (c) of the final rule; therefore, the AMM references specified in paragraph (c) of the NPRM have been removed from the final rule. Additionally, the procedures for the operational checks are accomplished independently of the other thrust reverser system tests specified in the proposal. Accordingly, the FAA has revised paragraph (c) of the final rule to require periodic accomplishment of operational checks of the sync-lock integrity only, and has removed the requirement for accomplishment of other tests specified in that paragraph of the proposal.

The Air Transport Association (ATA) of America, on behalf of its members, states that, while ATA members are not opposed to accomplishing the operational checks specified in paragraph (c) of the proposal as part of their maintenance programs, these members are opposed to accomplishing the checks as part of the requirements of an AD. The commenters believe that the adoption of paragraph (c), as proposed, is equivalent to issuing a Certification Maintenance Requirements (CMR) item by means of an AD.

ATA adds that, if the FAA finds sufficient justification to include the requirement for operational checks in the AD, an alternative to accomplishment of the checks should be provided in the final rule. ATA reasons that an alternative is justified because no data exist to show that repetitive checks of a modified thrust reverser cannot be handled adequately through an operator's maintenance program. The suggested alternative follows: Within 3 months after accomplishing the sync-lock installation, revise the FAA-approved maintenance inspection program to include an operational check of the sync-lock. The initial check would be accomplished within 1,000 hours time-in-service after modification. The AD would no longer be applicable for operators that have acceptably revised the maintenance program. Operators choosing this alternative could use an alternative recordkeeping method in lieu of that required by Federal Aviation Regulation (FAR) 91.417 or 121.380 (14 CFR 91.417 or 121.380). The FAA would be defined as the cognizant Principal Maintenance Inspector (PMI) for operators electing this alternative.

One commenter, Boeing, requests that the proposed requirement for operational checks be removed from the AD until the FAA reviews the "more comprehensive" scheduled maintenance recommendations developed by the Model 757/767 Thrust Reverser Working Group, which will be recommended in the next revision to the Maintenance Review Board (MRB) report. Boeing believes that adoption of the maintenance recommendations

contained in that forthcoming revision will ensure that an adequate level of safety (with regard to the sync-lock installation) will be maintained by all operators of Model 757 series airplanes.

The FAA recognizes the concerns of these commenters regarding the requirement for periodic operational checks of the sync-lock following its installation. However, the FAA finds that the operational checks are necessary in order to provide an adequate level of safety and to ensure the integrity of the sync-lock installation. The actions required by this AD are consistent with actions that have been identified by an industry-wide task force as necessary to ensure adequate safety of certain thrust reverser systems installed on transport category airplanes. Representatives of the Aerospace Industries Association (AIA) of America, Inc., and the FAA comprise that task force. Representatives from other organizations, such as ATA, have participated in various discussions and work activities resulting from the recommendations of the task force.

The FAA acknowledges that the operational checks specified in this AD and CMR items are similar in terms of scheduled maintenance and recordkeeping. This AD addresses an unsafe condition and requires installation of the sync-lock to correct that unsafe condition. The FAA has determined that the requirement for operational checks is necessary in order to ensure the effectiveness of that installation in addressing the unsafe condition. This determination is based on the fact that the sync-lock is a new design whose reliability has not been adequately proven through service experience. In addition, service experience to date has demonstrated that failures can occur within the sync-lock that may not be evident during normal operation of the thrust reverser system and may not result in activation of the sync-lock "unlock" indicator. The ATA's suggested alternative to accomplishment of the operational checks would permit each operator to determine whether and how often these checks should be conducted. In light of the severity of the unsafe condition, however, the FAA has determined that allowing this degree of operator discretion is not appropriate at this time. Therefore, this AD is necessary to ensure that operators accomplish checks of the integrity of the sync-lock installation in a common manner and at common intervals.

The FAA also finds that addressing operational checks of the sync-lock integrity in a recommended action, such as an MRB report, will not ensure an acceptable level of safety with regard to the thrust reverser system. However, the FAA recognizes that an operational check interval of 4,000 hours time-in-service, which will be recommended by Boeing for inclusion in the next revision to the MRB report, corresponds more closely to the interval at which most of the affected operators conduct regularly scheduled "C" checks. The FAA has reconsidered the proposed interval of 1,000 hours time-in-service for accomplishment of repetitive operational checks. In light of the safety implications of the unsafe condition addressed and the practical aspects of accomplishing orderly operational checks of the fleet during regularly scheduled maintenance where special equipment and trained maintenance personnel will be readily available, the FAA finds that accomplishment of the checks at intervals of 4,000 hours time-in-service will provide an acceptable level of safety. Paragraph (c) of the final rule has been revised accordingly.

Since the issuance of the proposed rule, Boeing has issued Revision 2 of Service Bulletin 757–78–0035, dated June 23, 1994. The service bulletin revision moves general work instruction Step B from Work Package 2 to Step Q in Work Package 8. In Revision 1 of the service bulletin, Step B of Work Package 2 specified procedures for removal of the ground to the EICAS for the REV ISLN VAL message; however, the ground should not be removed as part of Work Package 2. Rather, the ground should be removed as part of Work Package 8 in order to avoid loss of the REV ISLN VAL message on EICAS. Revision 2 of the service bulletin correctly describes procedures for removal of the ground as part of Work Package 8. Revision 2 of the service bulletin also describes procedures for installation of an additional bracket on the P36 disconnect bracket and to make a cutout on the P37 disconnect bracket on certain airplanes.

The FAA has reviewed and approved this latest revision to the service bulletin and has revised the final rule to reflect it as the appropriate source of service information. The FAA finds that citing this latest revision to the service bulletin will impose no additional burden on any operator.

It should be noted that Revision 2 of Boeing Service Bulletin 757–78–0035 references Rolls-Royce Service Bulletins RB.211–78–9725 and RB.211–78–9726 as additional sources of service information for accomplishment of the originally proposed sync-lock installation. However, the Boeing service bulletin does not specify the appropriate revision levels for the Rolls-Royce service bulletins. Therefore, the FAA has added "NOTE 1" to paragraph (b) of this AD to specify that the intent of that paragraph is that the appropriate revision levels for the Rolls-Royce service bulletins that are to be used in conjunction with Boeing Service Bulletin 757–78–0035 are as follows: Rolls-Royce Service Bulletin RB.211–78–9725, dated June 23, 1993, or Revision 1, dated January 7, 1994; and Rolls-Royce Service Bulletin RB.211–78–9726, dated June 23, 1993, or Revision 1, dated October 1, 1993.

In addition, since the issuance of the proposed rule, Rolls-Royce has issued Service Bulletin RB.211–78–9822, dated October 1, 1993. This service bulletin describes procedures for installation of a revised thrust reverser sync-lock. The FAA has determined that accomplishment of the actions described in this service bulletin, in conjunction with Boeing Service Bulletin 757–78–0035 [which was cited in paragraph (b) of the proposal as the appropriate source of service information for installation of an additional thrust reverser system locking feature], constitutes an acceptable alternative to the sync-lock installation specified in paragraph (b) of the proposal.

In light of this information, paragraph (b) of the final rule has been revised to include paragraph (b)(1), which contains the requirement for installation of an additional thrust reverser system locking feature that was specified in the proposed rule, and paragraph (b)(2), which provides for installation of a revised thrust reverser sync-lock as an acceptable alternative to paragraph (b)(1) of this AD. Accomplishment of the revised installation specified in paragraph (b)(2) requires no additional work hours beyond the 514 work hours specified in the economic impact information, below, for accomplishment of the originally proposed sync-lock installation.

Additionally, it should be noted that Rolls-Royce Service Bulletin RB.211–78–9822 references Rolls-Royce Service Bulletin RB.211–78–9726 as an additional source of service information for airplanes equipped with Rolls-Royce RB211–535C engines. Rolls-Royce Service Bulletin RB.211–78–9726 references Rolls-Royce Service Bulletin RB.211–78–9725 as an additional source of service information. However, the appropriate revision levels for these service bulletins are not specified in Boeing Service Bulletin 757–78–0035 or in any of the Rolls-Royce service bulletins. Therefore, the FAA has added "NOTE 2" to paragraph (b) of the final rule to specify that the appropriate

revision levels for Rolls-Royce Service Bulletins RB.211–78–9726 and RB.211–78–9725, used in conjunction with Rolls-Royce Service Bulletin RB.211–78–9822, are as follows: Rolls-Royce Service Bulletin RB.211–78–9726, dated June 23, 1993, or Revision 1, dated October 1, 1993; and Rolls-Royce Service Bulletin RB.211–78–9725, dated June 23, 1993, or Revision 1, dated January 7, 1994.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 40 Model 757 series airplanes of the affected design in the worldwide fleet. Currently, there are no Model 757 series airplanes of the affected design on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 1 work hour per airplane to accomplish the required auto restow and integrity tests, 514 work hours per airplane to accomplish either modification specified in paragraph (b)(1) or (b)(2) of this AD, and 1 work hour per airplane to accomplish the required operational checks; at an average labor rate of $55 per work hour. Required parts are currently planned to be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD is estimated to be $28,380 per airplane.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 the following new airworthiness directive:

94–14–02 Boeing: Amendment 39–8954. Docket 93–NM–143–AD.

Applicability: Model 757 series airplanes equipped with Rolls Royce RB211–535C engines, as listed in Boeing Service Bulletin 757–78–0035, Revision 2, dated June 23, 1994; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent deployment of a thrust reverser in flight and subsequent reduced controllability of the airplane, accomplish the following:

(a) For airplanes on which the sync-lock feature has not been installed as a modification in accordance with Boeing Service Bulletin 757–78–0035: Within 4,000 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 4,000 hours time-in-service until the modification required by paragraph (b) of this AD is accomplished; accomplish paragraphs (a)(1) and (a)(2) of this AD to verify proper operation of the thrust reverser system. Prior to further flight, repair any discrepancy found, in accordance with the procedures described in the Boeing 757 Maintenance Manual.

(1) Perform a "Thrust Reverser-Auto Restow Test" in accordance with the procedures described in Section 78–31–00 of the Boeing 757 Maintenance Manual.

(2) Perform an "Actuator Lock and Crossover Shaft Integrity Test" in accordance with the procedures described in Section 78–31–00 of the Boeing 757 Maintenance Manual.

(b) For airplanes on which the sync-lock feature has not been installed as a modification in accordance with Boeing Service Bulletin 757–78–0035: Within 5 years after the effective date of this AD, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD. Accomplishment of either of these installations constitutes terminating action for the tests required by paragraph (a) of this AD.

(1) Install an additional thrust reverser system locking feature (sync-lock installation) in accordance with Boeing Service Bulletin 757–78–0035, Revision 2, dated June 23, 1994.

Note 1: Boeing Service Bulletin 757–78–0035 references Rolls-Royce Service Bulletins RB.211–78–9725 and RB.211–78–9726 as additional sources of service information. The intent of paragraph (b)(1) of this AD is that the appropriate revision levels for the Rolls-Royce service bulletins that are to be used in conjunction with Boeing Service Bulletin 757–78–0035 are as follows: Rolls-Royce Service Bulletin RB.211–78–9725, dated June 23, 1993, or Revision 1, dated January 7, 1994; and Rolls-Royce Service Bulletin RB.211–78–9726, dated June 23, 1993, or Revision 1, dated October 1, 1993.

(2) Install a revised thrust reverser sync-lock in accordance with Boeing Service Bulletin 757–78–0035, Revision 2, dated June 23, 1994, and Rolls-Royce Service Bulletin RB.211–78–9822, dated October 1, 1993.

Note 2: Rolls-Royce Service Bulletin RB.211–78–9822 references Rolls-Royce Service Bulletin RB.211–78–9726 as an additional source of service information for airplanes equipped with Rolls-Royce RB211–535C engines. Rolls-Royce Service Bulletin RB.211–78–9726 references Rolls-Royce Service Bulletin RB.211–78–9725 as an additional source of service information. The FAA's intent is that the appropriate revision levels of Rolls-Royce Service Bulletins RB.211–78–9726 and RB.211–78–9725, used in conjunction with Rolls-Royce Service Bulletin RB.211–78–9822, are as follows: Rolls-Royce Service Bulletin RB.211–78–9726, dated June 23, 1993, or Revision 1, dated October 1, 1993; and Rolls-Royce Service Bulletin RB.211–78–9725, dated June 23, 1993, or Revision 1, dated January 7, 1994.

(c) Within 4,000 hours time-in-service after accomplishing the modification required by paragraph (b) of this AD, or within 4,000 hours time-in-service after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,000 hours time-in-service: Accomplish the thrust reverser sync-lock integrity test defined below to verify that the sync-locks have not failed in the "unlocked" state. Prior to further flight, repair any discrepancy found, in accordance with procedures described in the Boeing 757 Maintenance Manual.

Thrust Reverser Sync-Lock Integrity Test

1. General

A. Use this procedure to test the integrity of the thrust reverser sync locks. The procedure must be performed on each engine.

2. Thrust Reverser Sync Lock Test

A. Prepare for the thrust reverser sync lock test.

(1) Open the AUTO SPEEDBRAKE circuit breaker on the overhead circuit breaker panel, P11.

(2) Do the steps that follow to supply power to the thrust reverser system:

(a) Make sure the thrust levers are in the idle position.

(b) Make sure the thrust reversers are retracted and locked.

(c) Make sure these circuit breakers on the main power distribution panel, P6, are closed:

(1) L ENG SYNC LOCK
(2) R ENG SYNC LOCK-ALTN

(d) Make sure these circuit breakers on the overhead circuit breaker panel, P11, are closed:

(1) LANDING GEAR POS SYS 1
(2) T/R IND R
(3) T/R CONT-ALTN-R
(4) T/R IND L
(5) T/R CONT L
(6) R ENG SYNC LOCK
(7) T/R CONT R
(8) EICAS CMPTR LEFT
(9) EICAS UPPER IND
(10) EICAS CMPTR RIGHT
(11) EICAS LOWER IND
(12) EICAS DISPLAY SW
(13) EICAS PILOTS DSP
(14) AIR/GND SYS 1
(15) AIR/GND SYS 2
(16) LANDING GEAR POS SYS 2
(17) PROX SW TEST

(e) Supply electrical power.

(f) Supply pressure to the left (for the left engine) or right (for the right engine) hydraulic system.

B. Do the thrust reverser sync lock test.

(1) Use the SENSOR CHANNEL SELECT thumb switches to set the PSEU code for the auto-restow proximity sensor.

(a) On PSEU (−17), The left engine code is 433.

(b) On PSEU (−16), The left engine code is 105.

(c) The right engine PSEU code is 099.

Note: The following step will cause the Hydraulic Isolation Valve (HIV) to open for approximately 5 seconds. The next 3 steps must be done during this 5 second time. These 4 steps may be repeated if required.

(2) Push the TARGET TEST switch on the PSEU and hold for one second.

(3) Make sure the TARGET NEAR light on the PSEU comes on after approximately four seconds.

(4) Make sure that the EICAS Advisory message L(R) REV ISLN VAL shows for approximately 3 seconds and then does not show.

(5) Make sure the sync lock manual unlock lever on the right sleeve of the reverser does not extend.

(6) Push and release the RESET switch on the PSEU.

(7) Open the applicable circuit breaker(s):

(a) For the left engine; L ENG SYNC LOCK (Panel P6)

(b) For the right engine; R ENG SYNC LOCK (Panel P11) R ENG SYNC LOCK-ALTN (Panel P6)

(8) Move the left (right) reverse thrust lever up and rearward to the reverse thrust position.

(9) Make sure that the thrust reverser does not extend.

(10) Move the left (right) reverse thrust lever to the forward and down position.

C. Put the airplane back to its usual condition.

(1) Remove hydraulic pressure.

(2) Close the applicable circuit breaker(s).

(a) For the left engine; L ENG SYNC LOCK (Panel P6)

(b) For the right engine; R ENG SYNC LOCK (Panel P11) R ENG SYNC LOCK-ALTN (Panel P6)

(3) Close the AUTO SPEEDBRAKE circuit breaker on the overhead circuit breaker panel, P11.

(4) Remove electrical power.

D. Repeat the thrust reverser sync lock test on the other engine.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) 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 airplane to a location where the requirements of this AD can be accomplished.

(f) The installation shall be done in accordance with Boeing Service Bulletin 757–78–0035, Revision 2, dated June 23, 1994; and Rolls-Royce Service Bulletin RB.211–78–9822, dated October 1, 1993. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; and Rolls-Royce plc, P.O. Box 31, Derby DE24 8BJ, England, ATTN: Technical Publications Department. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on August 1, 1994.

Issued in Renton, Washington, on June 22, 1994.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–15596 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–CE–01–AD; Amendment 39–8962; AD 94–14–14]

Airworthiness Directives: Piper Aircraft Corporation; PA28R, PA28RT, and PA44 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Piper Aircraft Corporation (Piper) PA28R, PA28RT, and PA44 series airplanes. This action requires installing a certain nose landing gear modification kit. Several service difficulty reports of collapsed nosegear on the affected airplanes prompted this action. In particular, these reports reveal failure of the bolt (AN4–20) connecting the lower drag link of the nosegear to the upper drag link. The actions specified by this AD are intended to prevent nose gear collapse because of AN4–20 bolt failure, which could lead to airplane damage.

DATES: Effective August 19, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; telephone (404) 991–2910; facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Piper PA28R, PA28RT, and PA44 series airplanes was published in the **Federal Register** on February 24, 1994 (59 FR 8879). The action proposed to require installing Nose Landing Gear Modification Kit, Piper part number (P/N) 764–377 (for PA28R and PA28RT series airplanes) or Piper P/N 764–378 (for PA44 series airplanes). The

proposed action would be accomplished in accordance with the instructions included with these kits.

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

The commenter supports the proposal and requests that the FAA reference Piper Service Letter (SL) 988, dated July 29, 1986. The commenter states that Piper SL 988 includes a statement of FAA-approval of the referenced kits and the instructions to the kits does not include this statement. The FAA concurs that the statement of FAA-approval is included in the service letter, and that for informational purposes, reference should be given to Piper SL 988 in the AD. The FAA has added a note to the final rule referencing this service letter. The actions are still required to be accomplished in accordance with the kit instructions.

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

The FAA estimates that 6,888 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $52 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,631,216. This figure is based on the assumption that no affected airplane owner/operator has accomplished the required action. The FAA believes that some airplane owners have already accomplished the required actions. With this in mind, the FAA anticipates that the cost of this AD will be much lower than the figure referenced above.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 AD to read as follows:

94–14–14 Piper Aircraft Corporation: Amendment 39–8962; Docket No. 94–CE–01–AD.

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

Model	Serial No.
PA28R–180	28R–30004 through 28R–7130013.
PA28R–200	28R–35001 through 28R–7635545.
PA28R–201	28R–7737001 through 28R–7837317.
PA28R–201T	28R–7703001 through 28R–7803373.
PA28RT–201	28R–7918001 through 28R–8218003.
PA28RT–201T ..	28R–7931001 through 28R–8231009.
PA44–180	44–7995001 through 44–8195026.
PA44–180T	44–8107001 through 44–8207005.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent nose gear collapse, which could lead to airplane damage, accomplish the following:

(a) Incorporate Nose Landing Gear Modification Kit, Piper part number (P/N) 764–377 (for PA28R and PA28RT series airplanes) or Piper P/N 764–378 (for PA44 series airplanes). Accomplish this action in accordance with the procedures and sketches included with the instructions to the above referenced kits.

Note 1: The modification kits referenced in paragraph (a) of this AD consist of a close tolerance bolt (NAS464P4–27), four bearings, and all other associated hardware for installation on the draglink assembly. This NAS464P4–27 bolt replaces the AN4–20 bolt used to connect the upper and lower draglinks.

Note 2: Piper Service Letter 988, dated July 29, 1986, references the above-mentioned kits.

(b) 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 airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) The inspections required by this AD shall be done in accordance with the instructions to Nose Landing Gear Modification Kit, Piper part number 764–377 (for PA28R and PA28RT series airplanes) or Piper part number 764–378 (for PA44 series airplanes), both dated May 13, 1986. 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 the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–8962) becomes effective on August 19, 1994.

Issued in Kansas City, Missouri, on June 24, 1994.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–15859 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 93–ASW–44]

Establishment of Class E Airspace: Bentonville, AR, and Rogers, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Bentonville, AR, and Rogers, AR. In order to enhance safety while increasing services, Class E airspace to the surface is necessary. This action is intended to provide adequate Class E Airspace to the surface for Instrument Flight Rules (IFR) operators executing established standard instrument approach procedures (SIAP) and standard instrument departure (SID) procedures at these airports.

EFFECTIVE DATE: 0901 UTC, August 18, 1994.

FOR FURTHER INFORMATION CONTACT: Gregory L. Juro, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5591.

SUPPLEMENTARY INFORMATION:

History

On November 24, 1993, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E Airspace at Rogers, AR, and Bentonville, AR, was published in the **Federal Register** (58 FR 62058). Numerous users had requested additional services such as SID's and Siap's at these airports. Therefore, in order to provide for these additional services, controlled airspace extending upward from the surface of these airports that are without an operating control tower, is needed for IFR operations. The proposal was to establish Class E airspace, extending upward from the surface, for IFR operations at Rogers, AR, and Bentonville, AR.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The latitude and longitude coordinates have been updated to reflect current data. Therefore, other than the changes just discussed and editorial changes, this amendment is adopted as proposed in the notice.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1994). The 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 establishes Class E airspace located at Rogers, AR, and Bentonville, AR, to provide controlled airspace upward from the surface to contain IFR operations at these airports.

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

Airspace, 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 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ASW AR E2 Bentonville, AR, and Rogers, AR [NEW]

Bentonville Municipal/Louise M. Thadden Field, AR
(lat. 36°20'45" N., long. 94°13'05" W.)
Razorback VOR
(lat. 36°14'47" N., long. 94°07'17" W.)

That airspace within a 3.9-mile radius of Bentonville Municipal Airport and within 2.2 miles each side of the 322 radial of the Razorback VOR extending from the 3.9-mile radius to 6.0 miles southeast of the airport excluding that airspace east of a line (lat. 36°24'10" N., long. 94°10'49" W.) and (lat. 36°16'41" N., long. 94°07'31" W.) This Class E airspace 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.

Rogers Municipal/Carter Field, AR
(lat. 36°22'20" N., long. 94°06'25" W.)
Razorback VOR
(lat. 36°14'47" N., long. 94°07'17" W.)

That airspace within a 4.0-mile radius of Rogers Municipal/Carter Field and within 2.2 miles each side of the 005 radial of the Razorback VOR extending from the 4.0-mile radius to 5.7 miles south of the airport excluding that airspace west of a line (lat. 36°24'10" N., long. 94°10'49" W.) and (lat. 36°16'41" N., long. 94°07'31" W.). This Class E airspace 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 June 7, 1994.

Larry D. Gray,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 94–15970 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 990

[Docket No. R–94–1733; FR–3387–F–01]

RIN 2577–AB24

Annual Contributions for Operating Subsidy; Shared Savings From Utility Rate Reduction and Subsidy for Economic Self-Sufficiency and Anti-Drug Activities

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

ACTION: Final rule.

SUMMARY: This final rule extends, for a period not to exceed an additional 6 years, the existing arrangement under which a public housing agency or

Indian housing authority (hereinafter referred to collectively as "HAs") may share equally with the Department any cost reductions due to the differences between projected and actual utility rates in the first year that the reductions occur. The rate savings must be directly related to the actions of the HA and must be cost effective. In addition, the rule eliminates the need for a waiver before operating subsidy may be paid for certain units approved for nondwelling use to promote economic self-sufficiency services and anti-drug activities.

EFFECTIVE DATE: August 1, 1994.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Director, Financial Management Division, Office of Assisted Housing, Room 4212, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–1872; TDD: (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Information Collection Requirements

The information collection requirements contained in the remaining sections of this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

Public reporting burden for the collection of information requirements contained in this rule is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

Background on Shared Utility Rate Savings

Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the "1937 Act") provides that under the performance funding system in the first year that the reductions occur, any public housing agency shall share equally with the Department any cost reductions due to the differences between projected and actual utility rates attributable to actions taken by the agency which lead to such reductions.

Section 114(c) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (the "1992 Act") amended section 9(a)(3)(B)(i) of the 1937 Act to provide that in subsequent years, the Secretary may continue, with regard to energy savings, the sharing arrangement with the public housing agency for an additional 6 years.

As a result of section 201(b)(1) of the 1937 Act, the provisions of Title I of the 1937 Act apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority. Therefore, the shared savings provisions under section 9(a)(3)(B)(i) extend to Indian housing authorities. However, under section 201(b)(2) no provision of Title I, or amendment to Title I, that is enacted after the date of enactment of the Indian Housing Act of 1988 (June 29, 1988) shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority unless the provision explicitly provides for applicability. Therefore, absent such a provision, section 114(c) of the 1992 Act does not extend to Indian housing authorities. The Department, however, as matter of policy, is extending the shared savings arrangement to Indian housing authorities also. Not to do so would frustrate the goals of providing incentives to undertake energy conservation activities.

Utility rate reduction measures include wellhead purchases of natural gas and administrative appeals or legal action beyond normal public participation in rate-making proceedings. It is important that an extension of the shared savings term provide adequate incentives and cover the increased administrative expense involved in undertaking energy conservation activities as sophisticated as a wellhead purchase program. The Department has a manifold interest in promoting the most economical purchasing arrangements in order to reduce the need for operating subsidies. There is, first and foremost, a national interest in reducing consumption of non-replaceable energy resources, and a parallel interest in making sure that energy resources are purchased economically and efficiently. In the context of the housing assistance programs, HUD is obliged to honor these over-all goals by encouraging energy conservation in assisted housing environments.

Background on Subsidy for Nondwelling Uses

On September 6, 1991, the Department published a proposed rule that would have established new conditions under which a PHA or an IHA could have included vacant units in its computation of eligibility for operating subsidy. The comment period for this proposed rule was reopened on June 22, 1992 (57 FR 27716). Ultimately, as a result of congressional action, the proposed rule was not pursued to a final rule. See, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102–139, approved October 29, 1991; 106 Stat. 757), and section 114(b) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992; 106 Stat. 3691).

A number of the provisions contained in the proposed rule were opposed by commenters. However, the aspect of the proposed rule that would permit the payment of operating subsidy, under certain conditions, for units approved for nondwelling use for economic self-sufficiency and anti-drug activities was not controversial. The comments received on this aspect generally supported the proposed rule, but urged the Department to adopt an even more generous treatment of nondwelling space in the calculation of operating subsidy eligibility. However, in this final rule the Department is adopting only the provisions that appeared in the proposed rule, and only to the extent that those provisions reflect the existing practice. The Department is clarifying in §§ 905.720(b)(2) and 990.198(b)(2) that an IHA or PHA need demonstrate only that non-utility operating costs are not available from other funding. This conforms to existing practice.

Currently, the Department is permitting PHAs and IHAs to continue receiving operating subsidy for units that are no longer available for occupancy because they have been removed from the rent roll and approved for economic self-sufficiency and anti-drug activities. Under Notice PIH 90–39 (PHA) (issued August 24, 1990), a PHA or an IHA may request a

waiver to allow consideration of such units in its calculation of operating subsidy eligibility. Therefore, the effect of the revisions to §§ 905.720 and 990.108(b) in this final rule is not to change current treatment of these units in the calculation of operating subsidy eligibility, but merely to reduce the administrative burdens of all parties involved in the waiver process.

This Rule

The existing regulation on shared utility rate savings provides an incentive to HAs to implement utilities conservation programs, particularly rate-savings programs like wellhead purchase, when calculating eligibility for operating subsidy under the Performance Funding System, but limits the effect of that incentive to one year. This revision to the regulation does not change the mechanism for granting the incentive, but extends the authorization for the shared savings arrangement up to an additional six years. HUD will continue to require that the HA be able to demonstrate in each annual budget that there are real rate reduction savings in each of the years for which the extended incentive applies.

In addition, the revisions in this rule will eliminate the need to seek a waiver to permit the payment of operating subsidy for certain units approved for nondwelling use for economic self-sufficiency and anti-drug activities.

To achieve the regulatory goals discussed above, this rule amends 24 CFR 905.715(b)(2), 905.720(b), 905.730(c), 990.107(b)(2), 990.108(b), and 990.110(c)(1)(i).

Other Matters

Justification for 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 it is an extension of an ongoing policy which rewards a HA for its action to secure a reduction in utility rates.

Information Collection Requirements

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements.

TABULATION OF REPORTING AND RECORDKEEPING BURDENS

Sections	No. of respondents	Frequency of response	Estimated average response time (in hours)	Estimated annual burden (in hours)
Reporting burden:				
905.720(b)(2), 990.108(b)(2)	200	1	8	1,600
905.730(c)(1)(i), 990.110(c)(1)(i)	100	1	2	200
905.720(b)(2)(i)–(v), 990.108(b)(2)(i)–(v)	200	1	4	800
Total reporting burden				2,600
Recordkeeping burden:				
905.720(b)(2)(v), 990.108(b)(2)(v)	200	1	2	400
Total recordkeeping burden				400
Total burden				3,000

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, S.W., Washington, D.C. 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. This rule pertains only to an arrangement between HUD and certain HAs.

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 an arrangement between HUD and certain HAs.

Semi-Annual Agenda of Regulations

This rule was listed as item number 1706 in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20474) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Federal domestic assistance number is 14.850.

List of Subjects

24 CFR Part 905

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Lead poisoning, Loan programs—housing and community development, Loan programs—Indians, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 990

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, the Department amends 24 CFR parts 905 and 990 as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority for part 905 is revised to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437a, 1437aa, 1437bb, 1437cc, 1437ee, and 3535(d).

2. In § 905.715, paragraph (b)(2) is revised to read as follows:

§ 905.715 Computation of utilities expense level.

* * * * *

(b) * * *

(2) If an IHA takes action, such as a wellhead purchase of natural gas, or administrative appeals or legal action beyond normal public participation in rate-making proceedings to reduce the rate it pays for utilities (including water, fuel oil, electricity, and gas), then the IHA will be permitted to retain one-half of the cost savings during the first 12 months attributable to its actions. Upon determination that the action was cost-effective in the first year, the IHA may be permitted to retain one-half the annual cost savings for an additional period not to exceed six years, if the actions continue to be cost-effective. See also paragraph (f) of this section and § 905.730(c).

* * * * *

3. In § 905.720, the text of paragraph (b) following the heading is designated as paragraph (b)(1), and new paragraph (b)(2) is added, to read as follows:

§ 905.720 Other costs.

* * * * *

(b) * * *

(1) * * *

(2) Units approved for nondwelling use to promote economic self-sufficiency services and anti-drug activities are eligible for operating subsidy under the conditions provided in this paragraph (b)(2), and the costs attributable to them are to be included in the operating budget. If a unit satisfies the conditions stated in paragraphs (b)(2) (i) through (v) of this section, it will be eligible for subsidy at the rate of the AEL for the number of months the unit is devoted to such use. Approval will be given for a period of no more than three years. Renewal of the approval to allow payments after that period may be made only if the IHA can demonstrate that no other sources for paying the non-utility operating costs of the unit are available:

(i) The unit must be used for either economic self-sufficiency activities directly related to maximizing the number of employed residents or for anti-drug programs directly related to ridding the development of illegal drugs and drug-related crime. The activities must be directed toward and for the benefit of residents of the development.

(ii) The IHA must demonstrate that space for the service or program is not available elsewhere in the locality and that the space used is safe and suitable for its intended use or that resources are committed to make the space safe and suitable.

(iii) The IHA must demonstrate satisfactorily that other funding is not available to pay for the non-utility operating costs. All rental income generated as a result of the activity must be reported as income in the operating subsidy calculation.

(iv) Operating subsidy may be approved for only one site (involving one or more contiguous units) per Indian housing development for economic self-sufficiency services or anti-drug programs, and the number of units involved should be the minimum necessary to support the service or program. Operating subsidy for any additional sites per development can only be approved by HUD Headquarters.

(v) The IHA must submit a certification with its Performance Funding System Calculation that the units are being used for the purpose for which they were approved and that any rental income generated as a result of the activity is reported as income in the operating subsidy calculation. The IHA must maintain specific documentation of the units covered. Such documentation should include a listing of the units, the street addresses, and project/management control numbers.

* * * * *

4. In § 905.730, paragraph (c)(1)(i) is revised to read as follows:

§ 905.730 Adjustments.

* * * * *

(c) * * *

(1) *Rates.* (i) A decrease in the utilities expense level because of decreased utility rates—to the extent funded by operating subsidy—will be deducted by HUD from future operating subsidy payments. However, where the rate reduction covering utilities, such as water, fuel oil, electricity, and gas, is directly attributable to action by the IHA, such as wellhead purchase of natural gas, or administrative appeals or legal action beyond normal public participation in rate-making proceedings, then the IHA will be permitted to retain one-half of the cost savings attributable to its actions for the first year and, upon determination that the action was cost-effective in the first year, for up to an additional six years, as long as the actions continue to be cost-effective, and the other one-half of the cost savings will be deducted from operating subsidy otherwise payable.

* * * * *

PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

5. The authority for part 990 is revised to read as follows:

Authority: 42 U.S.C. 1437(g) and 3535(d).

6. In § 990.107, paragraph (b)(2) is revised to read as follows:

§ 990.107 Computation of utilities expense level.

* * * * *

(b) * * *

(2) If a PHA takes action, such as wellhead purchase of natural gas, or administrative appeals or legal action beyond normal public participation in rate-making proceedings to reduce the rate it pays for utilities (including water, fuel oil, electricity, and gas), then the PHA will be permitted to retain one-half of the cost savings during the first 12 months attributable to its actions. Upon determination that the action was cost-effective in the first year, the PHA may be permitted to retain one-half the annual cost savings for an additional period not to exceed six years, if the actions continue to be cost-effective. See also paragraph (f) of this section and § 990.110(c).

* * * * *

7. In § 990.108, the text of paragraph (b) is designated as paragraph (b)(1), and new paragraph (b)(2) is added, to read as follows:

§ 990.108 Other costs.

* * * * *

(b) * * *

(2) Units approved for nondwelling use to promote economic self-sufficiency services and anti-drug activities are eligible for operating subsidy under the conditions provided in this paragraph (b)(2), and the costs attributable to them are to be included in the operating budget. If a unit satisfies the conditions stated in paragraphs (b)(2) (i) through (v) of this section, it will be eligible for subsidy at the rate of the AEL for the number of months the unit is devoted to such use. Approval will be given for a period of no more than three years. Renewal of the approval to allow payments after that period may be made only if the PHA can demonstrate that no other sources for paying the non-utility operating costs of the unit are available:

(i) The unit must be used for either economic self-sufficiency activities directly related to maximizing the number of employed residents or for anti-drug programs directly related to

ridding the development of illegal drugs and drug-related crime. The activities must be directed toward and for the benefit of residents of the development.

(ii) The PHA must demonstrate that space for the service or program is not available elsewhere in the locality and that the space used is safe and suitable for its intended use or that the resources are committed to make the space safe and suitable.

(iii) The PHA must demonstrate satisfactorily that other funding is not available to pay for the non-utility operating costs. All rental income generated as a result of the activity must be reported as income in the operating subsidy calculation.

(iv) Operating subsidy may be approved for only one site (involving one or more contiguous units) per public housing development for economic self-sufficiency services or anti-drug programs, and the number of units involved should be the minimum necessary to support the service or program. Operating subsidy for any additional sites per development can only be approved by HUD Headquarters.

(v) The PHA must submit a certification with its Performance Funding System Calculation that the units are being used for the purpose for which they were approved and that any rental income generated as a result of the activity is reported as income in the operating subsidy calculation. The PHA must maintain specific documentation of the units covered. Such documentation should include a listing of the units, the street addresses, and project/management control numbers.

* * * * *

8. In § 990.110, paragraph (c)(1)(i) is revised to read as follows:

§ 990.110 Adjustments.

* * * * *

(c) * * *

(1) *Rates.* (i) A decrease in the Utilities Expense Level because of decreased utility rates—to the extent funded by the operating subsidy—will be deducted by HUD from future operating subsidy payments. However, where the rate reduction covering utilities, such as water, fuel oil, electricity, and gas, is directly attributable to action by the PHA, such as wellhead purchase of natural gas, or administrative appeals or legal action beyond normal public participation in rate-making proceedings, then the PHA will be permitted to retain one-half of the cost savings attributable to its actions for the first year and, upon determination that the action was cost-effective in the first year, for up to an additional six years, as long as the actions continue to be cost-effective, and the other one-half of the cost savings will be deducted from operating subsidy otherwise payable.

* * * * *

Dated: June 24, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–15846 Filed 6–29–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[TD 8550]

RIN 1545–AP48; 1545–AS32

Diesel Fuel Excise Tax; Dye Color and Concentration

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to dye color and concentration requirements for tax-exempt diesel fuel. These regulations implement changes made by the Omnibus Budget Reconciliation Act of 1993 and affect refiners, importers, terminal operators, and throughputters.

EFFECTIVE DATE: These regulations are effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Frank Boland, (202) 622–3130 (not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 4081 was amended to apply to diesel fuel by the Omnibus Budget Reconciliation Act of 1993. Temporary regulations relating to the diesel fuel excise tax imposed by section 4081 were published in the **Federal Register** on November 30, 1993, (58 FR 63069) along with a notice of proposed rulemaking (PS–52–93) cross-referencing the temporary regulations (58 FR 63131). Amendments to these temporary regulations (relating to dye color and concentration) were published in the **Federal Register** on December 27, 1993, (58 FR 68304) along with a notice of proposed rulemaking (PS–76–93) cross-referencing those amendments (58 FR 68338).

Written comments responding to these notices were received and a public hearing was held on March 22, 1994. After consideration of the comments relating to the exemption from the diesel fuel tax imposed by section 4081, § 48.4082–1 (as proposed in PS–52–93 and PS–76–93) is adopted as revised by this Treasury decision and the corresponding temporary regulations are removed. The comments and revisions are discussed below. Other sections of the proposed and temporary regulations remain in force until final regulations on those topics are issued.

Existing IRS and EPA Regulations

Effective October 1, 1993, Environmental Protection Agency (EPA) regulations (40 CFR 80.29) make it unlawful for any person to manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce diesel fuel that contains a concentration of sulfur in excess of 0.05 percent (by weight) (high-sulfur diesel fuel) unless the fuel contains visible evidence of the blue dye 1,4 dialkylamino-anthraquinone. A substantial penalty applies to the use of high-sulfur diesel fuel in motor vehicles.

Effective January 1, 1994, the Federal excise tax on diesel fuel imposed by section 4081 does not apply to removals of diesel fuel that is indelibly dyed (or dyed and marked) in accordance with IRS regulations. Section 48.4082–1T(b) of the Manufacturers and Retailers Excise Tax Regulations and a transitional rule in Notice 94–21, 1994–11 Internal Revenue Bulletin 32, provide that diesel fuel that is required to be dyed blue pursuant to EPA's high-sulfur diesel fuel program satisfies the IRS dyeing requirement only if it contains blue dye of the prescribed concentration level. Diesel fuel that is not required to be dyed blue pursuant to EPA's high-sulfur diesel fuel program satisfies the IRS dyeing requirement only if it contains a red dye of a prescribed type and concentration. In addition, the Commissioner is given authority to modify the dyeing requirements by approving the use of other dyes.

Safety Issues Regarding Aviation Gasoline

No Federal regulations require the dyeing of aviation gasoline (avgas). However, avgas is dyed by refiners to differentiate various grades of the fuel and to distinguish avgas from clear, kerosene-based jet fuel. As a result of this practice, more than 90 percent of domestic avgas is dyed blue or green. Extensive training has been conducted within the aviation community to assure that pilots, mechanics, fuel service personnel, and vendors are thoroughly familiar with the meaning and use of color in fuels. This training is important

because contamination of avgas by even small amounts of other fuel can cause an engine failure.

The Federal Aviation Administration, EPA, and IRS are concerned that blue-dyed diesel fuel might be mistaken for blue or green avgas. Of particular concern is the possibility of misfuelings in remote locations where fuels are dispensed into nonstandard containers or where different fuels are stored in similar containers in close proximity to each other.

Public Comments

The IRS received comments from refiners, pipeline and terminal operators, and others in the diesel fuel distribution system concerning the dye color and concentration requirements of the temporary and proposed regulations. In general, these comments suggested that the blue dye concentration level should be lower than that scheduled to go into effect on July 1, 1994, and the red dye concentration should be lower than the current requirement (3.9 pounds per thousand barrels (ptb) when expressed as a solid dye standard). The comments expressed concern that the required concentration level might cause sedimentation in pipelines and engines and make the petroleum industry's tests for cloud point and haze more difficult to conduct. A comment from a dye manufacturer indicated, however, that the required red dye is completely soluble in fuel and noted that an independent laboratory had no difficulty in conducting the cloud point and haze test. The IRS carefully considered these public comments in developing the final regulations.

IRS Concerns

In addition to its concerns about aviation safety, the IRS believes that enforcement of the diesel fuel excise tax will be impaired unless the dye in fuel is visible when that fuel is diluted as part of any practicable plan of large-scale tax evasion. In determining the appropriate dye color and concentration requirements to address this concern, the IRS inspected numerous samples of diesel fuel containing various colors and concentrations of dye. Many of these samples were independently produced by the IRS and others were provided by the petroleum industry and dye manufacturers.

Explanation of Final Regulations

In order to avoid any possible confusion with blue or green avgas, these final regulations provide that beginning October 1, 1994, diesel fuel can no longer be dyed blue for tax exemption purposes. Rather, red dye will be used to identify all tax-exempt diesel fuel, regardless of the sulfur content of that fuel. The Commissioner will retain the authority to modify this requirement by approving the use of other dyes, but will not permit the use of dyes that could cause diesel fuel to be mistaken for avgas. In addition, a transitional rule will permit tax-free removals of high-sulfur diesel fuel that was dyed blue before October 1, 1994.

The red dye concentration required by the final regulations is the equivalent of the red dye concentration currently required by IRS for tax-exempt low-sulfur diesel fuel. In the final regulations, however, the required red dye concentration is expressed in terms of a solid dye standard, which is uniform among dye manufacturers, rather than in terms of the dye's active ingredient. This change does not impose any additional requirements on diesel fuel that was dyed red under the rules in effect before the issuance of the final regulations. Thus, diesel fuel that was dyed red in accordance with those rules will satisfy the solid dye standard in the final regulations.

Based on its inspection of dyed diesel fuel samples, the IRS believes the 3.9 ptb concentration required by the final regulations is necessary to address its concerns regarding dilution. In many cases involving the diesel fuel dyed with less than 3.9 ptb, the dye was not visible when the fuel was diluted. Thus, a required concentration level of less than 3.9 ptb could result in considerable diesel fuel tax evasion.

The IRS understands the petroleum industry's concerns on the concentration issue and will continue to monitor the effectiveness of the 3.9 ptb standard.

Action by EPA

In conjunction with these IRS final regulations, EPA is issuing regulations in a future issue of the **Federal Register** that require high-sulfur diesel fuel to be dyed red rather than blue. The EPA rule and the IRS rule have the same effective dates.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 48 is amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by removing the entry for "Sections 48.4082–1T and 48.4082–2T" and adding the following entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Sections 48.4082–1 and 48.4082–2T also issued under 26 U.S.C. 4082(c).
* * *

Par. 2. Section 48.4082–1T is removed and § 48.4082–1 is added to read as follows:

§ 48.4082–1 Diesel fuel tax; exemption.

(a) Exemption. Tax is not imposed by section 4081 on the removal, entry, or sale of any diesel fuel if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3) The diesel fuel satisfies the dyeing and marking requirements of paragraph (b) of this section.

(b) *Dyeing and marking requirements*—(1) *Dyeing; high sulfur fuel before June 28, 1994.* Diesel fuel that is required to be dyed blue pursuant to the Environmental Protection Agency's high sulfur diesel fuel requirement (40 CFR 80.29) satisfies the dyeing requirement of this paragraph (b) only if it contains—

(i) For periods before April 1, 1994, the blue dye 1,4 dialkylamino-anthraquinone in a concentration of at least 1.2 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel;

(ii) For periods after March 31, 1994, and before June 28, 1994, the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 4 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel; or

(iii) Any dye of a type and in a concentration that has been approved by the Commissioner.

(2) *Dyeing; low sulfur fuel before June 28, 1994.* Before June 28, 1994, diesel fuel that is not described in paragraph (b)(1) of this section satisfies the dyeing requirement of this paragraph (b) only if it contains—

(i) The dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 pounds per thousand barrels of the solid dye standard Solvent Red 26; or

(ii) Any dye of a type and in a concentration that has been approved by the Commissioner.

(3) *Dyeing; all diesel fuel after June 27, 1994.*

(i) After June 27, 1994, and before October 1, 1994, diesel fuel satisfies the dyeing requirement of this paragraph (b) only if it—

(A) Is required to be dyed pursuant to the Environmental Protection Agency's high-sulfur diesel fuel program (40 CFR 80.29) and contains the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) in a concentration of at least 4 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel;

(B) Contains the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 pounds per thousand barrels of the solid dye standard Solvent Red 26;

(C) Is a mixture of diesel fuels each of which satisfies the dyeing requirement described in paragraph (b)(3)(i)(A), (B), or (D) of this section; or

(D) Contains any dye of a type and in a concentration that has been approved by the Commissioner.

(ii) After September 30, 1994, diesel fuel (regardless of sulfur content) satisfies the dyeing requirement of this paragraph (b) only if it—

(A) Contains the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 pounds per thousand barrels of the solid dye standard Solvent Red 26;

(B) Is required to be dyed pursuant to the Environmental Protection Agency's high-sulfur diesel fuel program (40 CFR 80.29) and contains the blue dye 1,4 dialkylamino-anthraquinone (Color Index Solvent Blue 98) that was added to the fuel, in a concentration of at least 4 pounds of active ingredient (exclusive of the solvent) per thousand barrels of diesel fuel, before October 1, 1994;

(C) Is a mixture of diesel fuels each of which satisfies the dyeing requirement described in paragraph (b)(3)(ii) (A), (B), or (D) of this section; or

(D) Contains any dye of a type and in a concentration that has been approved by the Commissioner.

(4) *Marking.* [Reserved]

(c) *Effective date.* This section is effective January 1, 1994.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: June 17, 1994.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 94–15799 Filed 6–28–94; 2:29 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–015]

Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Final Rule; Stay of Enforcement and Correction

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; stay of enforcement and correction.

SUMMARY: On January 31, 1994, OSHA issued a new standard addressing the work practices to be used during the operation and maintenance of electric power generation, transmission, and distribution facilities [59 FR 4320]. In that document, OSHA also revised the electrical protective equipment requirements contained in the General Industry Standards. This notice stays the enforcement of some of the requirements contained in the electric power generation standard, corrects language in the preamble explaining the standard, and corrects several errors in the standards.

DATES: OSHA is staying the enforcement of the following paragraphs of § 1910.269 until November 1, 1994: (b)(1)(ii), (d) except for (d)(2)(i) and (d)(2)(iii), (e)(2), (e)(3), (j)(2)(iii), (l)(6)(iii), (m), (n)(3), (n)(4)(ii), (n)(8), (o) except for (o)(2)(i), (r)(1)(vi), (u)(1), (u)(4), (u)(5). OSHA is also staying the enforcement of paragraphs (n)(6) and (n)(7) of § 1910.269 until November 1, 1994, but only insofar as they apply to lines and equipment operated at 600 volts or less. Further, OSHA is staying the enforcement of paragraph (v)(11)(xii) of § 1910.269 until February 1, 1996.

The corrections to § 1910.269 presented in this document become effective on June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Ave., N.W., Washington, D.C. 20210 (202–219–8148).

SUPPLEMENTARY INFORMATION: On January 31, 1994, OSHA issued a new standard addressing the work practices to be used during the operation and maintenance of electric power generation, transmission, and distribution facilities. In that document, OSHA also revised the electrical protective equipment requirements contained in the General Industry Standards.

I. Correction of the Preamble: Clothing for Employees Working On or Near Exposed Energized Parts

Paragraph (l)(6)(iii) of § 1910.269 prohibits employees exposed to flames or arcs from wearing clothing that, when exposed to flames or arcs, could increase the extent of injury that would be sustained by the employees. In adopting this requirement in the final rule, OSHA relied on the evidence submitted to the record in determining what clothing would or would not be acceptable under the language of paragraph (l)(6)(iii). The preamble to the final rule discussed a portion of this evidence as follows:

> The requirement is intended to prohibit the types of fabrics shown in the Duke Power Company videotape to be expected to cause more severe injuries than would otherwise be anticipated. These include such untreated materials as polyester and rayon, unless the employee is otherwise protected from the effects of their burning. Natural fabrics, such as 100 percent cotton or wool, and synthetic materials that are flame resistant or flame retardant are acceptable under the final rule. (If and when a national consensus standard on clothing for electrical workers becomes available, OSHA will examine whether or not to revise the rule to require materials conforming to such a standard.) [59 FR 4389]

It is clear from this discussion that OSHA relied heavily on the videotape produced by Duke Power Company and on the results of arc tests on clothing as shown in the videotape in its finding that clothing made from certain fabrics was prohibited and that clothing made from other fabrics was acceptable. It is also quite clear from the preamble quotation that the Agency intended the final rule "to prohibit the types of fabrics shown in the Duke Power Company videotape to be expected to

cause more severe injuries than would otherwise be anticipated." However, later in that same quotation, OSHA stated that "natural fabrics, such as 100 percent cotton or wool, and synthetic materials that are flame resistant or flame retardant are acceptable under the final rule." Several questions have been raised in the period after the promulgation of the rule in regard to this statement in the preamble. Interested parties have pointed out that the Duke videotape stated specifically:

> All the heavyweight natural fibers we tested performed well. Natural fibers are those found in nature, such as cotton, wool, silk, and linen. We did little testing with silk and linen since most people wouldn't wear them while doing electrical work, but we performed extensive tests with cottons and wools. Lightweight cottons and wools sometimes burned, but without the melting and sticking of synthetics. Heavyweight cottons, wools, and blends of the two did not burn. They actually seemed to insulate whatever they were covering from the heat of the arc. Heavyweight means that a material weighs at least 11 ounces per yard, like the fabric in a denim jacket.

OSHA wrote § 1910.269(l)(6)(iii) in performance-oriented language. That language prohibits any clothing that, when exposed to flame or arc, could increase the extent of injury sustained by an employee. Although the record that was in place when final § 1910.269 was adopted did not provide sufficient information for the adoption of a rule specifying clothing that would actually protect an employee from both flames and arcs, the Agency concluded that the record did support a rule prohibiting clothing that could further injure a worker. In other words, OSHA adopted a rule that addresses whether or not the clothing worn by a worker would contribute to injury rather than a rule requiring personal protective equipment. As a result, to determine whether clothing made from a given material meets the standard, OSHA need only ascertain whether that material will ignite and continue to burn under the conditions to which an employee is exposed. If, under these conditions, a material will ignite and will continue to burn in the absence of an ignition source, then clothing made from such material is prohibited by § 1910.269(l)(6)(iii), unless the clothing is worn in such a manner as to eliminate the hazard involved.

The Duke videotape, which was the primary basis for OSHA's determination that clothing made from certain types of fabrics should be prohibited whenever an employee is exposed to the hazards of electric arc, states that clothing made from 11-ounce cotton would not ignite under the conditions present during their arc tests. Clothing made from lesser weights of cotton could ignite and, once ignited, would continue to burn after the arc ceased. Clearly, from this evidence in the rulemaking record, clothing made from cotton of less than 11 ounces will not meet the performance criteria given in the standard for employees exposed to conditions comparable to those in the Duke Power Company tests.[1] Cotton of 11 ounces or more will not ignite and therefore does meet the requirement in § 1910.269(l)(6)(iii) under the arc test conditions.

On the basis of this evidence in the rulemaking record, OSHA has concluded that clothing made from 100 percent cotton or wool will be acceptable if its weight is appropriate for the flame and electric arc conditions to which an employee could be exposed. Employers must make a determination of whether or not 100 percent cotton or wool clothing worn by a worker is acceptable under the conditions to which he or she could be exposed. The factors employers must consider in making this determination are: The weight of the material; the available current involved; the duration of exposure; the distance from any possible flames or arcs that might occur; and the presence of other flammable materials (such as flammable hydraulic fluid) that could be ignited in the presence of an arc and, in turn, ignite the clothing. Later in this document, OSHA is correcting the quoted sentence in the preamble to the final rule in order to clarify the Agency's intent in this matter. (It should be noted that OSHA is not revising either the rule in paragraph (l)(6)(iii) or the note following that paragraph. The fabrics listed in that note continue to be prohibited.)

Clothing made from flame-retardant or flame-resistant materials is acceptable under the rule. Employers are encouraged to ensure that their employees wear such clothing if they will be exposed to the hazard of flame or electric arc. In this regard, it should also be noted that the American Society for Testing and Materials (ASTM) has adopted a new standard, ASTM F1506–1994, for clothing to be worn for the protection of electrical workers who could be exposed to the hazard of flame or electric arc. This standard, which has not yet incorporated an arc-resistance test, requires the fabric used in clothing to pass a vertical flame test (that is, the fabric must be flame retardant or flame resistant). In fact, when OSHA revises § 1910.269 or its counterpart in the Construction Standards (Subpart V of Part 1926), the Agency will be required under the Occupational Safety and Health Act of 1970 (OSH Act) to adopt a rule that, if it differs substantially from the ASTM standard, must better effectuate the purposes of the OSH Act than that consensus standard. Employers should keep these facts in mind when adopting rules relating to the clothing worn by their electric power generation, transmission, and distribution employees.

OSHA will continue to encourage ASTM Committee F18 (the committee responsible for ASTM F 1506) to expedite their research and standards development activities with regard to protective clothing worn by electrical workers. The Agency will use the latest information available from the committee and from other sources in revising § 1910.269(l)(6)(iii) in the future.

[1] The conditions present during the Duke Power Company tests involved an 3800-ampere, 12-inch (approximate) electric arc that was approximately 12 inches from the material. The arc lasted for 10 cycles, or 0.167 seconds.

II. Stay of Enforcement of Certain Provisions of § 1910.269

The electrical protective equipment standard and the electric power generation, transmission, and distribution standard, except § 1910.269(a)(2), became effective on May 31, 1994. The Edison Electric Institute (EEI) petitioned OSHA to delay the effective date of certain requirements of these two standards until January 31, 1995, when the training requirements of § 1910.269(a)(2) become effective. It said that several provisions require the purchase of equipment that is not in sufficient supply for the entire universe of affected employers. EEI also contended that other provisions require the modification of equipment or installations and that employers will need more than the 120 days given in the notice of rulemaking to make these modifications. It asserted that still other requirements entail significant departure from normal company practice and that detailed training is required to implement these requirements. The general training requirements, it noted, do not become effective until January 31, 1995. Lastly, it maintained that employers need more time to consult with OSHA to determine exactly what practices and procedures are acceptable under the new standards.

OSHA has reviewed EEI's petition for delay in the effective date and has found it justified, in part. With respect to EEI's petition regarding requirements that necessitate the purchase of equipment that is in short supply, the Agency finds

that it is unnecessary to provide any delay in enforcement of these requirements. It is OSHA policy to accept purchase orders dated before the effective date of a standard to be evidence of intent to comply with that standard. In such cases, the Agency does not issue citations or impose penalties on companies that have ordered but not yet received goods that are intended for compliance with OSHA requirements.

A stay will be necessary for provisions requiring significant modifications in equipment or installations. If an alteration is necessary, these requirements will force an employer to plan and design the modification, purchase any necessary materials, and then install the appropriate modification. These adjustments will normally take more than the 120 days given in the notice of rulemaking to put into place.

EEI has identified one provision requiring modifications to existing coal-handling installations that will take up to 2 years for employers to effectuate. Paragraph (v)(11)(xii) of § 1910.269 requires sources of ignition to be eliminated or controlled so as to prevent the ignition of combustible atmospheres associated with coal-handling operations. EEI argues that extensive modifications will be necessary at many older power plants and that these changes will take up to 2 years to put into place.

Therefore, a stay of enforcement of § 1910.269(v)(11)(xii) is granted until February 1, 1996, and a stay of enforcement of the following paragraphs of § 1910.269 is granted until November 1, 1994:

Paragraph	Description
(e)(3)	Rescue equipment for enclosed spaces.
(u)(1)	Access and working space for electric equipment in substations.
(u)(4)	Guarding of rooms containing electric supply equipment in substations.
(u)(5)	Guarding of energized parts in substations.

With respect to provisions that entail extensive changes in work practices or procedures necessitating substantial retraining of employees, OSHA agrees to delay enforcement until the training for any new practices or procedures can be completed for all affected employees. Having some employees, who have been trained in a new procedure, use that procedure while other employees, who are not familiar with the new procedure, use other work methods could provide less safety. For example, the lockout and tagging requirements of § 1910.269(d) necessitate the adoption of specific procedures for the control of hazardous energy sources. OSHA anticipates that some employers will need to modify existing lockout and tagging procedures to effect compliance with paragraph (d). Although the Agency believes that most affected employers are already using programs for the control of hazardous energy sources, some employers may need to modify their practices to comply with the final rule and to protect their employees fully. However, if those modifications are put into effect before all employees have been trained in their use, errors and injuries could result. Additionally, some of the provisions that EEI identified as requiring substantial training efforts are specific training requirements. For example, § 1910.269(e)(2) requires employees to be trained in the hazards of enclosed space entry, in enclosed space entry procedures, and in enclosed space rescue procedures. These provisions will also take longer than 120 days to implement.

Therefore, for this reason, OSHA is staying the enforcement of the following paragraphs of § 1910.269 until November 1, 1994:

Paragraph	Description
(b)(1)(ii) ..	Training in cardio-pulmonary resuscitation for employees at fixed work locations.
(d), except for (d)(2)(i) and (d)(2) (iii).	Control of hazardous energy sources (generation installations).
(e)(2)	Enclosed space training.
(j)(2)(iii) ..	Cleaning, repair, and testing of live-line tools.
(m)	Deenergizing transmission and distribution installations for the protection of employees.
(o), except for (o)(2)(i).	High-voltage and high-power testing and test facilities.

The remaining requirements for which EEI requested delay are those that it claims will need additional consultation with OSHA so that employers will know exactly what is required by the standard. Because the standard is written in terms of performance, rather than in terms specifying the means of compliance, employers are given flexibility in meeting the standard. However, sometimes it may not be clear whether or not a given method will comply with an individual provision. For example, employers will likely need more time to identify the types of clothing that will be acceptable under § 1910.269(l)(6)(iii).

Therefore, OSHA is staying the enforcement of the following paragraphs of § 1910.269 until November 1, 1994:

Paragraph	Description
(1)(6)(iii) .	Clothing worn by employees working on or near exposed energized parts.
(n)(3)	Equipotential zone for protective grounding.
(n)(4)(ii) ..	Impedance of protective grounding devices.
(n)(6)[1]	Order of connection of grounds.
(n)(7)[1]	Order of removal of grounds.
(n)(8)	Additional precautions for protective grounding.
(r)(1)(vi) ..	Line-clearance tree trimming during and after storms and other emergencies.

[1] Only with respect to lines and equipment operating at 600 volts or less.

OSHA emphasizes that the record is not being reopened on any of the delayed provisions of § 1910.269. Revised § 1910.137 and § 1910.269 are final rules, and the Agency is not considering the modification of any of these requirements. Additionally, § 1910.137 and all paragraphs of § 1910.269 other than paragraph (a)(2), which becomes effective on January 31, 1995, went into effect on May 31, 1994, as scheduled.

PART 1910—[AMENDED]

For the reasons set forth above, the following Note is added to § 1910.269 immediately preceding the text of the section.

§ 1910.269 Electric power generation, transmission, and distribution.

OSHA is staying the enforcement of the following paragraphs of § 1910.269 until November 1, 1994: (b)(1)(ii), (d) except for (d)(2)(i) and (d)(2)(iii), (e)(2), (e)(3), (j)(2)(iii), (l)(6)(iii), (m), (n)(3), (n)(4)(ii), (n)(8), (o) except for (o)(2)(i), (r)(1)(vi), (u)(1), (u)(4), (u)(5). OSHA is also staying the enforcement of paragraphs (n)(6) and (n)(7) of § 1910.269 until November 1, 1994, but only insofar as they apply to lines and equipment operated at 600 volts or less. Further, OSHA is staying the enforcement of paragraph (v)(11)(xii) of § 1910.269 until Februrary 1, 1996.

* * * * *

III. Corrections.

Several provisions in § 1910.269 contained minor typographical or grammatical errors. Additionally, several national consensus standards were approved and published by the American National Standards Institute

(ANSI) and by ASTM shortly after the promulgation of revised § 1910.137 and § 1910.269. Some non-mandatory notes and a non-mandatory appendix contained references to older editions of these ASTM standards. These non-mandatory references are intended to provide employers, employees, and other affected parties with additional information on techniques of complying with the OSHA rules. In fact, two notes in § 1910.137 accept compliance with specific ASTM standards as being compliance with § 1910.137. The Agency has reviewed the new ANSI and ASTM standards and has found them to provide newer, more technically up-to-date information than the older versions. Therefore, this correction notice is updating the references in § 1910.137 and § 1910.269 to the later ANSI and ASTM standards. In § 1910.137, OSHA is retaining the slightly older editions of the ASTM standards, in addition to the more recent editions, to clarify that electrical protective equipment manufactured in accordance with the older standards is still acceptable.

PART 1910—[CORRECTED]

Accordingly, the notice of rulemaking appearing at 59 FR 4320 is corrected as follows.

Preamble page, column, line	Correction
4336, 2, 24th from top	Change the paragraph designation from the number "(1)" to the letter "(l)".
4336, 3, 31st through 28th from bottom	Replace the sentence beginning "Because paragraph * * *" with "Paragraph (a)(1) is the scope of the standard, and the relevant portion of paragraph (a)(3) has been placed in paragraph (r)(1)."
4344, 2, 38th from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(2)".
4344, 2, 1st from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(9)".
4344, 3, 11th from top	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(2)".
4344, 3, 14th from top	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(9)".
4349, 1, 25th from bottom	Add "(c)(1)" after the word paragraph and before the comma.
4352, 1, 22nd through 38th from top	The text of this paragraph is a continuation of a quote from the previous paragraph, and the text should be in small typeface.
4353, 1, 6th through 5th from bottom	Replace "[insert date 120 days after publication]" with "November 1, 1994".
4353, 2, 19th from bottom	Add the word "assures" after "standard".
4354, 3, 21st from bottom	Add a comma after (d)(2)(vii)".
4356, 2, 24th from bottom	Replace "(d)(3)(ii)(A)" with "(d)(3)(ii)(A)".
4357, 2, 24th from top	Replace "§ 1910.269(d)(2)(vi)(A)" with "§ 1910.269(d)(2)(vi)(A)".
4357, 2, 22nd from bottom	Replace "§ 1910.269(d)(2)(vi)(A)" with "§ 1910.269(d)(2)(vi)(A)".
4362, 2, 7th line from top	Add "(d)" after "paragraph".
4371, 2, 2nd from bottom	Add "(g)(2)(i)" after "paragraph" and before the comma.
4373, 3, 25th from bottom	Change the paragraph designation from the number "1)" to the letter "(l)".
4382, 2, 33rd from top	Replace the equation with: $D=(C_1\ C_2+a)\ S\ kV_{L-G}$
4365, 2, 29th from top	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(2)".
4386, 1, 33rd from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "§ 1910.269(l)(2)".
4389, 2, 12th from top	Add "(l)(6)(ii)" after the word "paragraph".
4389, 2, 15th from top	Add "(l)(6)(iii)" after the word "paragraph".
4389, 2, 20th from top	Add "(l)(6)(iii)" after the word "paragraph".
4389, 2, 34th from top	Replace the sentence beginning "Natural fabrics, such as . . ." with: "Natural fabrics, such as 100 percent cotton or wool, are acceptable under the final rule, provided they are of such weight and construction as not to ignite under the conditions to which an employee might be exposed. (For example, cotton fabrics of 11 ounces or greater weight generally will not ignite when exposed to an arc the energy of which is approximated by a 3800-ampere, 12-inch arc lasting for 10 cycles (0.167 seconds) at a distance of 12 inches from the employee.) Synthetic materials that are flame resistant or flame retardant are acceptable under the final rule."
4392, 1, 8th from bottom	Add "(m)(3)" after the word "paragraph".
4399, 2, 15th from bottom	Add "(p)" after "§ 1910.269" and before the period.
4401, 1, 26th from bottom	Change the paragraph designation from the number "(1)" to the letter "(l)".
4401, 1, 11th from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(1)", so that the reference reads "Paragraph (1)(2)".
4404, 2, 4th from top	Add "(p)(4)(i)" after the word "paragraph".
4404, 2, 14th from bottom	Add "(p)(4)(iii)" after § 1910.269 and before the comma.

Preamble page, column, line	Correction
4409, 1, 24th from top	Change the paragraph designation from the number "(1)" to the letter "(l)".
4409, 1, 28th from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "paragraph (l)(2)".
4414, 3, 34th from top	Change the paragraph designation from the number "(1)" to the letter "(l)".
4415, 1, 30th from bottom	Add a comma after "paragraph (t)(3)(iv)".
4417, 1, 9th from bottom	Change the paragraph designation from the number "(1)" to the letter "(l)".
4417, 3, 19th from bottom	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "paragraph (l)(2)".
4417, 3, 9th from bottom	Replace "workspace" with "working space".
4418, 1, 11th from top	Change the first part of the paragraph designation from the number "(1)" to the letter "(l)", so that the reference reads "paragraph (l)(2)". Also, add the word "are" after "they".
4418, 1, 16th from top	Replace "provide" with "provided".
4419, 2, 2nd from bottom	Replace "Appendix _____" with "Appendix B to § 1910.269".
4420, 3, 5th through 3rd from bottom	Remove the sentence reading "Installations meeting the ANSI provisions comply with paragraph (v)(5)(i)."
4423, 1, 17th through 16th from bottom	Replace "[insert date 1 year after date of publication]" with "January 31, 1995".
4424, 1, 22nd from bottom	Add "(w)" between "Paragraph" and "contains".
4425, 2, 10th from bottom	Add "E" after the word "Appendix".
4426, 2, 33rd through 14th from bottom	The text of this paragraph is a continuation of a quote from the previous paragraph, and the text should be in small typeface.

§ 1910.137	Page, column, line	Correction
(a)(3)(ii)(B)	4436, 1, 12th from bottom	Replace "ASTM D178–88" with "ASTM D 178–93 (or D 178–88)".
(a)(3)(ii)(B)	4436, 1, 14th from bottom	Replace "ASTM D 1048–88a" with "ASTM D 1048–93 (or D 1048–88a)".
(a)(3)(ii)(B)	4436, 1, 16th from bottom	Replace "ASTM D 1049–88" with "ASTM D 1049–93 (or D 1049–88)".
(b)(2)(vii)(B)	4436, 2, 24th from bottom (not counting Table I–2).	Replace "(b)(2)(xi)" with "(b)(2)(ix)".
(b)(2)(ix)	4436, 2, 4th from bottom (not counting Table I–2).	Replace "ASTM D 1048–88a" with "ASTM D 1048–93"
(b)(2)(ix)	4436, 2, 2nd from bottom (not counting Table I–2).	Replace "ASTM D 1049–88" with "ASTM D 1049–93".
(b)(2)(ix)	4436, 3, 8th from top	Replace "ASTM F 479–88a" with "ASTM F 479–93".
(b)(2)(ix)	4436, 3, 10th from top	Replace "ASTM F 496–91" with "ASTM F 496–93b".

§ 1910.269	Page, column, line	Correction
(a)(1)(i)(B)(3)	4438, 1, 3rd from top	Replace the period with a semicolon.
(a)(1)(i)(C)	4438, 1, 11th from top	Delete the word "and" from the end of the line (after the semicolon.
(a)(1)(i)(D)	4438, 1, 15th from top	Replace the period with a semicolon, and add the word "and" at the end of the line.
(a)(1)(ii), introductory text.	4438, 1, 35th from top	Replace "(A)(1)(I)" with "(a)(1)(i)".
(a)(2)	4438, 1, 2nd from bottom	Insert paragraph number "(i)" between "Training." and "Employees"
(d)(1), Note 2	4439, 2, 10th from top	Add "(d)" after the word "paragraph".
(d)(2)(ii)(C)	4439, 3, 1st from top	Replace "[insert date 120 days after publication]" with "November 1, 1994".
(d)(8)(ii)	4441, 2, 1st from bottom	Add a space between "and" and "(d)(2)(iv)".
(d)(8)(v)	4441, 3, 16th from bottom	Add "and are" after "location".
(d)(8)(v)(B)	4441, 3, 5th from bottom	Add comma after "(d) (6) (iv)".
(e)(7), Note	4442, 2, 32nd from bottom	Add "(t)(3)" after the word "paragraph".
(e)(11) Note	4442, 3, 21st from top	Replace the word "substances" with "substance".
(e)(14) Note	4442, 3, 14th from bottom	Replace the word "substances" with "substance".
(g)(2)(v)	4443, 1, 18th from top	Replace "The use of fall" with "Fall".
(i)(4)(iv)	4443, 3, 16th from bottom	Replace the word "electrical" with "electric".
(1)	4444, 2, 28th from bottom	Change the paragraph designation from the number "(1)" to the letter "(l)".
(1)(2)(iii), Note	4444, 3, 18th from bottom	Replace "(v)(5)(i) and" with "(u)(5)(i) and (v)(5)(i)".
Table R–6, Note 3	4445, 3, 4th from bottom (not counting Table R–7).	Replace "of this part" with "to this section".
Table R–7, Note 3	4446, 1, 2nd line above Table R–8 (the first line of the note).	Replace "of this part" with "to this section".
Table R–8, Note 3	4446, 1, 2nd line above Table R–9 (the first line of the note).	Replace "of this part" with "to this section".
(m)(1)	4447, 1, 13th from top	Replace "paragraphs" with "paragraph".
(m)(2)(i)	4447, 1, 21st from top	Delete the wrods "before work is begun" from the end of the sentence.
(m)(2)(iii)	4447, 1, 29th from bottom	Add a comma after "(m)(3)(viii)".
(o)(4)(iii)(B), Note	4448, 3, 23rd from top	Replace "of this part" with "to this section".

§ 1910.269	Page, column, line	Correction
(p)(4)(iii)(C)(*4*), Note	4449, 3, 34th line from top	Replace "of this part" with "to this section".
(q)(1)(i), Note	4449, 3, 14th from bottom	Replace "of this part" with "to this section".
(q)(3)(i)	4450, 2, 9th from bottom	Add "of this section" at the end of the sentence (after "(a)(2)").
(q)(3)(viii)(A)	4450, 3, 6th from bottom	Replace "basket" with "bucket", and replace "two-basket" with "two-bucket".
(q)(3)(viii)(A)	4450, 3, 4th from bottom	Replace "basket" with "bucket".
(q)(3)(xiv)	4451, 1, 27th from bottom	Add "approach" after "minimum".
(q)(4)(iv)	4451, 2, 33rd from bottom	Add "would" after "conditions".
(r)(1)(ii)(A)	4451, 3, 1st from top	Replace "electrical" with "electric".
(r)(1)(iv), Note	4451, 3, 27th from top	Replace "are" with "is".
(u)(1), Note	4453, 1, 1st from bottom	Replace "workspace" with "working space".
(v)(3), Note	4454, 1, 33rd from bottom	Replace "workspace" with "working space".
(v)(3), Note	4454, 1, 13th from bottom	Replace "work" with "are working".
(v)(11)(x), Exception	4455, 2, 27th from bottom	Remove the "Note" designation from the paragraph. (This paragraph is an exception, not a note.)
(v)(11)(x), Exception	4455, 2, 22nd and 21st from bottom	Replace "[insert date 1 year after publication date]" with "January 31, 1995".
(w)(3)	4456, 1, 17th and 22nd from top	Insert the paragraph designation "(i)" after the heading "*Series streetlighting.*" Add the paragraph designation "(ii)" before the second sentence, which begins "A series loop may only be opened". After this change, paragraph (w)(3) of § 1910.269 will be broken into two paragraphs, with one sentence in each new paragraph.
(w)(5)(ii)	4456, 1, 26th from bottom	Delete the word "and".
(w)(7)	4456, 2, 9th from top	Change the paragraph designation in the reference to "paragraph (1)" from the number "(1)" to the letter "(l)".
(x)	4457, 3, 21st from bottom	Replace "trlmm" with "trimmer".
(x)	4457, 3, 6th from bottom	Add "for the performance of those duties" at the end of the sentence (after "trimmer").
(x)	4458, 1, 2nd from top	Add "in Subpart S of this Part" after "standard" and before the comma.
(x)	4458, 1, 6th from bottom	Replace "with" with "to".
Appendix A–2, Table 1.	4461, 2nd column in table, 11th row in the table (below the heading).	Replace the first "(1)(6)(iii)" with "(l)(6)(ii)".
Appendix A–2, Table 1.	4461, 2nd column in table, 16th row in the table (below the heading).	Add a superscript "2" after "(t)".
Appendix A–2, Table 1, Footnote 1.	4461, 1st line following the table	Replace "1910.332" in the first line of this footnote with "1910.303".
Appendix B	4465, 2, 45th from top	Replace "electrical" with "electric".
Appendix B	4467, 1, 1st from top	Replace "expected" with "unexpected".
Appendix B	4467, 2, 11th from top	Replace "table" with "Table".
Appendix B	4467, 2, 15th from top	Remove the word "in" before "Table R–8".
Appendix B	4467, 2, 26th from bottom	Remove the word "and".
Appendix B	4467, 2, 19th from bottom	Replace "3%" with "about 3 percent per 300 meters".
Appendix B	4467, 2, 18th from bottom	Replace "1000" with "900".
Appendix B	4467, 2, 9th from bottom	Replace "1000" with "900".
Appendix B	4467, 2, 4th from bottom	Replace "1000" with "900".
Appendix B	4467, 3, 46th from top	Remove the word "the".
Appendix B	4467, 3, 1st from bottom	Insert commas on both sides of the symbol "σ".
Appendix B	4468, 1, 46th from bottom	Insert the word "it" after "alongside".
Appendix B	4468, 2, 10th from top	Insert "C." before the heading "Methods of Controlling * * *"
Appendix B	4465, 3, 2nd from bottom	Replace the equation with: $D=(C+a)$ pu V_{max}.
Appendix B	4468, 3, 8th from bottom	Add "Equation (2)" before the word "is" at the beginning of the line.
Appendix B	4469, 2, 14th from top	Replace the equation with: $D=(0.01+0.0006)\times 732kV+\sqrt{2}$
Appendix B	4469, 2, 4th through 1st from bottom	Replace the comma after the equation with a period. Replace "and the maximum per unit transient overvoltage during the time the protective gap is installed would be:" with "the crest withstand voltage of the protective gap in per unit is thus:".
Appendix C	4473, 1, 1st and 2nd from top	Place the heading "Protection from the Hazards of Ground-Potential Gradients" in italics. Place the sentence beginning "An engineering analysis * * *" on a new line, as the beginning of a new paragraph.
Appendix D	4475, 1, 23rd through 21st from bottom	Revise the sentence beginning "Rotting and decay is a * * *" with "Rotting and decay are cutout hazards and are possible indications of the age and internal condition of the pole."
Appendix D	4475, 1, 20th from bottom	Remove the word "Knots" (on a line by itself).
Appendix E	4475, 2, 22nd from bottom	Replace "ANSI A92.2–1979" with "ANSI/SIA A92.2–1990".
Appendix E	4475, 3, 12th from top	Replace "ASTM D 178–88" with "ASTM D 178–93".
Appendix E	4475, 3, 14th from top	Replace "ASTM D 1048–88a" with "ASTM D 1048–93".
Appendix E	4475, 3, 16th from top	Replace "ASTM D 1049–88" with "ASTM D 1049–93".
Appendix E	4475, 3, 25th from top	Replace "ASTM F 479–88a" with "ASTM F 479–93".
Appendix E	4475, 3, 27th from top	Replace "ASTM F 496–91" with "ASTM F 496–93b".
Appendix E	4475, 3, 17th from bottom	Add the following two references before "IEEE Std. 62–1978": "ASTM F 1505–94, Standard Specification for Insulated and Insulating Hand Tools" "ASTM F 1506–94, Standard Performance Specification for Textile Materials for Wearing Apparel for Use by Electrical Workers Exposed to Momentary Electric Arc and Related Thermal Hazards".

IV. Authority.

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The actions in this document are taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR Part 1911.

Signed at Washington, DC, this 27th day of June, 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–16013 Filed 6–28–94; 1:50 pm]

BILLING CODE 4510–26–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2647

Reduction of Waiver of Complete Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation recently issued a final rule that amended its regulations for the reduction or waiver of complete withdrawal liability by prescribing a procedure and standards for amending a multiemployer plan to provide alternative rules. Under the amended regulations, an amendment adopting such alternative rules may not be put into effect until approved by the PBGC. This technical amendment adds the control number assigned by the Office of Management and Budget to the collection of information in the amended regulations.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–236–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (29 U.S.C. 1001 *et seq.*). Part 2647 of the PBGC's regulations (29 CFR Part 2647), Reduction or Waiver of Complete Withdrawal Liability, implements ERISA section 4207 (29 U.S.C. 1387) by providing rules for reducing or waiving the liability for complete withdrawal of an employer that subsequently resumes covered operations under or renews an obligation to contribute under a multiemployer plan.

As amended on March 2, 1994 (59 FR 9926; effective April 1, 1994), Part 2647 includes, in § 2647.9 (Plan rules for abatement), a procedure and standards for the amendment of a multiemployer plan to provide alternative rules for the reduction or waiver of complete withdrawal liability. An amendment adopting such alternative rules (and any subsequent modification thereof) may not be put into effect until approved by the PBGC (§ 2647.9(a)), and § 2647.9(d) prescribes the information that a plan sponsor (or duly authorized representative thereof) must include in its request for PBGC approval.

Pursuant to the Paperwork Reduction Act, the Office of Management and Budget ("OMB") approved the collection of information in § 2647.9 under control number 1212–0044 (expiration date: September 30, 1994), and the PBGC is not issuing this technical amendment to display the OMB control number at the end of § 2647.9. (A notice of the PBGC's request that OMB extend approval of this collection of information for another three years appears elsewhere in today's **Federal Register**.)

Because this rule is limited to a technical change, the PBGC has for good cause found advance notice and public procedure thereon to be unnecessary under section 553 (b)(B) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553 (b)(B) and (d)(3)). Therefore, the PBGC is issuing this amendment as a final rule, effective upon publication.

E.O. 12866

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866 because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productively, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

List of Subjects in 29 CFR 2647

Employee benefit plans, Pension insurance, Reporting requirements.

For the reasons set forth above, the PBGC is amending 29 CFR Part 2647 as follows:

PART 2647—REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

1. The authority citation for Part 2647 is amended by removing "and" and adding, in its place, ",".

§ 2647.9 [Amended]

2. Section 2647.9 is amended by adding "(Approved by the Office of Management and Budget under control number 1212–0044)" at the end.

Issued in Washington, DC this 27th day of June, 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–15927 Filed 6–29–94; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Alabama Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Alabama Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Alabama Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231 *et seq.*, as amended. Alabama proposed revising its procedures for ranking and selecting abandoned mine land reclamation projects and procedures for obtaining right-of-entry by changing the eligibility date for abandoned mine land reclamation. Alabama also revised its statutory definition of "abandoned mine lands." The amendment is intended to meet the requirements of Title IV and the Federal regulations.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT:

Jesse Jackson, Jr., Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Birmingham, Alabama 35209. Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

Title IV of SMCRA, Public Law 95–87, 30 U.S.C. 1202 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters eligible for reclamation were those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. The AML Reclamation Act of 1990 (Pub. L. 101–508, Title IV, Subtitle A, Nov. 5, 1990, effective Oct. 1, 1991) amended SMCRA, 30 U.S.C., 1231 *et seq.*, to provide changes in the eligibility of project sites for AML expenditures. Title IV of SMCRA now provides for reclamation of certain mine sites where the mining occurred after August 3, 1977. These include interim program sites where bond forfeiture proceeds were insufficient for adequate reclamation and sites affected any time between August 4, 1977, and November 5, 1990, for which there were insufficient funds for adequate reclamation due to the insolvency of the bond surety. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement the program.

The Secretary of the Interior approved the Alabama AMLR Plan on May 20, 1982. Information pertinent to the general background, revisions. and amendments to the initial plan submission, as well as the Secretary's findings and the disposition of comments can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Actions taken subsequent to the approval of the Alabama AMLR Plan are identified at 30 CFR 901.20 and 901.25.

The Secretary has adopted regulations at 30 CFR Part 884 that specify the content requirements of a State reclamation plan and the criteria for approval. The regulations provide that a State may submit to the Director proposed amendments or revisions to the approved reclamation plan. If the amendments or revisions change the scope or major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.13 in approving or disapproving an amendment or revision.

II. Submission of Proposed Amendment

By letter dated October 1, 1993, Alabama submitted a reclamation plan amendment to OSM (Administrative Record No. AL–0504). The proposed amendment consists of revised narratives to replace portions of the approved Alabama Plan as provided for by 30 CFR 884.13. The Alabama Plan was revised to change the eligibility date for AMLR reclamation from August 3, 1977, to November 5, 1990.

OSM announced receipt of the proposed amendment in the October 21, 1993, **Federal Register** (58 FR 54313) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on November 22, 1993.

During its review of the amendment, OSM identified concerns relating to: a) the State's lack of specificity in proposing to extend eligibility to sites mined and abandoned prior to November 5, 1990; and b) the State's plan to extend emergency eligibility to sites mined after August 3, 1977. OSM notified Alabama of these concerns by letter dated January 27, 1994 (Administrative Record No. AL–508). Alabama responded in a letter dated April 5, 1994 (Administrative Record No. AL–509), by submitting a revised amendment. The revised amendment includes specific language describing those sites eligible for abandoned mine land reclamation. The proposed change of date in Alabama's emergency program section of the AMLR Plan was withdrawn.

Based on the revisions to the proposed amendment submitted by Alabama, OSM reopened the public comment period in the June 1, 1994, **Federal Register** (59 FR 28302). The public comment period closed on June 16, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 885.15, are the Director's findings concerning the proposed amendment submitted on October 1, 1993, and revised on April 5, 1994. Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. Procedures for Ranking and Selecting/Landowner's Guide to Reclamation

Alabama is proposing to revise its ranking and selection procedures for abandoned mine land reclamation projects and right of entry procedures as provided in the reclamation guidelines for landowners by extending abandoned mine land eligibility to sites mined after August 3, 1977. Those sites would include: a) sites mined during the period beginning on August 4, 1977, and ending on or before May 20, 1982, for which funds for reclamation or abatement pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement; or b) sites mined during the period beginning on August 4, 1977, and ending on or before November 5, 1990, and for which the surety of the mining operator became insolvent and there were not sufficient funds to provide for adequate reclamation or abatement.

The proposed State revisions pertaining to ranking and selection and landowner's guidelines to reclamation are substantively identical to section 402(g)(4)(B) (i) and (ii) of SMCRA. Therefore, the Director finds the proposed State rules no less effective than the Federal rules at section 402(g)(4)(B) (i) and (ii).

2. Senate Bill 162—Definition

In section 9–16–121 of Senate bill 162, Alabama revised the statutory definition of "abandoned mine lands" to include certain lands affected by the mining of coal prior to November 5, 1990. In section 9–16–124, Alabama defined lands and water eligible for reclamation or drainage abatement expenditures as those which were mined for coal or which were affected by the mining or coal mining processes, and abandoned or left in an inadequate reclamation status prior to November 5, 1990, and for which there is no continuing reclamation responsibility under existing State or Federal law.

While the Federal rules do not contain a definition of "abandoned mine lands," section 404 of SMCRA defines eligible lands and water. Further, section 402(g)(4) of SMCRA specifies certain criteria which sites must satisfy in order to meet AML eligibility requirements. Although Alabama's statutory language lacks the specificity of section 402(g)(4) of

SMCRA, the Alabama Plan is being revised, as discussed in Finding 1, to include the more restrictive language provided by SMCRA. Therefore, the Director finds the revised definitions in Senate Bill 162 not inconsistent with the Federal rules at sections 402(g)(4) and 404 of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment submitted on October 1, 1993. No public comments were received, and because no one requested an opportunity to testify at a public hearing, no hearing was held.

The Director reopened the public comment for the revised amendment submitted on April 5, 1994. No comments were received.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments from the Administrator of the U.S. Environmental Protection Agency (EPA), the Secretary of the U.S. Department of Agriculture, and the heads of other Federal agencies with an actual or potential interest in the Alabama program. No comments were received.

Environmental Protection Agency

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1251 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

V. Director's Decision

Based on the above findings, the Director is approving the program amendment submitted by Alabama on October 1, 1993, and revised on April 5, 1994.

The Federal regulations at 30 CFR Part 901 codifying decisions concerning the Alabama program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs in conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and adopted by a specific State or Tribe, not by OSM. Decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the Federal regulations at 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior [516 DM 6, appendix 8, paragraph 8.4B(29)].

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. *et seq.*

Regulatory Flexibility Act

The Department of the Interior 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.*). The submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 23, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 901—ALABAMA

1. The authority section for Part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 901.25, a new paragraph (d) is added to read as follows:

§ 901.25 Amendment to approved Alabama Abandoned Mine Land Reclamation Plan.

* * * * *

(d) The Alabama amendment revising the eligibility date for abandoned mine land reclamation and the definition of "abandoned mine lands" submitted on October 1, 1993, and revised on April 5, 1994, is approved effective June 30, 1994.

[FR Doc. 94–15862 Filed 6–29–94; 8:45 am]
BILLING CODE 4310–05–M

---

30 CFR Part 920

Maryland Regulatory Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Maryland regulatory program (hereinafter referred to as the "Maryland program" under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed a repeal of section 08.13.02 (Deep Mining of Coal) of the Code of Maryland Regulations (COMAR). Regulations in the repealed section necessary to regulate the deep mining of coal were transferred to or already exist under new COMAR 08.20 (Surface Coal Mining and Reclamation under Federally Approved Program). These

regulations include: COMAR 08.20.02.18 (Deep Mine Applications), COMAR 08.20.13 (Surface Effects of Deep Mines), and COMAR 08.20.14.13 (Deep Mine Bonding Requirements). Maryland is also modifying or adding new sections to subtitle 20 of Title 8 of the Maryland regulations. These sections are 08.20.02.18, 08.20.13.01, 08.20.13.03, 08.20.13.04, 08.20.13.10, and 08.20.13.11. This amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: George Rieger, Acting Director, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, PA 17101. Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 920.15 and 920.16.

II. Submission of Proposed Amendment

By letter dated February 25, 1994 (Administrative Record No. MD–566.00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Maryland proposed to repeal COMAR 08.13.02 (Deep Mining of Coal) and transfer the deep mining regulations to new COMAR 08.20 (Surface Coal Mining and Reclamation Under Federally Approved Program). The regulations include: COMAR 08.20.02.18 (Deep Mine Applications), 08.20.13 (Surface Effects of Deep Mines), and 08.20.14.13 (Deep Mine Bonding Requirements). Maryland is also modifying or adding new sections to subtitle 20 of Title 8 of the Maryland regulations. These sections are 08.20.02.18, 08.20.13.01, 08.20,13.03, 08.20.13.04, 08.20.13.10. and 08.20.13.11.

OSM announced receipt of the proposed amendment in the March 16, 1994, **Federal Register** (59 FR 12211), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on April 15, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

Revisions to Maryland's Regulations That Are Not Substantively Identical to the Corresponding Provisions of the Federal Regulations

1. COMAR 08.13.02—Deep Mining of Coal

Maryland is proposing to repeal COMAR 08.13.02 and to incorporate or are duplicative of the requirements of those regulations which are required to regulate the deep mining of coal into COMAR 08.20.02 and COMAR 08.20.13. The specific revisions to COMAR 08.20 are discussed below.

Those sections of COMAR 08.13.02 being repealed and incorporated into COMAR 08.20.02 and 08.20.13 are: .01 (Definitions), .02 (Application Requirements), .03 (Contents—Maps), .04 (Mining and Reclamation Plan), .05 (Projection Maps), .07 (Deep-Mining Bonds), .11 (Mine Opening Sealing), .12 (Barriers), .13 (Subsidence Control), .14 (Mine Operation), and .15 (Variances). The deletions of sections .06 (Application Review Procedures), .08 (Interim Permits), .09 (Flagging or Marking Affected Areas), and .10 (Standards) were previously approved by OSM on June 17, 1993 (58 FR 33331). In the same notice, OSM also approved deletions of subsections .01B. E, M; .02C(2); and .03E, J, M.

Because the provisions of COMAR 08.13.02 being repealed are included in COMAR 08.20 except for 08.13.15 which has no comparable Federal requirement, the Director finds that the proposed repeal of COMAR 08.13.02 does not render the State program less effective than the Federal regulations.

2. COMAR 08.20.02.18—Deep Mine Applications

Maryland is proposing to add COMAR 08.20.02.18 to specify certain requirements for deep mine permit applications. In addition to the general requirements for permit applications specified in COMAR 08.20.02, deep mine permit applications must include: (a) an application fee, (b) an application for other required permits, (c) certain mineral owner information, (d) a map of the proposed underground portion of the affected area which provides certain information, (e) cross-sections above the underground workings, (f) a geologic structure map which provides certain information, (g) results of laboratory analyses, if required, (h) information on existing adjacent deep mines, (i) certain hydrologic information, and (j) any other information requested by Maryland.

The Federal regulations at 30 CFR 783.24 and 783.25 specify the minimum requirements for maps, cross sections, and plans in underground mining permit applications. Since these application requirements are in addition to, and do not supersede, those required under COMAR 08.20.02, the Director finds them consistent with the Federal regulations at 30 CFR 783.24 and 783.25.

3. COMAR 08.20.13—Surface Effects of Deep Mines

(a) At COMAR 08.20.13.01, Maryland is proposing to change a reference from COMAR 08.13.02 to the Natural Resources Article, Title 7, Subtitle 5A. This is necessitated by the proposed repeal of COMAR 08.13.02.

The Director finds that the proposed revision at COMAR 08.20.13.01 is not inconsistent with the requirements of SMCRA and the Federal regulations.

(b) At COMAR 08.20.13.03 (C) and (D), Maryland is proposing to require that all mine opening seals be designed using the best technology currently available and that the design and construction be certified by a registered professional engineer.

There is no direct Federal counterpart. However, the Federal regulations at 30 CFR 817.15 require that underground openings be properly managed in accordance with regulatory authority regulations. The Director finds that the proposed regulations at COMAR 08.20.13.03 are consistent with the Federal regulations at 30 CFR 817.15.

(c) At COMAR 08.20.13.04(D), Maryland is proposing to require that surface openings and accesses to underground workings be located to prevent gravity discharge of water, unless certain demonstrations relating to effluent limitations are made.

The proposed regulation at COMAR 08.20.13.04(D) is substantively identical to the Federal regulation at 30 CFR 817.41(i) except that the Federal rule prohibits any discharge from a drift

mine. The Director notes that Maryland does not have drift mines. The Director finds it is no less effective than the Federal regulation.

(d) At COMAR 08.20.13.10(D), Maryland is proposing to prohibit underground mining activities within the subjacent area where mining is predicted to result in the subsidence of any public bridge

The Federal regulations at 30 CFR 817.121(d) prohibit underground mining activities beneath or adjacent to public facilities if subsidence may cause material damage to those facilities. The Director finds that the proposed regulations at COMAR 08.20.13.10 is consistent with the Federal regulations at 30 CFR 817.121(d).

(e) At COMAR 08.20.13.11, Maryland is proposing to require that barriers of solid coal be provided around the perimeter of the underground mine area, except for approved entries. The barriers must be able to support the overburden and withstand anticipated hydrostatic pressure. The barriers must meet certain design and performance standards, which are enumerated in the Maryland regulation.

There is no direct Federal counterpart. However, the Federal regulations at 30 CFR 817.121(a) require the operator to adopt measures consistent with known technology which prevent subsidence, maximize mine stability, and maintain the value of surface lands. The Director finds that the proposed regulation at COMAR 08.20.13.11 is consistent with the Federal regulations at 30 CFR 817.121(a).

(f) At COMAR 08.20.13.12, Maryland is proposing to establish submission and content requirements for projection maps.

There is no direct Federal counterpart for this regulation. However, the Director finds that the regulation is not inconsistent with the requirements of SMCRA and the Federal regulations.

4. COMAR 08.20.14.13—Deep Mine Bonding Requirements

At COMAR 08.20.14.13(A), Maryland is proposing to delete a reference pertaining to the submission of a general and a revegetation bond. In the same section, a reference to COMAR 08.13.02.07 (which is being repealed) is also being deleted. At subsection (C), Maryland is proposing to delete a provision that limits the period of liability for those portions of a deep mine that continuously disturb the surface for a period exceeding five years to the term of the deep mine permit, which is a five year maximum period. Also proposed for deletion at subsection (E), are provisions pertaining to bond liability for mine drainage.

The Federal regulations at 30 CFR 800.17 pertaining to bonding requirements for underground coal mines contain no comparable provisions. Therefore, the Director finds that the proposed deletions at COMAR 08.20.14.13(A), (C), and (E) do not render the Maryland State program less effective than the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to testify at a public hearing, no hearing was held.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Administrator of the U.S. Environmental Protection Agency (EPA), the Secretary of the U.S. Department of Agriculture, and the heads of other Federal agencies with an actual or potential interest in the Maryland program.

The Department of Labor, Mine Safety and Health Administration, commented on provisions of COMAR 08.13.02.10 and 08.13.02.12 and the applicable Mine Safety and Health Administration (MSHA) requirements. The Director notes that the provisions of COMAR 08.13.02 are being repealed as discussed in Finding 1. Those provisions incorporated into COMAR 08.20.02 and 08.20.13 are found to be no less effective than the Federal regulations. The Director acknowledges MSHA's comments but according to 516(a) and 702 of SMCRA, the cited Maryland regulation cannot be construed as superseding, amending or repealing any MSHA regulation.

The Department of the Army, Corps of Engineers, recommended that in COMAR 08.13.02.13A and 08.20.13.10D, water impoundments be included with public bridges as areas on which mining should be prohibited if subsidence is likely to occur. The Director notes that the provisions of COMAR 08.13.02 are being repealed as discussed in Finding 1. Further, in COMAR 08.20.13.10A, Maryland generally prohibits underground mining beneath impoundments having a storage volume of 20 acre-feet or more.

The Department of Interior, Bureau of Mines, concurred without comment.

Environmental Protection Agency (EPA) Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1251 *et seq.*). Although the Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required, the EPA concurred without comment.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Maryland on February 25, 1994.

The Federal regulations at 30 CFR Part 920 codifying decisions concerning the Maryland program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of

30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 23, 1994.

Robert J. Biggi,

Acting Assistant Director Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended by adding paragraph (y) to read as follows:

§ 920.15 Approval of amendments to State regulatory program.

* * * * *

(y) The following amendment pertaining to the Maryland regulatory program, as submitted to OSM on February 25, 1994, is approved effective June 30, 1994.

(1) Deletion of the following rules of the Code of Maryland Administrative Regulations:

08.13.02.01 Definitions
08.13.02.02 Application Requirements
08.13.02.03 Contents—MAPS
08.13.02.04 Mining and Reclamation Plan
08.13.02.05 Projection Maps
08.13.02.07 Deep-Mining Bonds
08.13.02.11 Mine Opening Sealing
08.13.02.12 Barriers
08.13.02.13 Subsidence Control
08.13.02.14 Mine Operation
08.13.02.15 Variances

(2) Revision or addition of the following rules of the Code of Maryland Administrative Regulations:

08.20.02.18 Deep Mine Applications
08.20.13.01 General
08.20.13.03(C) and (D) Permanent Casing and Sealing of Underground Openings
08.20.13.04(D) Face-Up Areas
08.20.13.10(D) Subsidence Control: Buffer Zones
08.20.13.11 Barriers
08.20.13.12 Projection Maps
08.20.14.13(A), (C), and (E) Deep Mine Bonding Requirements.

[FR Doc. 94–15863 Filed 6–29–94; 8:45 am]
BILLING CODE 4310–05–M

---

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing approval of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment, submitted May 1, 1986, pertains to contemporaneous reclamation. The proposed amendment revises the Wyoming program to be consistent with the corresponding Federal standards and to incorporate the additional flexibility afforded by the revised Federal rules.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15 and 950.16.

II. Submission of Amendment

On May 1, 1986, Wyoming submitted a proposed amendment to the Wyoming program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201–1328, concerning contemporaneous reclamation. In the amendment, Wyoming proposed changes to its time and distance performance standards for rough backfilling and grading (Administrative Record No. WY–25–3). By letter dated November 30, 1993, Wyoming submitted additional information regarding the proposed amendment (Administrative Record No. WY–25–1). In its letter, Wyoming requested that OSM reopen its review of the May 1, 1986, proposed amendment regarding time and distance performance standards for rough backfilling and grading, on which the Director had deferred action in the November 24, 1986, **Federal Register** (51 FR 42209) (Administrative Record No. WY–25–2). Wyoming also provided additional information that was intended to clarify Wyoming's May 1, 1986, proposed amendment.

OSM published a notice, in the December 16, 1993, **Federal Register** (58 FR 65681), announcing receipt of the additional information and in the same notice, opened the public comment period and provided an opportunity for a public hearing on its substantive adequacy. The public comment period closed on January 18, 1994. A public hearing was not held because none was requested.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's

findings concerning the amendment submitted by Wyoming on May 1, 1986, as subsequently clarified on November 30, 1993.

On May 1, 1986, the State of Wyoming submitted a proposed amendment revising nine Chapters of its approved permanent program regulations, known as the Rules and Regulations of the Wyoming Department of Environmental Quality, Land Quality Division (DEQ/LQD). The amendment was in response to a December 23, 1985, letter that OSM sent in accordance with the Federal regulations at 30 CFR 732.17(d). Included in the submittal were proposed changes to Wyoming's regulation at Chapter IV, Section 2(b)(i), regarding Wyoming's time and distance performance standards for rough backfilling and grading.

In the May 21, 1986, **Federal Register** (51 FR 18621), OSM announced receipt of the proposed amendment package and invited public comment on its adequacy. Because no one requested a public hearing, none was held. The comment period closed on June 20, 1986.

In the November 24, 1986, **Federal Register** (51 FR 42209), OSM announced the decision to defer action on the proposed revision to the time and distance performance standards for rough backfilling and grading. At the time of Wyoming's submission (May 1, 1986), the remand of the counterpart Federal regulation, 30 CFR 816.101, was under appeal by the Secretary to the U.S. Court of Appeals for the District of Columbia Circuit. The District Court for the District of Columbia had remanded the Federal regulations at 30 CFR 816.100 and 816.101, holding that OSM's decision to remove 30 CFR 816.101, containing the time and distance performance standards for rough backfilling and grading, left State regulatory authorities with inadequate guidance concerning how to enforce the contemporaneous reclamation requirement of section 515(b)(16) of SMCRA. *In Re: Permanent Surface Mining Litigation*, 21 ERC 1724, 1745–6 (D.D.C. 1984).

On January 29, 1988, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the District Court decision to remand the Federal time and distance performance standards for rough backfilling and grading in *National Wildlife Federation* v. *Hodel*, 839 F.2d 694 (D.C. Cir. 1988). Pursuant to the Court of Appeals' decision, on December 17, 1991, OSM promulgated new regulations, at 30 CFR 816.101, that provided national time and distance performance standards for rough backfilling and grading for surface mining operations. Those regulations were subsequently challenged in *National Coal Association and American Mining Congress* v. *U.S. Department of the Interior, et al.*, Civ. No. 92–0408–CRR (1992). This case was dismissed without prejudice by the U.S. District Court for the District of Columbia as the result of a joint stipulation of the parties that included OSM's agreement to suspend the regulation at 30 CFR 816.101.

By letter dated November 30, 1993, Wyoming submitted a request to OSM to reopen the review of the deferred amendment. The request included Wyoming's rationale for not including time and distance standards in its program. The request also included information concerning how compliance with the proposed contemporaneous reclamation requirement would be determined (Administrative Record No. WY–25–1).

The proposed Wyoming amendment would remove specific time and distance standards for backfilling and grading in favor of a general requirement that backfilling and grading follow coal removal "as contemporaneously as possible based upon the mining conditions." Additionally, Wyoming's proposed rule requires that each permit application include a backfilling and grading schedule with a "supporting analysis."

The December 17, 1991, Federal regulations at 30 CFR 816.101 concerning time and distance performance standards for rough backfilling and grading were suspended by OSM on July 31, 1992. Therefore, in absence of a specific Federal regulation providing specific time and distance performance standards for rough backfilling and grading, the Federal standards against which State time and distance performance standards for rough backfilling and grading must be judged are section 515(b)(16) of SMCRA and 30 CFR 816.100.

Section 515(b)(16) of SMCRA requires that surface coal mining and reclamation operations be conducted so as to insure that all reclamation efforts proceed as contemporaneously as practicable with the surface coal mining operations. The Federal regulation at 816.100 similarly provides that backfilling and grading shall occur "as contemporaneously as practicable with mining operations * * *."

Wyoming's proposed rule requires that "Rough backfilling and grading shall follow coal removal as contemporaneously as possible based upon the mining conditions * * *." OSM interprets Wyoming's phrase "as contemporaneously as possible based upon the mining conditions," to be equivalent to the Federal phrase, "as contemporaneously as practicable with mining operations," in section 515(b)(16) of SMCRA and 30 CFR 816.100. OSM notes that the American Heritage Dictionary, Second College Edition (1982), on page 967, includes the word "practicable" in its list of words synonymous with the word "possible."

OSM notes that Wyoming, in its letter of November 30, 1993, explained why the existing specific, program-wide time and distance standards for rough backfilling and grading have proven infeasible because of unique local mining conditions in Wyoming. Specifically, Wyoming asserted that the time standard of its regulations was not workable because mines with low tonnage proceed slowly and cannot reclaim quickly enough to meet the time limit (60 or 180 days, depending on the type of mining). Wyoming further explained that the pace of mining in Wyoming varies with the topography of the land being mined. When an operation passes through a ridge, explained Wyoming, a large amount of overburden is removed, enabling reclamation to be completed in a timely manner. Conversely, when the operation passes through a drainage, a small amount of overburden is removed, limiting how quickly the operator can reclaim.

As for the current distance standard (1500 linear feet or four spoil ridges, depending on the type of mining) in its regulations, Wyoming argued that it is arbitrary, unfairly affecting operations using large mining equipment. Wyoming asserted that operations using large equipment need a more relaxed standard in order to operate safely.

Finally, Wyoming argued that its proposed regulation, although containing no statewide standards, is workable and inspectable because each operator must include time and/or distance standards in his or her permit application in accordance with the approved State program.

OSM recognizes that, in addition to permit-specific time and distance standards, the requirement in the Wyoming program to provide an analysis that supports the dollar amount of an operators performance bond will encourage operators to reclaim in a timely fashion. Operators must include, in the permit application, a detailed operation plan, a reclamation plan, and a resource protection plan, including a plan for minimizing erosion and the extent of the disturbed area. The supporting analysis for the dollar amount of the performance bond is

based upon these other plans. If these plans allow for an unusually large area of unreclaimed land to exist for an unusually long period of time, the dollar amount of the performance bond will be correspondingly large, to account for the increased chance of environmental degradation. Therefore, to keep the dollar amount of the performance bond from being so large that it is financially impractical, an operator will be constrained to reclaiming in a timely fashion.

Based on the above discussion, the Director finds that the proposed rule change to LQD Rules Chapter IV, Section 2(b)(i) is no less stringent than section 515(b)(16) of SMCRA and no less effective than 30 CFR 816.100 and is approving the proposed rule.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. A public hearing was not held because no one requested an opportunity to testify.

1. Written comments were received from the Wyoming Outdoor Council (WOC) (Administrative Record No. WY–25–24). The WOC expressed concern that the proposed rule changes are inconsistent with and less effective than the Federal laws and regulations as follows:

a. The WOC questioned why the permanent State rules included the revised language upon which the Director deferred approval in 1986. In response, OSM notes that those rules, while incorporated into the State program by Wyoming, were never approved by OSM as part of the approved State program. As discussed previously in this notice, OSM deferred action on the proposed change in November of 1986. The Federal regulations at 30 CFR 732.17(g) specifically provide that no changes proposed by the State to laws or regulations that make up an approved State program shall take effect for purposes of a State program until approved as a program amendment.

b. The WOC asserted that the variables and factors described in Wyoming's November 30, 1993, letter of explanation should be specifically incorporated into the rules.

OSM does not agree with WOC. The State's rationale supporting its decision to repeal specific program-wide time and distance standards for backfilling and grading and its explanation of why local conditions and mining situations support non-specific program-wide standards, while helpful, is not critical to OSM's decision to approve these proposed changes. Wyoming's proposed changes to its contemporaneous reclamation regulations, without the inclusion of the explanation contained in the November 30, 1993, letter, are no less effective than the corresponding provisions of SMCRA and the Federal regulations. Therefore, OSM cannot require Wyoming to include the explanation of the November 30, 1993, letter in the actual language of the amended State regulations.

2. Written comments were received from the Thunder Basin Coal Company (TBCC) (Administrative Record No. WY–25–18). TBCC supported the proposed amendment.

Agency Comments

Pursuant to Section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Wyoming program. A summary of the comments, and the Directors responses to them, appear below:

1. The U.S. Department of the Interior (USDI)—Bureau of Indian Affairs, U.S. Army Corps of Engineers, USDI—Bureau of Mines, USDI—Geological Survey, and the U.S. Department of Labor—Mine Safety and Health Administration each responded that it had no comment (Administrative Record Nos. WY–25–22, WY–25–14, WY–25–16, WY–25–15, and WY–25–17 respectively).

2. The U.S. Department of the Interior, Fish and Wildlife Service (FWS) recommended that,

> The State program be as specific as possible pertaining to time and space requirements for contemporaneous reclamation and not completely rely on the development of case by case individual permits requirements. We believe, if there is not adequate standards established, the State Program will have difficulty in maintaining consistency and compliance with the intent of the Reclamation Act.
>
> (Administrative Record No. WY–25–20)

As discussed previously, the State's contemporaneous reclamation regulations are as stringent and as effective as the corresponding provisions in SMCRA and the Federal regulations. OSM is not authorized by SMCRA to require State programs to be more stringent than SMCRA or more effective than the Federal regulations. OSM cannot, therefore, require Wyoming to further amend its program in response to the FWS's comments.

3. The U.S. Department of Agriculture, Soil Conservation Service, commented that the proposed changes seem to be logical and valid (administrative Record No. WY–25–12).

State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

As required by 30 CFR 732.17(h)(4), OSM provided the proposed amendment to the SHPO and the ACHP for comment. No comments were received from the ACHP. The Wyoming Division of Parks and Cultural Resources—State Historic Preservation Office commented by reminding OSM that management of cultural resources on OSM projects is conducted in accordance with Section 106 of the National Historic Preservation Act and Advisory Council regulations at 36 CFR part 800. The SHPO had no objections to the proposed Wyoming amendment provided that OSM follows the procedures contained in 36 CFR part 800 (Administrative Record No. WY–25–19). OSM assures the SHPO that it is obligated to follow the procedures at 36 CFR part 800.

Environmental Protection Agency Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to provisions of a State program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On January 7, 1994, the EPA replied that it had no comment on Wyoming's proposed amendment (Administrative Record No. WY–25–13).

V. Director's Decision

Based on the above findings, the Director approves Wyoming's proposed program amendment as submitted May 1, 1986, and as subsequently clarified on November 30, 1993.

The Federal regulations at 30 CFR part 950 codifying decisions concerning the Wyoming program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undo delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Compliance With Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR Parts 730, 731, and 732 have been met.

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Compliance With the Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 23, 1994.

Russell F. Price,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, SubChapter T, the Code of Federal Regulations is amended as set forth below.

PART 950—WYOMING

1. The authority citation for Part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 950.15 is amended by adding paragraph (t) to read as follows:

§ 950.15 Approval of regulatory program amendments

* * * * *

(t) The following provisions of the laws, rules and regulations of the Wyoming Department of Environmental Quality—Land Quality Division relating to coal exploration and coal mining and reclamation operations, as submitted on May 1, 1986, and as subsequently clarified on November 30, 1993, are approved effective June 30, 1994: LQD Rules at Chapter IV, Section 2(b)(i).

[FR Doc. 94–15864 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 379

[DoD Directive 5134.8]

Assistant to the Secretary of Defense for Atomic Energy (ATSD(AE)); Organizational Charter

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This part updates the responsibilities, functions, and organizational arrangements of the Assistant to the Secretary of Defense for Atomic Energy as the result of a reorganization.

EFFECTIVE DATE: June 8, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, Office of Organizational and Management Planning, telephone 703–697–1142.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 379

Organization and functions (Government agencies).

Accordingly, Title 32, Chapter I, Subchapter R is amended to add Part 379 to read as follows:

PART 379—ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY (ATSD(AE))

Sec.

Authority: 10 U.S.C. 113 and 142.

§ 379.1 Purpose.

Pursuant to 10 U.S.C. 142 and the authority vested in the Secretary of Defense by 10 U.S.C. 113, this part updates the responsibilities, functions, relationships, and authorities of the ATSD(AE).

§ 379.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 379.3 Responsibilities and functions.

The ATSD(AE) is the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology (USD(A&T)) for all matters concerning the formulation of policy and plans for nuclear, chemical, and biological weapons. The ATSD(AE) also is directly responsible to the Secretary and Deputy Secretary of Defense for matters associated with nuclear weapons safety and security, chemical weapons demilitarization, chemical and biological defense programs, and smoke and obscurants. In the exercise of this responsibility, the ATSD(AE) shall:

(a) Oversee and develop plans for nuclear and chemical weapons safety, security, and survivability, and survivability of material and systems

relative to nuclear effects and nuclear, chemical, and biological contamination; and plan and implement the modernization and upgrading of the nuclear stockpile.

(b) Coordinate the risk reduction efforts of the Department of Defense by developing a counter proliferation acquisition strategy.

(c) Integrate management of all Defense atomic energy, chemical and biological defense, chemical and biological medical defense, smoke and obscurants; the safety, surety, and security of the current chemical weapons stockpile; destruction of U.S. chemical weapons; chemical and biological (CB) arms control activities; and assistance to other nations.

(d) Serve as the Staff Director, Nuclear Weapons Council, and as Chairman, Nuclear Weapons Standing and Safety Committee. The Nuclear Weapons Council Committees shall advise the Staff Director, Nuclear Weapons Council, as the Staff Director deems appropriate and necessary.

(e) Develop policies, provide advice, and make recommendations to the USD(A&T) and the Secretary and Deputy Secretary of Defense, and issue guidance on Defense atomic energy; chemical and biological defense; chemical and biological medical defense; smoke and obscurants; safety, surety, and security of the current chemical weapons stockpile; destruction of the U.S. chemical weapons; CB arms control activities; and plans and programs.

(f) Serve as the USD(A&T) focal point for:

(1) Compliance with nuclear, chemical, and biological arms control agreements in accordance with DoD Directive 2060.1.[1]

(2) Oversight of the chemical weapons verification research and development programs, and chair the Chemical Weapons Convention Implementation Working Group and the Chemical Weapons Convention Review Group.

(3) Research, development, and acquisition related to counter proliferation.

(4) Contact with the Department of Energy on all atomic energy matters that the Department of Defense determines to be related to the military applications of nuclear weapons or nuclear energy, including the development, manufacture, use, storage, retirement, and disposal of nuclear weapons, the allocation of special nuclear material for military research, and the control of information relating to the manufacture or utilization of nuclear weapons.

(g) Develop systems and standards for the administration and management of the approved plans and programs for atomic energy; chemical and biological defense; chemical and biological medical defense; smoke and obscurants; safety, surety, and security of the current chemical weapons stockpile; destruction of U.S. chemical weapons; CB arms control activities and counter proliferation; and review and evaluate programs for carrying out approved policies and standards.

(h) Promote coordination, cooperation, and mutual understanding on atomic energy; chemical and biological defense; chemical and biological medical defense; smoke and obscurants; safety, surety, and security of the current chemical weapons stockpile; destruction of U.S. chemical weapons; CB arms control activities; plans and programs; and counter proliferation policies, within the Department of Defense and between the Department of Defense and other Federal Agencies.

(i) Participate in those DoD planning, programming, and budgeting activities that relate to the responsibilities and functions specified in this part.

(j) Serve on boards, committees, and other groups concerned with atomic energy; chemical and biological defense; chemical and biological medical defense; smoke and obscurants; safety, surety, and security of the current chemical weapons stockpile; destruction of U.S. chemical weapons; CB arms control activities; plans and programs; and counter proliferation. Also represent the Secretary of Defense on these matters outside the Department of Defense.

(k) Serve as an advisor to the Defense Acquisition Board (DAB) for review of systems that include nuclear components or warheads, and for systems required to operate in nuclear, chemical and/or biological environments and for counter proliferation programs. Serve also as the advisor to the DAB for chemical and biological defense programs, and the chemical demilitarization program.

(l) Develop policies and procedures for:

(1) Transmission of information to the Senate and House Armed Services Committees, as required by the Atomic Energy Act of 1954, as amended, and coordinate such information through the USD(A&T); the Director, Defense Research and Engineering; and other cognizant officials and agencies.

(2) Development of information, data, and reports for chemical and biological defense, chemical demilitarization, and chemical and biological arms control requirements.

(3) Coordination of the congressionally required Annual Report on Nuclear, Biological, and Chemical Readiness Training, and Status of Fielded Equipment and co-chair the steering committee for development of the report.

(4) Nuclear weapon accident and/or incident response, and coordinate exercises testing them.

(m) Serve as the DoD principal point of contact for cooperation with other nations on the military applications of atomic energy in accordance with articles 91a, 123a, 144b, and 144c of the Atomic Energy Act of 1954, as amended, in coordination with other cognizant officials and agencies.

(n) Advise the USD(A&T) on arms control treaty compliance and/or verification matters relating to nuclear weapon and effects technology, testing and development and the nuclear weapon stockpile.

(o) Serve as chairperson of the Defense Nuclear Agency Coordinating Committee.

(p) Chair the OSD Chemical and Biological Defense Matters Steering Committee, and provide oversight of the DoD Biological Defense Program in coordination with the Army Acquisition Executive.

(q) Manage execution and implementation of concluded Cooperative Threat Reduction assistance projects with the new independent states of the former Soviet Union.

(r) Provide OSD representation on the following Joint Service Chemical and Biological Defense and Chemical Demilitarization committees:

(1) Joint Service Agreement, Joint Service Review Group.

(2) Joint Panel of Chemical and Biological Defense.

(3) Joint Service Coordination Committee.

(4) Chemical Demilitarization Army Systems Acquisition Review Council (Voting Member).

(s) Perform such other functions as the Secretary of Defense and USD(A&T) may assign.

§ 379.4 Relationships.

(a) In the performance of assigned functions and responsibilities, the ATSD(AE) shall:

(1) Report directly to the USD(A&T).

(2) Exercise authority, direction, and control over:

(i) The Defense Nuclear Agency.

(ii) The On-Site Inspection Agency.

(3) Coordinate and exchange information with other DoD

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

organizations having collateral or related functions.

(4) Use existing facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to achieve maximum efficiency and economy.

(5) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(b) The DoD Chemical and Biological Defense Steering Committee shall advise the ATSD(AE) on such chemical and biological defense matters as the ATSD(AE) deems appropriate and necessary.

(c) Other OSD officials and heads of the DoD Components shall coordinate with the ATSD(AE) on all matters related to the responsibilities and functions cited in § 379.3.

(d) The DoD Board of Directors for Defense Conversion within the former Soviet Union shall advise the ATSD(AE) on defense conversion matters as the ATSD(AE) deems necessary.

§ 379.5 Authorities.

The ATSD(AE) is hereby delegated authority to:

(a) Issue DoD Instructions, DoD Publications, and one-time directive-type memoranda, consistent with DoD 5025.1–M,[2] which carry out policies approved by the Secretary of Defense, in assigned fields of responsibility. Instructions to the Military Departments shall be issued through the Secretaries of those Departments. Instructions to the Unified Combatant Commands shall be communicated through the Chairman of the Joint Chiefs of Staff.

(b) Obtain reports, information, advice, and assistance, consistent with DoD Directive 8910.1,[3] as deemed necessary.

(c) Communicate directly with the Heads of the DoD Components. Communications to Commanders of the Unified Combatant Commands shall be through the Chairman of the Joint Chiefs of Staff.

Dated: June 23, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–15701 Filed 6–29–94; 8:45 am]

BILLING CODE 5000–04–M

[2] See footnote 1 to § 379.3(f)

[3] See footnote 1 to § 379.3(f)

32 CFR Part 393

Advanced Research Projects Agency

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: On July 22, 1993 (58 FR 39360), the Department of Defense redesignated 32 CFR part 358 as 32 CFR part 393. This document is an administrative amendment to 32 CFR part 393 that should have been included in the July 22, 1993 publication.

EFFECTIVE DATE: July 22, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301–1155, 703–693–7411.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 393

Organization and functions (Government agencies).

Accordingly, 32 CFR Part 393 is amended as follows:

PART 393—[AMENDED]

1. The authority citation for part 393 continues to read as follows:

Authority: 10 U.S.C. 133.

§ 393.2 [Amended]

2. Section 393.2 introductory text is amended by revising "DARPA" to read "ARPA".

Dated: June 23, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–15704 Filed 6–29–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–94–016]

RIN 2115–AE46]

Special Local Regulation; Cleveland Charity Classic, Cleveland Harbor, Lake Erie, Cleveland, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: A special local regulation is being adopted for the marine event, Cleveland Charity Classic. This event will be held on Cleveland Harbor on July 23, 1994. The Cleveland Charity Classic will have an estimated 20–30 offshore powerboats, racing in a closed course which could pose hazards to navigation in the area. This regulation is needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATE: This regulation is effective at 11 a.m. (EDST) until 2 p.m. (EDST), July 23, 1994.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Second Class, U.S. Coast Guard, Aids to Navigation and Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: 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 them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District until May 19, 1994, and there was not sufficient time remaining to publish a proposed rule in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Scott J. Smith, Lieutenant Junior Grade, U.S. Coast Guard, Project Officer, Aids to Navigation & Waterways Management Branch and Karen E. Lloyd, Lieutenant, U.S. Coast Guard, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Cleveland Charity Classic will be held on Cleveland Harbor on July 23, 1994. This event will have an estimated 20–30 offshore race boats, racing a closed course race on Lake Erie, Cleveland Harbor, which could pose hazards to navigation in the area. This regulation is necessary to ensure the protection of life, limb, and property on navigable waters during this event. The effect of this regulation will be to restrict general navigation on that portion of Lake Erie, Cleveland Harbor, in an area triangular in shape, from the Cleveland Waterworks Intake Crib Light (LLNR 4030), thence to the West Pier Light (LLNR 4185), thence to the Disposal Light B (LLNR 4045), back to the point of origin, for the safety of spectators and participants. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Cleveland Harbor, OH).

This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation.

Economic Assessment and Certification

This regulation 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 regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of the DOT is unnecessary.

Collection of Information

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

List of Subjects in 33 CFR Part 100

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

Temporary Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T09016 is added to read as follows:

§ 100.35—T09016 Cleveland Charity Classic, Cleveland Harbor, Lake Erie, Cleveland, OH.

(a) *Regulated area.* That portion of Lake Erie, Cleveland Harbor from the Cleveland Waterworks Intake Crib Light (LLNR 4030) to:

Latitude	*Longitude*
41° 30.7′ N	081° 43.1′ W
(West Pierhead Light, LLNR 4160), thence along the breakwater to	
41° 30.4′ N	081° 42.9′ W
(Breakwater Light, LLNR 4175), thence to	
41° 30.2′ N	081° 42.8′ W
(West Pier Light, LLNR 4185), thence along the shoreline and structures to	
41° 32.5′ N	081° 38.3′ W
(Disposal Light, B, LLNR 4045), thence to	
41° 33.0′ N	081° 45.0′ W
(Cleveland Waterworks Intake Crib Light, LLNR 4030)	

(b) *Special local regulation.* This regulation restricts general navigation in the regulated area for the safety of spectators and participants. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander.

(c) *Patrol commander.*

(1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander, (Officer in Charge, U.S. Coast Guard Station Cleveland Harbor, OH). The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander."

(2) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life, limb, or property.

(6) All persons in the area shall comply with the orders of the Coast Guard Patrol Commander.

(d) *Effective date.* This section will become effective from 11 a.m. (EDST) until 2 p.m. (EDST) on July 23, 1994, unless otherwise terminated by the Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station, Cleveland Harbor, OH).

Dated: June 17, 1994.

Rudy K. Peschel,

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

[FR Doc. 94–15957 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 117

[CGD02 93–036]

RIN 2115–AE47

Drawbridge Operation Regulation; Illinois River, IL

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule with request for comments.

SUMMARY: The Coast Guard is establishing operation conditions for the remote operation of the Chicago and Northwestern Transportation Company railway bridge at Pekin, Illinois. This action is being taken at the request of the Chicago and Northwestern Transportation Company of Chicago, Illinois. The change to remote operation will permit more efficient operation of the railway bridge, and still provide for the reasonable needs of navigation.

EFFECTIVE DATES: This interim rule is effective on August 1, 1994. Comments must be received on or before October 1, 1994.

ADDRESSES: Comments may be mailed to Commander (ob), Second Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2632, Attention: Docket CGD02 93–036. Comments may also be delivered to room 2.107B at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments, the telephone number is (314) 539–3724.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Second Coast Guard District, (314) 539–3724.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. The Coast Guard is soliciting comments until October 1, 1994, on the operation of the new system during the initial implementation of this rule. The Coast Guard will consider all comments received during the comment period.

Drafting Information

The principal persons involved in drafting this document are Wanda G Renshaw, Project Officer, Bridge Branch, and Lieutenant Commander Arne O. Denny, Project Attorney, Second Coast Guard District Legal Office.

Publication History

On January 7, 1994, the Coast Guard published a proposed rule (59 FR 986) concerning this amendment. The Commander, Second Coast Guard District, also published the proposal as a Public Notice dated January 14, 1994. Interested parties were given until February 22, 1994, to submit comments. The Coast Guard received seven comments on the proposal. A public meeting was requested and hosted by the Chairman of the Tazewell County Board in Pekin, Illinois, on March 14, 1994.

Background and Purpose

The Chicago and Northwestern (C&NW) bridge at Pekin Illinois Bridge is presently maintained in the open position and is closed by an on-site bridge tender upon the approach of a train. C&NW will install remote operating equipment and a control system, including radar, infrared boat detector, high intensity lights and communications equipment that will permit operation of the draw from the Chicago and Northwestern office in Chicago, Illinois. Equipment will indicate any malfunction in the bridge operation and enable the remote operator to ascertain the position of the lift span at any time. The marine radio system will receive and transmit on the VHF marine frequencies authorized by the Federal Communications Commission. Additionally, portable radiotelephone equipment will be provided to permit direct communications with vessels when the bridge is operated at the bridge site. A radar antenna will be installed on the fixed portion of the bridge structure, and the received signal will be transmitted by fixed lines and a microwave link to the Chicago and Northwestern office in Chicago. The radar system is designed to scan upstream and downstream of the bridge. Infrared scanners will be located on the upstream and downstream ends of the channel span piers to detect vessels in the channel span. If an obstruction is detected beneath the lift span during the closing cycle before the span is seated and locked, the lift span will be automatically stopped and immediately raised to the fully open position until the channel is clear. During the bridge closing cycle, an automatic, synthesized voice announcement will be broadcast. At the appropriate times in the closing cycle, the broadcast will announce that the bridge will close to navigation, that the bridge is closed to navigation, or that the bridge has reopened to navigation.

Discussion of Comments and Changes

Seven comments were received in response to the Public Notice. One comment addressed the dangerous location of the bridge, the distraction of high intensity lights, the inability to discern by radar between various types of vessels, the additional duties assigned to the remotely located operator, and the safe passage of vessels if the bridge operator cannot maintain visual and radio contact. The bridge owner questioned the comment's reference to the dangerous location of the bridge and reasoned that the proposed procedure will be more favorable to river traffic than the current operation. The bridge owner reported that current bridge operators are assigned non-bridge related clerical duties in addition to operating the bridge for the six to eight daily trains. The radar to be installed on the bridge is similar to the radar equipment used on vessels, and operators will be trained in its use. In response to the question about back-up power, the bridge is equipped with a standby generator that would power all systems, including the bridge itself, in case of a failure of commercial power. If the infrared detectors fail, it will be physically impossible to remotely lower the bridge. Standard Department of Transportation traffic warning lights will be used in lieu of high intensity lights.

The Illinois River Carriers Association commented that it does not object to the proposal as described, but questioned if the bridge could accidentally be lowered on or in front of a tow. They also recommended that a trial period, monitored by the Coast Guard, be established for a specified time.

The bridge owner has no objection to the trial period and advises they expect the Coast Guard will evaluate the operation. C&NW has reported the remote operator cannot "accidentally" initiate the lowering sequence. A series of commands from a dispatcher control console must be entered; all the remote operator can do is initiate the sequence for lowering the bridge. The system would have to run through the 10 minute advance warning cycle before the drawspan would begin to lower. If the infrared beam is broken, the lowering is automatically aborted, and the span returns to the fully open position. The entire lowering sequence, including the warning cycle, must be repeated before span will again lower.

Divisions of the Brotherhood of Locomotive Engineers in South Pekin, Illinois, and Chicago, Illinois, commented that an on-site bridge operator is needed to report collisions from barges to maintenance personnel, and that withdrawal of bridge operators would result in reduced maintenance and possible operation problems.

The Coast Guard has established a program requiring vessel operators to report any contact with bridge structures. These incidents are reported to the bridge owner for investigation to determine the structural safety of the bridge. C&NW has responded that equipment would enable the remote operator to detect any malfunction in the operation of the lift span, resulting in maintenance personnel being dispatched to the bridge site. If equipment at the bridge site were vandalized, the bridge would not lower.

Submittals from the United Transportation Union, the Transportation Communications International Union and divisions of the Brotherhood of Locomotive Engineers in South Pekin, Illinois and Chicago, Illinois, commented on railroad operations and personnel issues, which are not within the scope of this regulation or the Coast Guard's jurisdiction.

The Chairman of the Tazewell County Board expressed the Board's concerns for the safety of the operation if bridge is operated from a remote location, and the loss of four jobs and the impact on the involved families. A public meeting hosted by the Tazewell County Board was held on March 14, 1994; representatives of Chicago and Northwestern Railroad answered questions and addressed concerns about the navigational and structural safety of the bridge, and railroad operations and personnel issues.

The original proposal provided for installation of equipment that would permit operation of the span by authorized railroad personnel at either portal of the bridge. C&NW has decided to omit the "portal" controls, since, should it be necessary to lower the span at the bridge site, the span could be operated from the bridge house on top of the span, or from the signal bungalow south of the bridge. If the span is operated from either bridge site location, the span would not be lowered until the 10-minute warning period, including voice announcements, had been completed, and the local operator had confirmed, either visually or by

radiotelephone, that no boats were under or approaching the bridge.

Based on the owner's response to comments on the remote operation of this bridge, the Coast Guard is publishing the requirements as proposed.

Regulatory Evaluation

This regulation 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).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because a sample group of Illinois River users have expressed no objection to the proposal.

Small Entities

After considering the submitted comments, the Coast Guard finds that any 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 rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has reviewed the environmental impact of this rule and concluded that under section 2.B.2 of the NEPA Implementing Procedures, COMDTINST M16475.1B this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the human environment. A Categorical Exclusion Determination is available in the docket.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows.

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.393 paragraphs (a), (b), (c), (d), and (e) are redesignated as (a)(1) through (a)(5), respectively, the introductory paragraph of § 117.393 is redesignated as the introductory text of paragraph (a) and a new paragraph (b) is added to read as follows:

§ 117.393 Illinois river.

(a) * * *

(b) The draw of the Chicago and Northwestern railroad bridge, Mile 151.2, at Pekin, Illinois, is operated by a remote operator located at the Chicago and Northwestern offices in Chicago, Illinois, as follows:

(1) The draw is normally maintained in the fully open position, displaying green mid-channel lights to indicate that the span is fully open.

(2) The draw is equipped with the following:

(i) A radiotelephone link direct to the remote operator;

(ii) A horn for sound signals;

(iii) Eight high intensity amber warning lights, oriented upstream and downstream, with two secured to the uppermost chord and two secured to the lowermost chord of the drawspan;

(iv) A radar antenna on the lower portion of the drawspan capable of scanning one mile upstream and one mile downstream; and

(v) Infrared scanners located on the upstream and downstream ends of the channel span piers, to detect vessels or other obstructions under the bridge.

(3) The remote operator shall maintain a radiotelephone watch for mariners to establish contact as they approach the bridge to ensure that the draw is open or that it remains open until passage is complete.

(4) When a train approaches the bridge and the draw is in the open position, the remote operator initiates a ten minute warning period before closing the bridge. During this warning period, the amber lights begin flashing and a signal of four short blasts sounds on a horn. The four-blast signal will repeat after a five second interval. A synthesized-voice message is broadcast over the radiotelephone as follows: "The Chicago and Northwestern railroad bridge at Mile 151.2, Illinois River, will close to navigation in ten minutes." The announcement is repeated every two minutes, counting down the time remaining until closure.

(5) At the end of the ten minute warning period, the remote bridge operator scans under the bridge using infrared detectors and the upstream and downstream approaches to the bridge using radar to determine whether any vessels are under or are approaching the bridge. If any vessels are under or are approaching the bridge within one mile as determined by infrared or radar scanning or by a radiotelephone response, the remote operator shall not close the bridge until the vessel or vessels have cleared the bridge.

(6) If no vessels are under or approaching the bridge, the mid-channel navigation lights will change from green to red, the horn signal of four short blasts will sound, twice, and the radiotelephone message will change to: "The Chicago and Northwestern Railroad Bridge at Mile 151.2, Illinois River, is closed to navigation." The message will repeat every two minutes and the amber lights will continue to flash until the bridge is fully reopened.

(7) If the infrared scanners detect a vessel or other obstruction under the bridge before the drawspan is fully lowered and locked, the closing sequence is stopped, automatically, and the drawspan is raised to its fully open position until the channel is clear. When obstruction has cleared the navigation span, the remote operator confirms that the channel is clear, and reinitiates the ten-minute warning cycle.

(8) After the train has cleared the bridge, the remote operator initiates the lift span raising cycle. When the draw is raised to its full height and locked in place, the flashing lights stop and the mid-channel navigation lights change from red to green. The synthesized voice announcement broadcasts at two minute intervals for ten minutes that the bridge is reopened to navigation.

Dated: June 14, 1994.

Frank M. Chliszczyk,

Captain, U.S. Coast Guard, Acting Commander, Second Coost Guard District.

[FR Doc. 94–15955 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD13–94–018]

RIN 2115–AA97

Safety Zone Regulations; St. Helens Fourth of July Fireworks Display, Columbia River, St. Helens, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Fireworks Display to be held on July 4, 1994. The zone will be located on the Columbia River from river mile 85.8 to 86.5. This safety zone is needed to protect persons, facilities, and vessels from safety hazards associated with a fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on July 4, 1994, at 8:45 p.m. (PDT) and terminates on July 4, 1994 at 10:45 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LTJG R. S. Croke, c/o Captain of the Port Portland, 6767 N. Basin Ave., Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the regulated area. Due to the complex planning and coordination involved, notice of the final details for the show were not available to the Coast Guard from the St. Helens Fireworks Committee until 30 days prior to the show. Therefore, sufficient time was not available to publish the proposed rules in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures would be impracticable.

Drafting Information

The drafters of this regulation are LTJG R. S. Croke, project officer for the Captain of the Port, and LT L. J. Argenti, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Regulations

The event requiring this regulation will begin on July 4, 1994 at 8:45 p.m. (PDT). Upon request of the St. Helens Fireworks Committee, the Coast Guard is establishing a safety zone from Columbia River mile 85.8 to river mile 86.5. This fireworks display may result in a large number of vessels congregating near the fireworks launch site. Concern is justified due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launch site. This safety zone will be enforced by representatives of the Captain of the Port Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

This Regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary final rule 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.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, subpart C 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, and 160.5; 49 CFR 1.46.

2. A new Section 165.T13–015 is added to read as follows:

§ 165.T13–015 Safety Zone: Columbia River, St. Helens, Oregon.

(a) *Location.* The following area is a safety zone: All waters on the Columbia River from river mile 85.8 to river mile 86.5, St. Helens, Oregon.

(b) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) The designated representative of the Captain of The Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Portland, Oregon.

(3) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels of persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective date.* This section becomes effective on July 4, 1994, at 8:45 p.m. (PDT) and terminate on July 4, 1994, at 10:45 p.m. (PDT) unless sooner terminated by the Captain of The Port.

Dated: June 22, 1994.

N.S. Porter,

Captain, U.S. Coast Guard, Alternate Captain of the Port.

[FR Doc. 94–15956 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[CGD 13–94–013]

RIN 2115–AA97

Safety Zone Regulations; Fireworks Display, Lake Union, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Fireworks display to be held on July 4, 1994, from 9:30 p.m. (PDT) until 11 p.m. (PDT). The fireworks display barge will be positioned in Lake Union, Seattle, Washington. This safety zone is necessary to control spectator craft and to provide for the safety of life and property on and in the vicinity of navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on July 4, 1994 at 9:30 p.m. (PDT) and terminate on July 4, 1994 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT S. Workman, Assistant Operations Officer, Coast Guard Group Seattle, Washington, (206) 217–6009.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was just recently received leaving insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this temporary final rule are LT Andrew W. Connor, project officer, and LT Laticia J. Argenti, project attorney, Coast Guard District Thirteen Legal Office.

Discussion of Regulations

The Lake Union Fireworks Display is being held as part of the celebration for the Fourth of July Independence Day in Seattle, Washington. This event is sponsored by Cellular One and the City of Seattle. The fireworks display is conducted from a barge located on the waters of Lake Union, Seattle, Washington. This one day event attracts a large number of spectators gathered on the waters near the fireworks display. To promote the safety of both the spectators and participants, this safety zone is required to keep spectators away from the explosive fireworks barge during the fireworks display. The exclusionary area is designed to keep all spectators away from the fireworks barge.

Regulatory Evaluation

This proposed rule 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.

Federalism Assessment

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.C. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, 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, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13–010 is added to read as follows:

§ 165.T13–010 Safety Zone: Lake Union, Seattle, Washington.

(a) *Location.* The following area is a safety zone: The waters of Lake Union, Seattle, Washington around the fireworks barge bounded by the following coordinates: Latitude 47°38′36″ N, Longitude 122°20′31″ W, Latitude 47°38′36″ N, Longitude 122°19′55″ W, Latitude 47°38′12″ N, Longitude 122°20′19″ W, Latitude 47°38′12″ N, Longitude 122°20′19″ W.

(b) *Definitions.*

Designated representative of the District Commander is any Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander, Thirteenth Coast Guard District, to act on his behalf.

Official patrol consists of any Coast Guard vessel, state or local law enforcement, and/or sponsor-provided vessels assigned and/or approved by Commander, Thirteenth Coast Guard District to patrol each event.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the District Commander or his designated representative. All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(2) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander or his designated representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(d) *Effective dates.* This section becomes effective on July 4, 1994 at 9:30 p.m. (PDT) and terminates on July 4, 1994 at 11 p.m. (PDT) unless sooner terminated by the District Commander.

Dated: June 3, 1994.

John A. Pierson,

Captain, USCG.

[FR Doc. 94–15689 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 373, 379, 381, and 385

RIN 1820–AB11

Rehabilitation Services Administration Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary announces the effective date for information collection requirements in regulations for certain

Rehabilitation Services Administration programs and amends 34 CFR Parts 373, 379, 381, and 385 to display and codify the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements contained in the regulations. The Department must display and codify the control numbers to comply with applicable statutory and regulatory requirements. Publication of these control numbers informs the public that OMB has approved the information collection requirements and that they have taken effect.

EFFECTIVE DATE: The amendments to §§ 373.30, 379.43, 381.10, 385.45 published at February 18, 1994 at 59 FR 8330, and this amendment are effective June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Beverlee Stafford, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3028 Switzer Building, Washington, D.C. 20202–2531. Telephone: (202) 205–9331. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for a variety of Rehabilitation Services Administration programs were published in the **Federal Register** on February 18, 1994 (59 FR 8330). At the time of publication of the regulations, it was noted that certain sections of the regulations contained information collection requirements requiring review by the Office of Management and Budget (OMB), and those sections would become effective after approval by OMB under the Paperwork Reduction Act of 1980, as amended.

OMB has approved the information collection requirements in §§ 373.30, 379.43, 381.10, and 385.45 of those regulations, and those sections of the regulations are now effective.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations contain only technical amendments and would not have a significant impact on any entities.

List of Subjects

34 CFR Part 373

Education, Grant programs—education, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 379

Business and industry, Education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 381

Education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 385

Education, Grant programs—education, Reporting and recordkeeping requirements, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Numbers: 84.129 Rehabilitation Training; 84.234 Projects With Industry; 84.235 Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Disabilities; 84.240 Protection and Advocacy of Individual Rights)

Dated: June 24, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

The Secretary amends Parts 373, 379, 381, and 385 of Title 34 of the Code of Federal Regulations as follows:

PART 373—SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING VOCATIONAL REHABILITATION SERVICES TO INDIVIDUALS WITH DISABILITIES

1. The authority citation for Part 373 continues to read as follows:

Authority: 29 U.S.C. 711(c), 777a(a)(1), and 777a(a)(4), unless otherwise noted.

2. Section 373.30 is amended by adding "(Approved by the Office of Management and Budget under control number 1820–0018)" following the section.

PART 379—PROJECTS WITH INDUSTRY

3. The authority citation for Part 379 continues to read as follows:

Authority: Secs. 12(c) and 621 of the Act; 29 U.S.C. 711(c) and 795g, unless otherwise noted.

4. Section 379.43 is amended by adding an OMB control number and an authority citation following the section to read as follows:

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: Secs. 12(c) and 621 of the Act; 29 U.S.C. 711(c) and 795g)

PART 381—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

5. The authority citation for Part 381 continues to read as follows:

Authority: 29 U.S.C. 794e, unless otherwise noted.

6. The OMB control number following § 381.10 continues to read as follows:

(Approved by the Office of Management and Budget under control number 1820–0018)

PART 385—REHABILITATION TRAINING

7. The authority citation for Part 385 continues to read as follows:

Authority: 29 U.S.C. 711(c), 772, and 774, unless otherwise noted.

§385.45 [Amended]

8. Section 385.45 is amended by adding "(Approved by the Office of Management and Budget under control number 1820–0018)" following the section.

[FR Doc. 94–15842 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–P

---

34 CFR Part 600, 646, and 692

RIN 1840–AB88, 1840–AB53, 1840–AB72

Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Eligibility of Foreign Medical Schools Under the Guaranteed Student Loan Program (GSLP); Student Support Services; State Student Incentive Grant Program

AGENCY: Department of Education.

ACTION: Final regulations; Corrections.

SUMMARY: This document corrects an error in the final regulations for 34 CFR Part 600 published in the **Federal Register** on April 28, 1994 for Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Eligibility of Foreign Medical Schools under the Guaranteed Student

Loan Program (GSLP) (59 FR 22062). These regulations implement statutory changes made to the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992. This document also corrects authority citations in final regulations for 34 CFR Part 646 published on October 1, 1993 (58 FR 51518) and in final regulations for 34 CFR Part 692 published on January 28, 1994 (59 FR 4220).

EFFECTIVE DATE: These regulations take effect on July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Joyce R. Coates, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4318, ROB–3), Washington, DC 20202. Telephone (202) 708–7888. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: June 24, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The following corrections are made:

PART 600—[CORRECTED]

§ 600.55 [Corrected]

1. In FR Doc. 94–10036, published on April 28, 1994 (59 FR 22062), on page 22064, column 1, § 600.55, paragraph (a), introductory text is corrected by adding after "§ 600.54" the words "(except the criterion that the institution be public or private nonprofit)".

§ 600.56 [Corrected]

2. On page 22064, column 3, in § 600.56, paragraph (c), reference to "34 CFR 668.25(c)(2)" is corrected to read "34 CFR 668.26".

PART 646—[AMENDED]

3. In FR Doc. 93–23908, published on October 1, 1993 (58 FR 51518), on page 51521, column 2, amendatory instruction 30., after "§ 646.3" add ", 646.4".

PART 692—[AMENDED]

§ 692.3 [Corrected]

4. In FR Doc. 94–1692, published on January 28, 1994 (59 FR 4220), on page 4222, column 3, amendatory instruction 2., after "(d)" add "and the authority citation".

[FR Doc. 94–15858 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–P

34 CFR Part 668

RIN 1840–AC09

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of revised effective date; final regulations.

SUMMARY: In the Federal Register of April 29, 1994 (59 FR 22278), the Secretary published interim final regulations with invitation to comment for the Student Assistance General Provisions, 34 CFR part 668. The Secretary is delaying the effective date of these regulations until July 1, 1994. By delaying the effective date, the Secretary seeks to reduce confusion about the effective date of these regulations by making the effective date consistent with the effective date of other changes to the regulations published by the Secretary at the same time.

EFFECTIVE DATES: These regulations take effect on July 1, 1994, with the exception of § 668.17 (f) and (h) which will become effective after the information collection requirements contained in this section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

FOR FURTHER INFORMATION CONTACT: Pamela A. Moran, Acting Chief, Loans Branch, Division of Policy Development, Policy, Training, and Analysis Service, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4310, ROB–3), Washington, DC 20202–5449. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The interim final regulations which are subject to this change in effective date implement certain provisions of the Higher Education Technical Amendments of 1993 relating to the determination of institutional cohort default rates in the Federal Family Education Loan (FFEL) Program. The effective date of these regulations has been delayed until July 1, 1994 so that all of the regulations implementing changes to the Higher Education Act of 1965, as amended, (HEA), published by the Secretary on April 29, 1994 will take effect on July 1, 1994. The Secretary was informed that there was confusion about the effective date of the regulations because the other regulations published on April 29, 1994 and implementing changes to the HEA were not effective until July 1, 1994. The Secretary is delaying the effective date of these regulations to resolve the confusion and to afford participants in the FFEL program additional time to comply with the requirements of these regulations.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the Secretary is delaying the effective date of these regulations for only a brief period to reduce confusion and afford participants in the FFEL program additional time for compliance, the Secretary finds, in accordance with 5 U.S.C. 553(b)(B), that the solicitation of public comment on this change in the effective date would be impracticable and contrary to the public interest.

(Catalog of Federal Domestic Assistance Number: 84.032 Federal Family Education Loan Program)

Dated: June 27, 1994.

Richard W. Riley,

Secretary of Education.

[FR Doc. 94–16001 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–P

34 CFR Parts 668, 674, 675, 676, 682, 685, and 690

Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, Federal Direct Student Loan, and Federal Pell Grant Programs

AGENCY: Department of Education.

ACTION: Notice of relief from regulatory provisions; correction.

SUMMARY: On April 13, 1994, the Secretary published a notice in the Federal Register (59 FR 17648) announcing relief from certain regulatory provisions under student financial aid programs authorized under title IV of the Higher Education Act of 1965, as amended, for the victims of the California earthquake. In that notice the Secretary omitted coverage for the victims of the Midwest floods of 1993. This notice corrects the April 13 notice to include the Midwest flood victims.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy S. Gause, Senior Program Specialist, Grants Branch, Division of

Policy Development, Policy, Training, and Analysis Service, U.S. Department of Education, 400 Maryland Avenue, S.W., (ROB–3, Room 4018), Washington, D.C. 20202–5447. Telephone (202) 708–4690. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Emergency Supplemental Appropriations Act of 1994 (Pub. L. 103–211), enacted February 12, 1994, authorized the Secretary to reallocate, for use in award year 1994–1995 only, any excess funds under the Federal Perkins Loan and the FWS programs from the 1993–94 award year to assist individuals who suffered financial harm as a result of the January 1994 earthquake in Southern California and other disasters. The Act intended that these funds would be reallocated to institutions for use in award year 1994–95 to assist students who have been adversely affected by the California earthquake of January 1994 and the Midwest floods of 1993.

The Secretary corrects the April 13 notice to include assistance to the victims of the Midwest floods. The Secretary reallocates for use during the 1994–95 award year any excess funds under the Federal Perkins Loan, the FWS, and the FSEOG programs from the 1993–94 award year to institutions that enroll students adversely affected by the earthquake in January 1994 and the Midwest floods of 1993 (see **Federal Register** notice published October 6, 1993 for covered Midwest flood victims—58 FR 52194). Institutions will be informed of the application procedures for obtaining these reallocated funds in a letter issued by the Department to financial aid administrators.

All other information in the April 13, 1994 notice remains unchanged.

Dated: June 23, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–15841 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–P

---

34 CFR Part 682

RIN 1840–AB83

Federal Family Education Loan Program

AGENCY: Department of Education.

ACTION: Notice of revised effective date; final regulations.

SUMMARY: In the **Federal Register** of April 29, 1994 (59 FR 22462), the Secretary published final regulations for the Federal Family Education Loan (FFEL) Program, 34 CFR part 682. The Secretary is delaying the effective date of these regulations until July 1, 1994. By delaying the effective date, the Secretary seeks to reduce confusion about the effective date of these regulations by making the effective date consistent with the effective date of other changes to the regulations published by the Secretary at that same time.

EFFECTIVE DATE: These regulations take effect on July 1, 1994, with the exception of the amendments to §§ 682.202, 682.208, 682.402, 682.410, and 682.411. These amendments will become effective after the information collection requirements contained in these sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Subject to approval under the Paperwork Reduction Act, the following applicability dates also apply to certain provisions of these regulations:

Section 682.202(c), which reduces the amount of the origination fee charged on an FFEL Program loan, applies to loans for which the first disbursement is made on or after July 1, 1994, if the period of enrollment for which the loan is intended either includes that date or begins on or after that date.

Section 682.202(d), which reduces the amount of the insurance premium charged on an FFEL Program loan, applies to loans for which the first disbursement is made on or after July 1, 1994, if the period of enrollment for which the loan is intended either includes that date or begins on or after that date.

Section 682.410(b)(5)–(7), which requires guaranty agencies to warn defaulters that they may be subject to administrative wage garnishment and offset against Federal or State income tax refunds, applies to claims paid by the agency on or after August 27, 1994.

Section 682.411, which requires lenders to warn delinquent borrowers that they may be subject to administrative wage garnishment and offset against Federal or State income tax refunds if they default on their loans, applies to loans on which the first day of delinquency is on or after August 27, 1994.

FOR FURTHER INFORMATION CONTACT: George Harris, Senior Program Specialist, Loans Branch, Division of Policy Development, Policy, Training, and Analysis Service, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4310, ROB–3), Washington, DC 20202–5449. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The regulations which are affected by this change in effective date amend the FFEL loan discharge regulations. The effective date of these regulations has been delayed until July 1, 1994 so that all of the regulations implementing changes to the Higher Education Act of 1965, as amended, (HEA), by the Higher Education Amendments of 1992, and certain technical changes made by the Cash Management Improvement Act Amendments of 1993 in the Federal Family Education Loan (FFEL) Program which were published in the **Federal Register** before May 1, 1994 will take effect on July 1, 1994. The Secretary was informed that there was confusion among participants in the FFEL Program about the effective date of the regulations because other regulations published at the same time and implementing other changes to the HEA were not effective until July 1, 1994. The Secretary is delaying the effective date of these regulations to resolve the confusion and to afford participants in the FFEL program additional time to comply with the requirements of these regulations.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232 (b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the Secretary is delaying the effective date of these regulations for only a brief period to reduce confusion and afford participants in the FFEL program additional time for compliance, the Secretary finds, in accordance with 5 U.S.C. 553(b)(B), that the solicitation of public comment on this change in the effective date would be impracticable and contrary to the public interest.

(Catalog of Federal Domestic Assistance Number: 84.032 Federal Family Education Loan Program)

Dated: June 27, 1994.

Richard W. Riley,

Secretary of Education.

[FR Doc. 94–16002 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–056–6068a; FRL–4999–4]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to North Carolina Regulations for Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the North Carolina State Implementation Plan (SIP). On November 20, 1992, the State of North Carolina through the North Carolina Department of Environmental Management (NCDEM) submitted revisions to its SIP. These revisions will add regulations to implement an oxygenated gasoline program in the Raleigh/Durham and the Winston-Salem/Greensboro/High Point metropolitan statistical areas (MSA). This plan was submitted to satisfy the requirements of the Clean Air Act as amended in 1990. The intended effect of this action is to approve the oxygenated gasoline program.

DATES: This final rule will be effective August 29, 1994, unless EPA receives adverse or critical comments by August 1, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Benjamin Franco at the EPA Region IV address. Copies of the material submitted by the State of North Carolina and incorporated by reference may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

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

State of North Carolina, Department of Environment, Health, and Natural Resources, Division of Environmental Management, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Benjamin Franco of the EPA Region IV Air Programs Branch at (404) 347–2864 and at the address indicated in the Addresses section.

SUPPLEMENTARY INFORMATION: Motor vehicles are significant sources of CO emissions. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter. Section 211(m) of the Act requires that various states submit revisions to their SIPs, and implement oxygenated gasoline programs by no later than November 1, 1992. This requirement applies to all states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more based generally on 1988 and 1989 air quality data. Each state's oxygenated gasoline program must require gasoline for the specified control area(s) to contain not less than 2.7 percent oxygen by weight during that portion of the year in which the areas are prone to high ambient concentrations of CO. The oxygenated gasoline requirements are to generally cover all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located. The length of the control period, established by section 211(m) of the Act, is from November 1 through February 29. Also, guidelines on the establishment of control periods were published in the Federal Register on October 20, 1992. The State of North Carolina implemented the program during November 1992 through February 1993 and November 1993 through February 1994.

The counties of Durham and Wake (Raleigh/Durham) and Forsyth (Winston-Salem) in the State of North Carolina are designated nonattainment for CO and classified as moderate with a design value of 10.9 and 9.7 parts per million, respectively, based on 1988 and 1989 air quality data. Under section 211(m) of the Act, North Carolina was required to submit a revised SIP under section 110 and part D of title I of the Act which includes an oxygenated gasoline program for Raleigh/Durham MSA and the Winston-Salem/Greensboro/High Point MSA by November 15, 1992. On November 20, 1992, the NCDEM submitted to EPA a revised SIP including the oxygenated gasoline program that was adopted by the state on July 9, 1992 and June 26, 1992. EPA summarizes its analysis of the state submittal below.

The North Carolina oxygenated gasoline regulations require oxygenated gasoline, containing a minimum of 2.7 percent oxygen content by weight, be sold in the MSA in which each nonattainment area is located, consistent with the requirements of section 211(m)(2) of the Act. North Carolina has included requirements in their rules related to documentation that must accompany the fuel while it is being transferred through the distribution chain. These transfer document requirements will enhance the enforcement of the oxygenated gasoline regulation, by providing a paper trail for each gasoline sample taken by state enforcement personnel.

State oxygenated gasoline regulations will be enforced by the Standards Division of the North Carolina Department of Agriculture. The Standard Division has agreed to inspect, a minimum of one time per season, 40 percent of all retail gasoline stations located in the program area. The inspections will consist of fuel sampling and record review. The Standards Division has the authority to stop the sale of the product and give fines. The fine will be calculated by multiplying the amount of fuel found in violation by the price difference between oxygenated and clear gasoline and then doubled. EPA's sampling procedures are detailed in appendix D of 40 CFR part 80. North Carolina has elected to use the ASTM–D48150989 test method, which has been approved by EPA. North Carolina is using the same testing tolerances established by EPA. Additionally, North Carolina has adopted labeling regulations consistent with the Federal regulation.

Final Action

EPA is approving the regulation because it meets all applicable requirements for oxygenated fuel programs. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. This action will become effective on August 29, 1994, unless adverse comments are received by August 1, 1994. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule (please see short informational notice published, simultaneously, in the proposal section of this **Federal Register**).

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial

review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

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 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. The EPA 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 EPA's request. This request continued in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small 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 EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 16, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of 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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(68) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(68) The North Carolina Department of Environmental Management submitted an Oxygenated Fuel program as part of North Carolina carbon monoxide SIP on November 20, 1992.

(i) Incorporation by reference.

(A) The North Carolina Environmental Commission regulations 15A NCAC 2D.1301 through .1305 effective September 1, 1992.

(B) The North Carolina Gasoline and Oil Board section .0800 through .0806 effective September 1, 1992.

(ii) Other material. None.

[FR Doc. 94–15254 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 185

[OPP–260053B; FRL–4896–9]

RIN 2070–AB78

Benomyl, Trifluralin, Mancozeb, and Phosmet; Revocation of Certain Food Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Denial of Stay Petitions.

SUMMARY: EPA is responding to objections and hearing and stay requests filed in response to a final rule revoking certain food additive regulations (tolerances) under section 409 of the Federal Food, Drug, and Cosmetic Act. EPA is denying the objections and hearing and stay requests on the following section 409 tolerances: (1) Benomyl—raisins and processed tomato products; (2) trifluralin—peppermint and spearmint oil; (3) mancozeb—bran of wheat; and (4) phosmet—cottonseed oil. The denial of the objections and hearing and stay requests effect the removal of corresponding sections from the Code of Federal Regulations.

DATES: This regulation is effective June 30, 1994. The portion of this rule denying the objections and hearing requests will be effective September 28, 1994. The denial of the petitions to stay the revocation of the food additive regulations is effective June 30, 1994. For purposes of judicial review, this rule shall be entered 1 p.m. eastern daylight time on July 14, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi or Lisa Engstrom, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Station #1, 2800 Crystal Drive, Arlington, VA. Telephone: (703)-308-8010.

SUPPLEMENTARY INFORMATION: This Order is one in a series of orders issued in response to a petition filed with EPA in 1989 seeking the revocation of 14 tolerances as violative of the Delaney anti-cancer clause in section 409(c) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348(c). In its first Order on the petition issued in 1990, 55 FR 17560 (April 25, 1990), EPA refused to revoke several of the tolerances on the ground that even though the pesticides involved were animal carcinogens, the Delaney clause contains an exception for *de minimis* risks. Following EPA's affirmance of that Order after an administrative appeal (56 FR 7750, Feb. 25, 1991),

EPA's decision was set aside by a court in 1992 based on the court's finding that the Delaney clause was not subject to an exception for *de minimis* cancer risks. *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert. denied*, 113 S. Ct. 1361 (1993). Then in 1993, EPA issued a revised Order consistent with the court's holding, stating that the pesticides are animal carcinogens but this time revoking the tolerances as inconsistent with the Delaney clause (58 FR 37862, July 14, 1993). Manufacturers of the subject pesticides and a trade association filed objections to the revised Order, as well as requests for hearings on, and stays of, the revocation Order. This final Order addresses those objections and requests for hearings and stays.

In summary, most of the objections submitted address the issue of whether the subject pesticides "induce cancer" within the meaning of the Delaney clause. However, EPA concludes herein that this issue was resolved in an earlier Order and the objectors are precluded from raising issues already finally decided. EPA finds that the objectors do not make an adequate case for reopening that issue. Therefore, objections and requests for hearings focused on whether the subject pesticides induce cancer are denied by this Order. Other objections and a request for a hearing on an issue other than whether the pesticides induce cancer are also denied. In sum, this Order denies the objections and hearing and stay requests pertaining to revocation of the following section 409 tolerances: (1) Benomyl—raisins and processed tomato products (40 CFR 185.350); (2) trifluralin—peppermint and spearmint oil (40 CFR 185.5900); (3) mancozeb—bran of wheat (40 CFR 185.6300); and (4) phosmet—cottonseed oil (40 CFR 185.3950).

The July 14, 1993 final rule (58 FR 37862) is withdrawn as to the section 409 tolerance for mancozeb on raisins because EPA has published another final rule elsewhere in this issue of the **Federal Register** revoking that tolerance on other grounds. Persons adversely affected by that Order may file objections with EPA within the period provided by that Order.

I. Statutory Background

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are commonly referred to as "tolerances." Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is "adulterated" under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342. EPA was authorized to establish pesticide tolerances under Reorganization Plan No. 3 of 1970. 5 U.S.C. App. at 1343 (1988). Monitoring and enforcement of pesticide tolerances are carried out by the U.S. Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA).

The FFDCA has separate provisions for tolerances for pesticide residues on raw agricultural commodities (RACs) and tolerances on processed food. For pesticide residues in or on RACs, EPA establishes tolerances, or exemptions from tolerances when appropriate, under section 408. 21 U.S.C. 346a. EPA regulates pesticide residues in processed foods under section 409, which pertains to "food additives." 21 U.S.C. 348. Maximum residue regulations established under section 409 are commonly referred to as food additive tolerances or food additive regulations. Section 409 food additive regulations are needed, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, a pesticide residue in processed food generally will not render the food adulterated if the residue results from application of the pesticide to a RAC and the residue in the processed food when ready to eat is below the RAC tolerance. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to the processed food form. Thus, a section 409 food additive regulation is only necessary to prevent foods from being deemed adulterated when the concentration of the pesticide residue in a processed food when ready-to-eat is greater than the tolerance prescribed for the RAC, or if the processed food itself is treated or comes in contact with a pesticide.

Prior to establishing a food additive regulation under section 409, EPA must determine that the "proposed use of the food additive [pesticide], under the conditions of use to be specified in the regulation, will be safe." 21 U.S.C. 348(c)(3). Section 409 specifically addresses the safety of carcinogenic substances in the so-called Delaney clause, which provides that "no additive shall be deemed safe if it has been found to induce cancer when ingested by man or animal or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal * * * ." *Id.*

Section 409 food additive regulations may be established or revoked by EPA by order in response to petitions from any person. 21 U.S.C. 348(b). Adversely affected parties may object to an order issued in response to a petition and such parties may seek an administrative hearing on the order. 21 U.S.C. 348(f). Only an order responding to objections is subject to judicial review. 21 U.S.C. 348(g).

II. Regulatory Background

This proceeding was initiated on May 25, 1989, by a petition filed by the State of California, the Natural Resources Defense Council, Public Citizen, the AFL-CIO, and several individuals (the "California petition") requesting that EPA revoke 14 food additive regulations for the pesticides trifluralin (in spearmint and peppermint oil), 40 CFR 185.5900; benomyl (in raisins and tomato products), 40 CFR 185.350; phosmet (in cottonseed oil), 40 CFR 185.3950; mancozeb (in raisins and bran of barley, oats, rye, and wheat), 40 CFR 185.6300; dicofol (in dried tea), 40 CFR 185.410; DDVP (in packaged and bagged nonperishable processed foods and dried figs), 40 CFR 185.1900; and chlordimeform (in dried prunes), 40 CFR 185.750. Petitioners argued that these food additive regulations should be revoked because the seven pesticides to which the regulations applied were animal carcinogens and thus the regulations violated the Delaney anticancer clause in section 409 of the FFDCA. 54 FR 27700 (June 30, 1989).

In the **Federal Register** of June 30, 1989 (54 FR 27700), EPA issued the California petition in its entirety in the **Federal Register** and sought comments on the action proposed by the petitioners. EPA received numerous comments on the petitioners' proposal, including several comments addressing the petitioners' conclusion that EPA had found that the referenced pesticides induced cancer within the meaning of the Delaney clause.

EPA issued an Order responding to the petition on April 25, 1990 ("April 1990 Order"). 55 FR 17560 (April 25, 1990). EPA agreed with the petitioners that it had found that the seven pesticides were "animal carcinogens" within the meaning of the Delaney clause, 55 FR 17566, and rejected comments to the contrary by several commenters. 55 FR 17570, 17572-73. As required by section 409, the Order provided adversely affected parties the right to file objections and requests for hearings. EPA noted that "[i]f objections and requests for hearings are submitted, * * * the issues of whether the chemicals listed by the petition

induce cancer * * * could be potential factual matters for resolution at an administrative hearing." 55 FR 17570.

Although EPA agreed with the petitioners that all of the referenced pesticides induce cancer within the meaning of the Delaney clause, EPA refused to revoke most of the challenged food additive regulations based on the determination either that: (1) that the residues allowed by the food additive regulation pose a *de minimis* cancer risk; (2) there was insufficient information to determine whether the residues allowed by the food additive regulation pose a *de minimis* cancer risk, and EPA believed that data to be submitted in the future would show that the cancer risk is *de minimis*; or (3) action under FFDCA was appropriately withheld pending completion of an ongoing FIFRA proceeding addressing similar cancer risk issues. EPA also announced that it had already revoked the chlordimeform food additive regulation for dried prunes on October 25, 1989, 54 FR 43424, and agreed to revoke the food additive regulation for residues of DDVP on dried figs, 55 FR 17567. EPA revoked the food additive regulation for DDVP on dried figs on June 26, 1991, 56 FR 29182.

On May 22, 1990, the original submitters of the California petition filed objections to EPA's response to their petition. The petitioners' central objection was that EPA had incorrectly interpreted section 409 by reading a *de minimis* exception into the Delaney clause. Petitioners also contended that ongoing review of a pesticide under the FIFRA did not provide grounds for refusing to rule on their petition. EPA received no other objections, and no party requested a hearing on any matter, including whether any of the pesticides involved induce cancer.

In the **Federal Register** of February 25, 1991 (56 FR 7750), EPA responded to the petitioners' objections by issuing an Order (1) denying the petition to revoke the trifluralin, benomyl, mancozeb, and phosmet food additive regulations; and (2) stating that revocations for the DDVP and dicofol regulations would be forthcoming. ("February 1991 Order"). EPA denied the request to revoke the trifluralin and benomyl regulations because, although it had found the pesticides to "induce cancer," it further concluded that the residues allowed by the food additive regulations pose a *de minimis* cancer risk. EPA denied the request to revoke the mancozeb regulations because the cancer risk was being addressed in a parallel proceeding under FIFRA. Finally, EPA denied the request to revoke the phosmet regulation because EPA's cancer finding on phosmet was only "tentative."

The original petitioners sought judicial review of EPA's ruling on their objections concerning the benomyl, trifluralin, mancozeb, and phosmet food additive regulations. On July 8, 1992, the United States Court of Appeals, Ninth Circuit, set aside EPA's Order. *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert denied*, 113 S. Ct. 1361 (1993). Determinative to the court was that EPA had found that the subject pesticides induce cancer within the meaning of the Delaney clause. The court dismissed EPA's various arguments on why food additive regulations for pesticides which are animal carcinogens could be maintained. Specifically, as to benomyl and trifluralin, the court held that the Delaney clause prohibited the establishment of food additive regulations for pesticides which induce cancer no matter how infinitesimal the human cancer risk. For mancozeb and phosmet, the court held that the ongoing FIFRA cancellation action concerning mancozeb and the EPA reevaluation of 2carcinogenicity data on phosmet did not overcome the induce cancer findings. 968 F.2d at 990 n.3. The Supreme Court declined to review the decision on February 22, 1993. *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert. denied*, 113 S. Ct. 1361 (1993).

Subsequent to the Supreme Court's action, but prior to EPA's issuance of a revised Order responding to the California petition, DuPont Agricultural Products ("DuPont"), the producer of benomyl, the Mancozeb Task Force (comprising DuPont, Elf Atochem North America, Inc., and Rohm and Haas Co.), and the National Agricultural Chemicals Association (NACA), each contacted EPA requesting that EPA respond to the *Les v. Reilly* decision procedurally by issuing a proposed order responding to the California petition. They argued that the induce cancer issue, among others, was not "adequately explored or raised for comment." (Ref. 1). DuPont and NACA specifically claimed that the "proponents of the maintenance of the section 409 regulations were never 'adversely affected' by an EPA position [in the April 1990 Order], because no change was ever made or proposed to the existing food additive regulations." (Ref. 2).

DuPont, the Mancozeb Task Force, and DowElanco also took several actions related to the challenged food additive regulations in this time period. DuPont petitioned EPA to revoke the food additive regulations for benomyl on processed tomato products and raisins (58 FR 29318, May 19, 1993; 58 FR 63575, Dec. 2, 1993). DuPont contended that the food additive regulation on tomato products was not necessary because benomyl did not concentrate during the processing of tomatoes. DuPont sought the revocation of the raisin food additive regulation on the ground that raisins should be classified as a "raw agricultural commodity," and thus this regulation should be repromulgated under section 408. The Mancozeb Task Force petitioned EPA for the revocation of the mancozeb food additive regulations on bran of wheat and raisins on the grounds that those tolerance regulations were unnecessary based on lack of concentration during processing (58 FR 29318, May 19, 1993). Finally, DowElanco requested that EPA cancel DowElanco's registration under FIFRA for the use of trifluralin on peppermint and spearmint (57 FR 7752, March 4, 1992).

III. The Order in Dispute

On July 14, 1993, EPA issued a revised Order responding to the California petition in light of the decision in *Les v. Reilly* (58 FR 37862, "July 1993 Order"). In that Order, EPA stated that the four pesticides in question, benomyl, trifluralin, mancozeb, and phosmet, induce cancer within the meaning of the Delaney clause, and, based on the Ninth Circuit's interpretation of the Delaney clause, EPA ordered that the challenged regulations for these pesticides be revoked. As provided in section 409, any person adversely affected was given 30 days to file written objections to the Order and a written request for an evidentiary hearing on the objections. Adversely affected parties were also given 30 days to file a petition for a stay of the effective date of the Order (58 FR 37865). EPA set an effective date of August 30, 1993, for the revocations. *Id.* EPA announced that, if it received a request for a stay of the effective date for a particular regulation, it would stay the effective date as to that regulation for such time as would be necessary to review and respond to the stay petition. *Id.*

IV. Stay Petitions

A. Stay Petitions Filed With EPA

EPA received stay petitions from DuPont, DowElanco, the Mancozeb Task Force, and NACA covering each of the regulations revoked by the July 1993 Order. Because EPA determined that the stay requests were properly filed, on September 16, 1993, it issued an Order ("the September Stay Order") staying the revocations announced in the July 1993 Order for such time as would be necessary to review the stay requests. 58

FR 48456. In the September Stay Order, EPA announced that it would accept comments on the stay requests for fifteen days from publication of the stay. EPA received within the comment period one comment from Gowan Inc. addressing the request for stay of the revocation of the phosmet food additive regulation submitted by NACA. NRDC submitted comments outside the comment period. In the September Stay Order, EPA also announced that it would publish in the Federal Register its determination on each stay request, and, if denying a particular stay request, that the revocation of the affected regulation would become effective upon publication of EPA's determination.

B. EPA Response To Petitions To Stay

This Order announces EPA's denial of each of the petitions to stay the referenced food additive regulations. EPA's consideration of whether to grant the requested stays for the pendency of the administrative proceedings has been rendered moot by the fact that elsewhere in this Order EPA has denied each of the objections filed to the July 1993 Order, as well as the hearing requests. As a result of EPA's denial of the requests to stay the revocations of the food additive regulations for benomyl, mancozeb, trifluralin, and phosmet, the July 1993 Order becomes effective June 30, 1994.

Gowan Co. and NRDC filed comments in response to the petitions to stay the revocations announced in the July 1993 Order. Gowan Co., the manufacturer of phosmet, submitted comments in support of a stay arguing that phosmet was wrongly classified as an animal carcinogen. If Gowan Co. had substantive objections to EPA's Order, it should have filed a timely objection. Gowan Co. cannot surmount the 30-day deadline for filing objections by couching its objections as a "comment" on a stay request. NRDC commented that the stay should be denied citing the length of these proceedings and arguing that the objectors submitted no new evidence justifying further delay of the effective date of these revocations.

V. Summary of Objections and Hearing Requests

EPA received objections from NACA, DuPont, DowElanco, and the Mancozeb Task Force. NACA submitted objections to the revocation of each of the food additive regulations affected by the July 1993 Order. NACA asserted that the pesticides involved did not induce cancer and that EPA's July 1993 Order was procedurally defective. EPA also received separate objections on the revocations of the food additive regulations for benomyl (DuPont), mancozeb (DuPont and the Mancozeb Task Force), and trifluralin (DowElanco). DuPont objected to the July 1993 Order arguing that (1) benomyl does not induce cancer; (2) the benomyl and mancozeb tolerances should be revoked on other grounds; and (3) the July 1993 Order was procedurally defective. DowElanco claimed that trifluralin does not induce cancer and that the July 1993 Order was procedurally defective. The Mancozeb Task Force asserted that (1) the July 1993 Order was procedurally defective; (2) EPA had failed to promulgate criteria for making an induce cancer finding; and (3) the mancozeb tolerances should be revoked on other grounds.

In addition, DuPont filed a request for a hearing on whether benomyl induces cancer and on whether the benomyl regulations should be revoked on other grounds, and DowElanco filed a request for a hearing on whether trifluralin induces cancer.

VI. EPA Response to Hearing Requests and Objections

Most of the objections submitted challenge EPA's finding that the subject pesticides "induce cancer" within the meaning of the Delaney clause. However, EPA believes that the issue of whether the named pesticides induce cancer is closed, and the objectors have not raised new evidence justifying a reopening of that issue. Therefore, EPA is denying the objections and requests for hearings relying upon the induce cancer issue. All other objections and the remaining hearing request are addressed and denied on other grounds.

In part VI.A. of this preamble below, EPA explains why the objectors are precluded from raising the induce cancer issue. In part VI.B., EPA addresses the remaining objections and hearing request and explains its grounds for denying each.

A. The Induce Cancer Determination

Under the doctrines of res judicata, collateral estoppel, and law of the case, issues finally resolved may not be resurrected absent manifest injustice. These doctrines are as important in the administrative context as in the judicial. In the interest of administrative efficiency and economy, final determinations in administrative proceedings deserve to be treated with finality. Based on the procedural requirements of FFDCA section 409 and the specific facts involved in this proceeding, EPA believes that the issue of whether the named pesticides induce cancer under the Delaney clause was laid to rest once the objectors failed to file objections to EPA's April 1990 Order finding that the named pesticides induce cancer. As a result, under these doctrines, the objectors may not now rely on that issue to support a challenge to EPA's July 1993 Order. The following sections discuss EPA's reasoning.

1. *The Finality of FFDCA Section 409(c) Orders.* The doctrines of res judicata, collateral estoppel, and law of the case share a common theme, finality of decisions in the interest of efficiency and economy. Generally, these doctrines preclude a party from resurrecting issues that were finally decided in the same or a prior case. Depending on the circumstances, any of the three doctrines may be invoked to preclude a party from raising an issue in an administrative setting that had been finally decided in another or related administrative or judicial proceeding. (Ref. 3). Furthermore, application of any of the three doctrines is especially appropriate in an administrative setting when the organic statute in question is specifically designed to ensure finality of certain issues. The FFDCA is such a statute.

Under section 409 of the FFDCA, any person may file a petition for the establishment, amendment, or revocation of a food additive regulation. 21 U.S.C. 348(b) and (h). EPA must publish a summary of the petition within 30 days of its filing. 21 U.S.C. 348(b)(5). By order issued pursuant to section 409(c) of the FFDCA, the Administrator may either grant or deny, in whole or in part, that petition. A section 409(c) order is effective upon publication unless EPA, in its discretion, determines that a stay of the order is appropriate. 21 U.S.C. 348(e). In addition, any person adversely affected by a decision issued pursuant to section 409(c) of the FFDCA may file objections, specifying the reasons for the objections, and request an administrative hearing on the objections. 21 U.S.C. 348(f). Section 409(f) requires the Administrator to issue an order responding to the issues raised by any objections and, if a hearing is held, such order must be based upon a fair evaluation of the entire record at the hearing. Only challenges to a section 409(f) order are judicially reviewable. 21 U.S.C. 348(f). (Ref.4).

This procedural framework is designed to further optimal public participation while ensuring finality of issues that remain unopposed either at the administrative or appellate level. In sum, the FFDCA permits persons adversely affected by a section 409(c) order to challenge that order, first at the administrative level, and then at the appellate level. Persons adversely

affected by a section 409(c) order may challenge that order through the submission of objections and requests for a hearing. Section 409(c) orders that are not challenged by persons adversely affected by such orders are final. *Id.* Likewise, the FFDCA permits persons adversely affected by a section 409(f) order that responds to objections and to requests for a hearing to challenge the Agency's findings in an appellate court. Again, if such orders are not challenged at this stage by persons adversely affected by such orders, they are final and no longer reviewable. *Id.* As noted by the court in *Nader v. EPA*,

> [i]n the FFDCA, Congress constructed an elaborate yet consistent administrative design for the proposal, consideration, promulgation and review of regulations. The Act provides a number of well defined avenues for participation by members of the public and review by appellate courts. These provisions permit the maximum citizen input consistent with the Agency's need for consistency and finality.

(Ref. 5). Failure, by a person adversely affected by an Agency determination, to follow the procedures prescribed by the FFDCA must necessarily result in determinations that are final and no longer reviewable. (Ref. 6).

Under the doctrines of res judicata, collateral estoppel, and law of the case, objectors may not resurrect final decisions necessary or essential to an ultimate decision and on which objectors had the opportunity to be heard. (Ref. 7). EPA believes that it is appropriate to apply these doctrines in proceedings it administers under the FFDCA. Parts 2, 3, and 4 describe the final Order EPA issued making an "induce cancer" finding on all the subject pesticides, the adverse effect experienced by the objectors, and why precluding the objectors from raising that issue now is appropriate in this proceeding.

2. *EPA's April 1990 Order Under FFDCA Section 409(c).* On April 25, 1990, EPA issued a final Order (April 1990 Order) subject to objections and requests for a hearing in response to petitioners' request to revoke the 14 food additive regulations. In that Order, EPA concluded that the subject pesticides induce cancer within the meaning of the Delaney clause. EPA stated that it agreed with the petitioners "that the pesticides named in the petition are animal carcinogens * * * ." 55 FR 17566. EPA also responded to comments submitted on the petitioners' proposal from the National Food Processors Association (NFPA), 55 FR 17570, NACA, 55 FR 17570, 17571, Rohm and Haas, 55 FR 17572, and Industria Prodotti Chimici, 55 FR 17573, arguing that the named pesticides do *not* induce cancer. In each case, EPA confirmed that the named pesticides induce cancer and provided a summary of the data supporting each finding.

For example, in the April 1990 Order, EPA summarized the NFPA comments on the California petition as follows:

> First, NFPA claims that EPA has not determined that any of the seven pesticides listed by the petition "induce cancer" within the meaning of the Delaney Clause. According to NFPA, an "induce cancer" finding under section 409 must be supported by sufficient evidence of animal or human carcinogenicity; in the view of the commenter, limited evidence of animal carcinogenicity is not necessarily sufficient to support such a finding. Moreover, NFPA contends that the characterization of pesticides as probable or possible carcinogens does not constitute a finding under the Delaney Clause. To determine whether any of the seven pesticides "induce cancer" within the meaning of the Delaney Clause would, in the view of NFPA, involve complex and disputed factual issues that cannot be appropriately resolved in the context of the petition. (55 FR 17570)

In its response, EPA explicitly disagreed with NFPA's conclusions that the induce cancer determinations had not been made for the pesticides and that the evidence did not support such a finding. Further, EPA specifically responded to NFPA's comment regarding resolution "in the context of the petition," by inviting objections to its findings. EPA stated,

> EPA has taken a different position than that espoused by NFPA on the carcinogenicity of the chemicals named in the petition. As discussed [in the chemical by chemical review of the cancer data], the available data provide at least limited evidence that the seven pesticides induce cancer in test animals. This conclusion was reached by a weight-of-the-evidence approach in evaluating the potential carcinogenicity of a chemical which takes into account all available data for the chemical (see Unit II of this notice).
>
> If objections and request for hearing are submitted, the Administrator will determine whether there are factual issues appropriate for resolution at an evidentiary hearing. The issues of whether the chemicals listed by the petition induce cancer and whether the risks attributable to the uses identified in the petition are *de minimis* could be potential factual matters for resolution at an administrative hearing. *Id.*

(The phrase "limited evidence" in the quote above is a term of art under EPA's Cancer Assessment Guidelines (51 FR 33992, Sept. 24, 1986) specifying the quantum of evidence necessary to find a substance to be a "possible human carcinogen.")

EPA's response to each of the other commenters was similar. Thus, EPA left no room for doubt in its response to the commenters that it agreed with the petitioners' conclusion that the pesticides named by the petition induce cancer.

To support the claim that EPA did not find that the pesticides named in the California petition induce cancer within the meaning of the Delaney clause, the objectors cite an EPA policy statement on emergency exemptions under FIFRA and a 1993 EPA press release. The policy statement noted that "EPA has not made formal induce cancer determinations on many pesticides." (Ref. 8). This statement is in no way inconsistent with EPA having made an induce cancer finding on a few pesticides—the pesticides in the April 1990 Order. The press release, dated February 5, 1993, listed dozens of pesticides, including the pesticides here involved, that are potentially affected by the Delaney clause. It stated that EPA had not made an induce cancer finding for the listed pesticides. (Ref. 9). Thus, petitioners are correct in pointing out an inconsistency between the press release and the April 1990 Order. However, EPA would note that press releases are informal documents which do not have the status of an FFDCA Order or a policy statement. Moreover, press releases cannot amend an FFDCA Order.

3. *The Adversely Affected Party Requirement.* As discussed above, the FFDCA is specifically designed to ensure finality of decisions that remain unchallenged as to all persons that were adversely affected by those decisions. Earlier in these proceedings, EPA issued a decision stating that the subject pesticides induce cancer. If the objectors were adversely affected by that decision, the decision should be accorded finality and preclusive effect.

The following sections address why EPA believes the objectors were adversely affected by EPA's 1990 determination that the named pesticides induce cancer.

a. *The Adversely Affected Standard.* The phrase "adversely affected" is a fairly common statutory phrase used to describe, in general, the standing of persons to challenge agency decisions. That phrase is used in a number of FFDCA provisions as well as in many other statutes, including the Administrative Procedure Act (APA). In the preamble to the procedural rule for FFDCA actions, 40 CFR parts 177, 178, and 179, EPA states that the adversely affected standard should be interpreted broadly and not limited to "narrow categories of persons." 55 FR 50285 (Dec. 5, 1990). This interpretation is in accordance with the interpretation adopted by the Supreme Court in

construing the same standard under the APA and by FDA in its implementation of the FFDCA. According to the Supreme Court, the APA adversely affected standard "is not meant to be especially demanding." (Ref. 10) In addition, as early as 1979, FDA adopted procedural regulations defining the adversely affected standard used in the FFDCA. That definition states that adversely affected persons "include any interested person." 21 CFR 10.3; 44 FR 22318, 22319 (April 13, 1979). FDA agreed that the result of its interpretation was to make the phrase "adversely affected" in its regulation "superfluous." *Id.* That interpretation of the adversely affected standard continues in FDA's regulations today.

b. *Were The Objectors Adversely Affected By The April 1990 Order?* In their filings on the July 1993 Order, the objectors argue that they are injured by the stigma attached to an induce-cancer finding. They claim that this stigma causes them not merely an adverse effect, but irreparable harm. Moreover, the objectors do not limit this impact to the uses that are the subject of the revocation Order; rather, they extend this impact to all uses of the affected pesticide and, in fact, to all products manufactured by their companies. By their own admission, thus, the objectors have identified themselves as persons adversely affected by the induce-cancer finding announced in the April 1990 Order.

For example, in its filings, DuPont argues that as a result of EPA's revocation of the benomyl food additive regulations, "the use of benomyl on tomatoes and other crops could be dramatically curtailed because of the 'taint' of the Delaney Clause." (Ref. 11). DuPont states that

> [b]eyond the significant loss in sales to DuPont, this revocation could create long-term irreparable harm to DuPont because of the stigma attached to the unfounded allegation that benomyl "induces cancer." This stigma not only has the potential to cause ill-will against DuPont by customers and consumers, but also will adversely affect the ability of DuPont to offer fungicide products to meet the needs of growers, thereby creating further ill-will for the company. Customers who abandon DuPont products as a result of the adverse publicity caused by the "induce cancer" finding made by this Order will not likely return to using DuPont products. (Ref. 12).

DowElanco admits that the revocation action itself would have no impact. DowElanco asserts that

> [s]ince DowElanco and the other U.S. registrants of trifluralin have each independently requested the voluntary cancellation of the use of trifluralin on peppermint and spearmint, this tolerance revocation action will not directly effect (sic) the use of trifluralin on peppermint and spearmint in this country. (Ref. 13).

However, DowElanco argues that it is adversely affected by the stigma attached to EPA's induce cancer finding. According to DowElanco:

> the Agency's so-called "induce cancer" finding for trifluralin puts this chemical in the same league with the very small number of chemicals found by FDA to "induce cancer" within the meaning of the Delaney Clause, and constitutes a direct attack by EPA on the safety of trifluralin in the eyes of growers, processors, and consumers, and on the credibility of DowElanco in selling and distributing a product which allegedly "induces cancer." * * * DowElanco will not only directly experience lost sales of trifluralin as a result of the adverse publicity caused by the "induce cancer" finding made by this Order, but will also be subject to a "taint" which will likely adversely effect its reputation and entire business. (Ref. 14).

The Mancozeb Task Force makes similar admissions. The Task Force claims that EPA's induce cancer finding

> will irreparably injure the Task Force members. Such a finding will taint the pesticide, and in all probability will lead to substantial reduction in mancozeb's use by growers, both for those commodities involved in this proceeding as well as for other registered uses. (Ref. 15).

They advise that

> [t]he Agency must recognize that determining that a pesticide "induces cancer" within the meaning of the Delaney clause has significant adverse consequences for registrants, both in the regulatory context and the marketplace. (Ref. 16).

Finally, NACA's submission is in the same vein. According to NACA:

> NACA and its members have built an enviable reputation of reliably providing to its customers and the public safe and efficacious crop protection products. They have devoted significant time, money, and effort to building the very reputation which EPA's unfounded action will irreparably damage by suggesting that NACA's members sell products which "induce cancer." The crop protection industry's credibility with its customers and NACA's effectiveness in the public debate on food safety legislation and regulation will be hurt. * * * Incorrectly designating these pesticides as carcinogens will cast doubt and suspicion on NACA and the entire pesticide industry such that complete recovery—when the original determination is eventually reversed—will be unlikely. (Ref. 17).

In sum, based on these statements provided by the objectors, it is clear that all the objectors believe that a finding that a pesticide induces cancer, in and of itself, has an irreparable and adverse effect. EPA believes that the objectors have overstated the size of the impact from the induce cancer finding. EPA has regulated each of these pesticides for years based on EPA's published conclusion that they pose a cancer risk. (Ref. 18). Nonetheless, given the breadth of the adversely affected standard, EPA cannot conclude that an induce cancer finding in a rulemaking did not have some additional adverse impact. Thus, EPA concludes that the objectors were adversely affected by EPA's induce cancer finding announced in the April 1990 Order.

Notwithstanding the broad adversely affected standard, the objectors apparently argue that they were not adversely affected by the April 1990 induce cancer finding. They suggest that they could not have been adversely affected in 1990 because EPA never proposed to change the status quo; and because EPA's 1993 Order proposes to change the status quo, they are now irreparably injured. According to DuPont, for example,

> [t]he proponents of the maintenance of the § 409 regulations were never "adversely affected" by an EPA position, because no change was ever made or proposed to the status quo. (Ref. 19).

Several other objectors make similar assertions. (Ref. 20).

EPA finds this argument disingenuous. Having themselves made the case in their objections that the impact of an induce cancer finding extends far beyond the specific legal consequences resulting from the revocation of a few tolerances, the objectors cannot then cite the lack of direct legal consequences from the April 1990 Order on the regulations concerned as the sole criterion for determining whether they were adversely affected by that Order.

Moreover, EPA believes that any additional injury to objectors based on the revocation of a food additive regulation is merely additive to what the objectors already describe as an irreparable injury. As is evidenced by the nature of the objections quoted herein, none of these objectors argue injury based on the fact that farmers or other users would cease to purchase their product because of a fear that use of the product would result in over-tolerance residues on processed food. The objectors link the total of their injury to a Delaney clause taint. For example, DuPont, at one point asserts that the revocation would cause "confusion" in the marketplace. But even here, DuPont tied that to the Delaney clause taint:

> The revocation of a § 409 regulation under the Delaney clause in a situation where there is no concentration necessitating a § 409 tolerance will result in unwarranted concern

and confusion among growers, food processors, consumers, and the country's international trading partners. As a result, the use of benomyl on tomatoes and other crops could be dramatically curtailed because of the "taint" of the Delaney Clause. (Ref. 21).

Thus, the objectors' statements clearly show that the stigma allegedly caused by an induce cancer finding is their predominant, and possibly only, concern and thus the objectors' had sufficient incentive to challenge the April 1990 Order. Given that fact, the potentially greater effect linked to the more recent Orders does not excuse failure to challenge the April 1990 Order.

4. *The Essentiality of the Induce Cancer Finding in the April 1990 Order.* Under the doctrines permitting preclusion of issues finally decided, preclusion is appropriate when the resolution of an issue was necessary or essential in the prior action and the persons being precluded from raising that issue had a full and fair opportunity to challenge its prior resolution. EPA's April 1990 finding that the pesticides named in the petition induce cancer within the meaning of the Delaney clause was necessary for the Agency to respond to the petition and the comments raised, and EPA specifically noted the opportunity to object to EPA's conclusions that the named pesticides induce cancer. Thus, the objectors' failure to challenge EPA's resolution of that issue results in a final determination, and the objectors must be barred from relitigating that issue. EPA believes that the objectors may not now rely on that issue to support their challenge to EPA's July 1993 Order.

Under the preclusion doctrines, findings necessary to an ultimate decision may be accorded finality and preclusive effect in the same manner the ultimate decision would be if a fair and full opportunity to challenge the findings was made available. (Ref. 22). Many of the objectors, however, argue that EPA's 1990 finding that the named pesticides induce cancer was not necessary for EPA to respond to the petition and that the objectors were not afforded an opportunity to challenge such a finding. According to DuPont,

> [t]he basic issue of whether the pesticides subject to the NRDC petition "induce cancer" within the meaning of the Delaney Clause was not critical to the Agency's response to the petition, because the regulations at issue fell within de minimis levels, whether or not these chemicals "induce cancer." (Ref. 23).

Several other objectors make similar objections. (Ref. 24).

The objectors apparently claim that EPA theoretically applied the *de minimis* doctrine—that EPA applied the doctrine only in the event that it later found any one of the named pesticides to be carcinogens.

EPA disagrees with the objectors' characterization of EPA's actions. An induce cancer finding was essential and necessary to EPA's decision in response to the California petition. The California petition sought revocation of various food additive regulations asserting that the pesticides covered by such regulations were animal carcinogens and therefore the regulations violated the Delaney clause. EPA denied the petition on the ground that there was an exception to the literal terms of the Delaney clause. Of course, EPA could not have reached the question of whether there was an exception to the literal terms of the Delaney clause unless EPA first found that the literal terms of the clause applied. EPA made it abundantly clear in its April 1990 Order and response to comments that EPA agreed with the petitioners that the pesticides named in the petition are animal carcinogens. As noted earlier in this document, at several points throughout its April 1990 Order, EPA explicitly corrected comments that the named pesticides do not induce cancer. 55 FR 17566-67; see also 55 FR 17570, 17572-73.

Further, it is apparent that the Ninth Circuit likewise considered the induce cancer issue an essential element of EPA's Order when reaching its conclusion in *Les v. Reilly*. *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992), *cert denied*, 113 S. Ct. 1361 (1993). In its opinion, the Ninth Circuit recited facts found by EPA which the court adopted:

> In 1988, * * * the EPA found these pesticides to be carcinogens. Notwithstanding the Delaney clause, the EPA refused to revoke the earlier regulations, reasoning that, although the chemicals posed a measurable risk of causing cancer, that risk was "de minimis." (Ref. 25).

Thus, the court concluded that the induce cancer determination had been made even before the April 1990 Order. Significantly, the court also rejected —on the ground that the induce cancer finding had already been made—EPA's refusal to revoke the phosmet and mancozeb food additive regulations. EPA had argued in the February 1991 Order, that, because the carcinogenicity classification of phosmet was tentative and because EPA's Special Review would address the cancer risks posed by mancozeb, immediate revocation of either set of regulations under the Delaney clause was inappropriate. The court concluded, however, that EPA's ongoing review of data relating to the carcinogenicity of phosmet and mancozeb "cannot countermand the application of the Delaney clause in light of the 1988 declaration, never revoked, that both of these pesticides are carcinogenic." (Ref. 26).

The objectors also advance a somewhat circular argument to support their claim that EPA never provided the opportunity to challenge its 1990 induce cancer finding. The objectors argue that they never had the opportunity to challenge EPA's induce cancer findings because EPA relied on the *de minimis* theory to deny the request to revoke the regulations and EPA never proposed the revocation of the regulations. Essentially, the objectors are suggesting that although they are irreparably injured by the more recent induce cancer finding, they were not adversely affected by EPA's 1990 induce cancer finding. Thus, the right to challenge EPA's 1990 finding was never triggered.

As noted earlier, EPA believes that the objectors themselves make the case that they were adversely affected by the 1990 induce cancer finding and may not now create a post hoc rationalization for the failure to challenge that finding. Moreover, EPA finds both bases for the objectors' argument to be irrelevant given that EPA explicitly noted the opportunity for objections on the induce cancer issue. In its response to comments on the induce cancer issue, EPA specifically announced that it would consider objections and requests for a hearing on the issue of whether the named pesticides induce cancer:

> [i]f objections and requests for hearing are submitted, the Administrator will determine whether there are factual issues appropriate for resolution at an evidentiary hearing. The issues of whether the chemicals listed by the petition induce cancer and whether the risks attributable to the uses identified in the petition are de minimis could be potential factual matters for resolution at an administrative hearing. 1055 FR 17570.

See also 55 FR 17572, 17573. (EPA references above-quoted response in its response to other similar comments). In fact, it is clear that the commenters understood the controversial nature of EPA's findings. As noted by several commenters, an induce cancer finding may result in disputed factual issues, 55 FR 17570, and involve material issues of fact. 55 FR 17571. A strategic choice not to challenge such an admittedly controversial finding in an FFDCA proceeding is one that bears many risks. One obvious and pertinent risk under FFDCA section 409 is that the finding will be accorded finality and referenced in related administrative or judicial proceedings.

Thus, EPA clearly provided the objectors the opportunity to object and file hearing requests on the issue of whether any of the named pesticides

induce cancer. The objectors' apparently risky assumption that EPA would prevail in a judicial setting on legal theories untested by the Agency does not excuse them from the responsibility to challenge findings which they believe adversely affect them when the first opportunity to challenge arises.

5. *New Evidence On the Induce Cancer Issue.* As detailed above, EPA believes that, based on the objectors' own arguments, they were adversely affected by EPA's April 1990 Order finding that the named pesticides induce cancer within the meaning of the Delaney clause. Precluding the objectors from relying on the induce cancer issue to support a challenge to the later revocation Order is appropriate because EPA's induce cancer findings were essential to its ultimate response to the petition and because the objectors were provided an opportunity to challenge the Agency's conclusions. To ensure no manifest injustice by precluding relitigation of these findings, EPA has reviewed the objectors' submissions to determine whether the objectors submitted any new data justifying the reopening this issue. EPA believes that none of the submissions are sufficient to grant a rehearing on this issue.

Only one of the objectors, DuPont, specifically argues that there is "new" evidence justifying a hearing on EPA's finding that benomyl induces cancer. DuPont's claim that it has submitted "new" evidence regarding the cancer determination on benomyl does not justify reopening this issue. DuPont's "new" evidence falls into four basic categories: (1) a reexamination of the tumors from several cancer bioassays in mice; (2) an extensive discussion of data on the mutagenicity of benomyl and several recent mutagenicity studies; (3) a short-term feeding study directed at determining benomyl's mechanism of action; and (4) a literature survey concerning hepatoblastomas in Swiss mice. Little of this evidence is new because, as discussed below, DuPont was aware of the data before it had lost its opportunity to challenge EPA's induce cancer finding in the April 1990 Order. Objections and hearing requests on the April 1990 Order were required to be submitted by May 25, 1990. What little of the evidence may be "new" is merely cumulative to the then existing database, or, at best, "further support[s]" that database. (Ref. 27).

Reread of Tumor Slides. DuPont has submitted a report dated June 19, 1990, documenting a reexamination of the liver sections from two benomyl cancer bioassays completed in the early 1980s. The report was prepared by an independent pathologist. (Ref. 28). Even if it is conceded that a reexamination of older data could be classified as "new data," DuPont clearly had substantial information concerning what that reread of the tumor slides would disclose before the expiration of the period for objections to the April 1990 Order. The report submitted by the independent pathologist reveals that (1) DuPont scientists reread the tumor slides initially and presented their conclusions to the independent pathologist for review, (Ref. 29); (2) the independent pathologist received a "project sheet" for the tumor slide review from DuPont no later than April 18, 1990 (Ref. 30); and (3) the independent pathologist agreed for the most part with the earlier conclusions of the DuPont scientists (Ref. 31). Additionally, DuPont's scientists prepared a report on the reread of the tumor slides by both the DuPont scientists and the independent pathologists. That report explicitly states that the scientists "findings" were given to "management" on May 18, 1990. (Ref. 32). Thus, DuPont's own submission shows that the this evidence is not "new." In any event, even assuming that DuPont somehow did not "know" the results of the reread of the tumor slides until the June 19, 1990 completion date, by the exercise of due diligence DuPont should have know by May 25, 1990. DuPont was put on notice in June 1989 by the California petition that the question of benomyl's carcinogenicity was at issue. When DuPont did contract for an independent evaluation of the tumor slides that independent evaluation appears to have been completed in roughly 2 months. (Ref. 33). Thus, there is no reason this information could not have been prepared prior to the expiration of the objection period. Certainly, there is no scientific reason for the delay because the scientific justification for the reexamination of the tumor slides—that the criteria for classifying benign and malignant tumors had changed—had been extant since at least 1987. (Ref. 34). DuPont's delay in reevaluating existing data cannot justify their failure to file a timely objection to the April 1990 Order.

Mutagenicity Report. DuPont has submitted two related reports addressing whether benomyl is mutagenic. (Ref. 35). DuPont also submitted several mutagenicity studies for review which are dated later than May 25, 1990. (Ref. 36). The reports discuss hundreds of mutagenicity studies done on benomyl and similar compounds over the last twenty years. The newly submitted studies add little to the vast data already compiled by April 1990 on whether benomyl is mutagenic. Thus, the major thrust of this mutagenicity report could have been raised in objections to the April 1990 Order.

28-Day Mouse Feeding Study. DuPont has submitted a short-term feeding study with mice, dated June 27, 1990, which attempted to assess possible mechanisms of liver tumor induction caused by benomyl. (Ref. 37). DuPont concluded that the "results of this study suggest that benomyl causes induction of a normal adaptive response that results in an increase in cell proliferation and thus acts indirectly by modulating a high spontaneous incidence of mouse hepatic tumors through physiological mechanisms and not as a direct acting carcinogen." (Ref. 38). Even assuming this information is relevant to the induce cancer finding, this study is not so definitive as to justify reopening the induce cancer determination. Moreover, this was a study conducted in-house by DuPont for which the actual experimental work was completed by March 30, 1990. (Ref. 39). If the results of this study were indeed critical, DuPont had ample time to raise them in objections to EPA's April 1990 Order.

Literature Review Regarding Hepatoblastomas. DuPont submitted a review of scientific literature discussing hepatoblastomas in mice. (Ref.). All of the nine articles cited were published prior to May 25, 1990. Thus, this submission did not constitute new evidence.

Accordingly, all of the "new" evidence either could have been raised in objections to the April 1990 Order or is merely cumulative to evidence which could have been raised in objections to that Order.

6. *Conclusion.* As adversely affected parties, the objectors' failure to file a challenge with EPA to the April 1990 Order bars them from now challenging a finding essential to that Order—that the named pesticides are animal carcinogens. The objectors must accept the consequences of the decision not to object to that April 1990 Order.

B. *Remaining Hearing Requests and Objections.* The objectors raise several other objections and a hearing request pertaining to issues other than EPA's induce cancer finding that are not necessarily barred by EPA's April 1990 Order. These objections and hearing requests are summarized and addressed below.

1. *Concentration.* DuPont and the Mancozeb Task Force have objected to the revocation of the benomyl tolerance on raisins (DuPont) and the mancozeb tolerances on raisins and bran of wheat

(DuPont and Mancozeb Task Force) on the ground that these food additive tolerances should be revoked because there is no concentration of residues for these pesticides in these processed foods. Under existing EPA policy, EPA does not consider food additive tolerances necessary unless residues of a pesticide concentrate during processing and therefore could exceed the raw food tolerance. DuPont and the Mancozeb Task Force, contend that the respective benomyl and mancozeb regulations are not necessary under this policy and EPA must make a determination on the concentration issue prior to reaching the Delaney clause question. DuPont has also requested a hearing on the question of whether benomyl concentrates in tomato products. EPA disagrees with the objectors on both legal and practical grounds.

First, these objections and hearing requests suffer from a basic flaw: a challenge to an order under FFDCA section 409 must "go to the legality of the agency's order." (Ref. 41). Arguing that there is an alternate ground for a revocation action based on information or claims not resolved by EPA in the revocation does not challenge the legal basis of the revocation. Here, EPA revoked the benomyl and mancozeb tolerances on the ground that these tolerances are barred by the Delaney clause. That was the sole issue addressed by the July 1993 Order. EPA did not address whether the tolerances were needed due to a concentration of residues during processing except to mention the irrelevancy of the issue to that Order. Unlike the induce cancer issue, the question of whether benomyl concentrates during processing was not an essential element of the July 1993 Order.

The objectors appear to be contending that, even when EPA finds that a tolerance violates the core safety standard in FFDCA section 409, EPA is legally barred from acting on that finding prior to determining whether there are some other grounds for revoking the tolerance. DuPont claims that "[t]he Agency must make a threshold determination if a 409 regulation is necessary before even reaching the question of the applicability of the Delaney clause." (Ref. 42). DuPont cites three reasons why such a threshold determination is mandated. None has merit.

DuPont first argues that "if data demonstrate that there is no concentration of residues in processed food, there is no reason to retain the § 409 food additive regulations." (Ref. 43) True, there may be "no reason" under EPA's existing policy or given the flow-through provision of section 402 to retain such a food additive regulation, but the regulation would not be barred as a legal matter by the flow-through provision. The flow-through provision simply creates a safe harbor for residues in processed food which are at or below the section 408 raw food tolerance. Thus, revocation of a food additive regulation where the pesticide does not concentrate in the processed food is driven by policy not legal considerations. Second, DuPont asserts that a threshold determination on concentration must be made because of the taint attached to the Delaney clause finding. This reason may explain why DuPont seeks revocation on another ground; however, as stated above, it is not legal support for requiring EPA to first make a concentration determination. Finally, DuPont claims that relying on the Delaney clause grounds to revoke the tolerance may cause FDA to misallocate its enforcement resources because of public fears about cancer. Even assuming this to be true, this reason is again nothing more than a policy reason for relying on lack of concentration rather than the Delaney clause.

The Mancozeb Task Force makes similar policy arguments as to why EPA should revoke the mancozeb food additive tolerances on concentration grounds. Like the arguments of DuPont, the Task Force's contentions do not attack the legal basis for the revocation.

At bottom, DuPont and the Mancozeb Task Force are objecting because EPA has not taken action on their later petitions to revoke these tolerances on lack of concentration grounds. EPA is acting on the one food additive tolerance (mancozeb on raisins) where EPA had data which had already been reviewed showing that the tolerance was not needed under existing policy. EPA, however, has not yet acted on the portions of the petitions filed by DuPont and the Mancozeb Task Force which are inadequately supported by data or are premised on a change in a longestablished EPA policy. EPA sees no error in acting first on the California petition since it was submitted nearly four years prior to the DuPont and Mancozeb Task Force petitions.

EPA denies DuPont's and the Mancozeb Task Force's objections to EPA's failure to revoke these tolerances on concentration grounds and DuPont's hearing request on the same issue because they do not attack the legal basis of the July 1993 Order. None of the policy arguments made by the objectors convince EPA that it would be appropriate to delay responding to the California petition until the issues surrounding their petitions can be resolved.

2. *The Classification of Raisins as a Processed Food.* DuPont has objected to the revocation of the benomyl food additive tolerance for raisins claiming that that tolerance should be revoked because raisins are not a processed food but a raw agricultural commodity. DuPont argues raisin tolerances should be established under section 408, not section 409. This objection is denied for the same reason as the objection involving the concentration issue—proposing an alternate ground for revocation based on information or claims not resolved in the revocation does not attack the legal basis of the July 1993 Order. Similarly, EPA does not believe that it is obligated to rule on DuPont's petition to reclassify raisins prior to ruling on the California petition, given that DuPont's petition was filed 4 years later.

3. *Procedural Objections.* Several of the objectors have raised various related procedural objections to EPA's July 1993 Order. Because these alleged procedural errors all involve EPA's determination on the induce cancer question and because each of the objectors are precluded from relitigating that issue, EPA believes if it committed any error, the error was harmless. Nevertheless, because the objections raised call into question the operating procedures of both EPA and FDA over the last 40 years, EPA will respond to them in some detail.

The objectors' basic complaint is that following the decision in *Les v. Reilly,* EPA immediately issued a final order rather than a proposal seeking public comment on revoking the tolerances. The objectors claim this violated EPA's regulations and the Administrative Procedure Act (APA). They are mistaken.

Section 409 of the FFDCA contains an elaborate procedure for the establishment, amendment, and revocation of food additive tolerances. 21 U.S.C. 348; see *Nader.* It is basically a hybrid rulemaking scheme that marries some aspects of informal rulemaking with the adjudicative hearing requirements of formal rulemaking.

As explained above, the statute establishes a petition procedure whereby any person may request EPA to establish a tolerance. 21 U.S.C. 348(b). It also requires EPA to establish, by regulation, the procedure for the amendment or repeal of food additive tolerances. 21 U.S.C. 348(h). "[S]uch procedure shall conform to the procedure provided [in section 409] for

the promulgation of such regulations." *Id.*; *see* 40 CFR parts 177, 178 (establishing such regulations). When a petition is submitted, EPA is required to publish "[n]otice of regulation proposed by the petitioner * * * in general terms." 21 U.S.C. 348(b)(5); 21 CFR 177.88. EPA is commanded to act on the petition by order within 180 days either establishing a tolerance regulation or denying the petition. 40 U.S.C. 348(c). EPA regulations allow EPA to issue a proposal prior to issuing a final order on the petition. Once a final order is issued, adversely affected parties are allowed 30 days to file objections and request an adjudicative hearing. Any EPA decision on the objections is then subject to judicial review.

The steps followed by EPA in acting on the California petition have been described in detail above. These steps were clearly in accordance with FFDCA section 409, and the objectors do not claim that they were not. However, as noted above, the objectors argue that EPA violated its own regulations and the APA. The objectors claim that EPA regulations require EPA to issue a proposal, in addition to a notice of a petition, prior to revoking a food additive regulation in response to a petition from a member of the public.

EPA disagrees. EPA's regulations clearly make it discretionary with the Administrator whether to issue a proposal where it has received a petition. The pertinent regulation states: "The Administrator may publish in the Federal Register a proposal to establish a food additive regulation or to modify or revoke an existing food additive regulation, on his or her own initiative or in response to a petition." (40 CFR 177.130(a); see 40 CFR 177.125(b); 53 FR 41128). The objectors' allegations to the contrary have no basis.

EPA also rejects the objectors' claim that the APA required a proposal in this case. Essentially, the objectors are contending that, despite Congress' express inclusion in the FFDCA of an intricate procedural scheme involving both an initial notice procedure and opportunity for a full *de novo* administrative hearing on the government's action, APA notice and comment rulemaking requirements must be followed as well. As support for this argument, DuPont relies on the fact that EPA has generally issued proposals prior to revoking a tolerance in the past. While this is true, it is a fact with little effect here because previous revocation actions have nearly always been initiated by the Administrator. In those circumstances, both section 408 and 409 of the FFDCA requires issuance of a proposal. 21 U.S.C. 346a(e) and 348(d). The more appropriate analogy for the revocations at issue here are those procedures EPA follows generally when it receives a petition to establish, modify, or revoke a food additive regulation. In those cases, as stated above, in accordance with FFDCA sections 408 and 409 and EPA regulations, EPA issues a notice summarizing the petition followed by a final order. For example, nearly all of the roughly eight to ten thousand tolerances and exemptions from a tolerance under section 408 and 409 were established in response to petitions. In the overwhelming majority of cases, including the regulations involved in this Order, (Ref. 44), EPA published a brief summary of the petition followed by a final rule. See, e.g., 44 FR 23932 (April 23, 1979) (notice of filing of petition to establish a food additive regulation for phosmet (imidan) on cottonseed oil). Having taken advantage of this procedure for over 30 years, see, e.g., 23 FR 118, and 2402 (January 7, 1958; April 12, 1958) (Rohm & Haas Co. petition on dicofol), the objectors quite understandably do not argue that this procedure violates the APA and have not objected to EPA using it to establish tolerances established subsequent to the filing of objections in this case. See, e.g., 59 FR 5108 (Feb. 3, 1994). (DuPont petition for tolerance for hexakis.) Yet, unless they take that position, they necessarily must be contending that industry is entitled to more process under the rulemaking provisions of the APA on tolerance revocation petitions than the public is on petitions seeking the establishment of a tolerance legalizing pesticide residues in food.

Finally, the objectors are in a poor position to argue they should have been given an additional opportunity to file written comments with EPA. The objectors chose not to challenge EPA's April 1990 Order. A timely and proper objection to the April 1990 Order would have entitled them to a full *de novo* administrative hearing on the induce cancer issue not merely an opportunity to file comments.

4. *Substantive Due Process.* DuPont argues that EPA's revocation action violates the constitutional doctrine of substantive due process because the revocation is without scientific basis and thus is arbitrary. (Ref. 45). DuPont, however, already has a statutory right to challenge the substance of EPA's action under the FFDCA. The Constitution provides nothing further in this regard. EPA thus denies DuPont's constitutional argument for the same reasons it has denied DuPont's substantive challenge to EPA's induce cancer finding.

VII. References

1. Letter from Jay J. Vroom, President, NACA, to Linda J. Fisher, Assistant Administrator, EPA, at 4 (January 12, 1993) (hereinafter cited as "NACA Letter"); Letter from Edward M. Ruckert, Attorney for Mancozeb Task Force, to Carol M. Browner, Administrator, EPA at 2 (March 5, 1993); Letter from Stanley H. Abramson, Attorney for DuPont, to Raymond B. Ludwiszewski, General Counsel, EPA at 1 (February 17, 1993) (hereinafter cited as "DuPont Letter").

2. DuPont letter at 8; NACA Letter at 4.

3. *Nader v. EPA.* 859 f.2d 747, 752-754 (9th Cir. 1988), *cert. denied*, 490 U.S. 1931 (1989); *Rutherford v. U.S.*, 806 F. 2d 1455, 1459-60 (10th Cir. 1896); *CNI V. Young*, 773 F. 2d 1356 (1985); *Retail Clerks Union, Local 1401 R.C.I.A. v. N.L.R.B., (463 F.2d 316, 322 (D.C. Cir. 1972).*

4. *Nader*, 859 F.2d 752-754.

5. *Nader*, 859 F.2d at 754.

6. *Id.*

7. *Rutherford v. U.S.* 806 F.2d 1455, 1459-60 (10th Cir. 1986); *CNI v. Young*, 773 F.2d 1356 (1985); *Retail Clerks Union, Local 1401 R.C.I.A. v. N.L.R.B., 463 F.2d 316, 322 (D.C. Cir. 1972).*

8. U.S. EPA and FDA Statement of Policy, "The Delaney Clause and Emergency Exemptions Under FIFRA," p. 4 (May 7, 1993).

9. EPA, Note to Correspondents (Feb. 2, 1993). Contrary to the calim by DuPont these lists and the language quoted by Dupont in its objections were not published in the **Federal Register**. *See* DuPont Agricultural Products' Objections to "Induce Cancer" Finding for Benomyl and to Revocations of Section 409 Food Additive Regulations for Benomyl in Processed Tomato Products and Raisins and Mancozeb in Bran of Wheat and in Raisins, at 43 (August 13, 1993) (hereinafter cited as "DuPont Objections").

10. *Clarke v. Securities Indstry Ass'n*, 107 S. Ct 750, 757 (1987).

11. DuPont Agricultural Products' Request for a Hearing on Issues Pertaining to Whether Benomyl "Induces Cancer" and Whether Benomyl Concentrates in Processed Tomato Products, at 13-14 (August 13, 1993) (hereinafter cited as "Dupont Hearing Request"); Petition of DuPont Agricultural Products to Stay the Effective Date of the Revocation of the Section 409 Food Additive Regulations for Benomyl in Processed Tomato Products and Raisisns and Mancozeb in Bran of Wheat and Raisins, at 9 (August 13, 1993) (hereinafter cited as "Dupont Stay Petition").

12. DuPont Stay Request at 9.

13. DowElanco's Objections to "Induce Cancer" finding for Trifluralin and to Revocation of Section 409 Food Additive Regulations for Trifluralin in or on Peppermint Oil and Spearmint Oil, at 9-10 (August 13, 1993) (hereinafter cited as "DowElanco Objections").

14. DowElanco Objections at 9-10.

15. Mancozeb Task Force Petition to Stay Effective Date, at 13 9August 13, 1993) (hereinafter cited as "MTF Stay Petition").

16. MTF Stay Request at 11.

17. Petition of the National Agricultural Chemicals Association to Stay the Revocation of Food Additive Regulations for Benomyl, Mancozeb, phosmet, and Trifluralin, at 2 (August 13, 1993) (hereinafter cited as "NACA Stay Petition").

18. Benomyl Special Review, 47 FR 46747, 46749 (1982); "EBDCs, Notice of Intent to Cancel and Conclusion of Special Review," 57 FR 7483 (March 2, 1992); Trifluralin, Position document 4, 47 FR 33777 (July 1982); "Guidance for the Reregistration of Pesticide Products Containing Trifluralin as the Active Ingredient" (April 1987);"Guidance for the Registration of Pesticide Products Containing Trifluralin as the Active Ingredient" (1987); "Guidance for the reregistration of Pesticide products Containing Phosmet as the Active Ingredient." (September 1986).

19. DuPont Objections at 72.

20. *See* DowElanco Objections at 62 and 65; Objections of the Mancozeb Task Force, at 10 (August 13, 1993) (hereinafter cited as "MTF Objections").

21. DuPont Hearing Request at 13-14.

22. *Synanon Church v. U.S.*, 806 F.2d 1455, 1459-60 (10th Cir. 1986); *CNI v. Young*, 773 F.2d 1356 (1985); *Retail Clerks Union, Local 1401 R.C.I.A. v. N.L.R.B.*, 463 F.2d 316, 322 (D.C. Cir. 1972).

23. DuPont Objections at 74.

24. *See* DowElanco Objections at 62 and 65; MTF Objections at 10.

25. *Les* 968 F.2d at 986.

26. *Les*, 968 F.2d at 990 n.3.

27. Letter from Ronald A. Hamen, DuPont, to Dr. Janet Anderson, U.S. EPA, (August 17, 1990) (letter submitting mutagenicity data, reread of tumor slides, and 28-day mouse study). (Dupont Exhibit #61).

28. Oncogenicity Studies with Benomyl and MBC in Mice, Peer Review of Liver Neoplasms, Experimental Pathology Laboratories, Inc. (June 19, 1990) (Dupont Exhibit #57).

29. *Id.* at 1.

30. *Id.* App. Quality Assurance Final certification.

31. *Id.* at 3.

32. Oncogenicity Studies with Benomyl and MBC in Mice, Supplemental Peer Review; Supplement to Haskell Laboratory Report Nos. 20-82 and 70-82, Quality Assurance Documentation at 4 (June 28, 1990). (Dupont Exhibit #58).

33. *See* Reference 31.

34. Oncogenicity Studies with Benomyl and MBC in Mice, Peer Review of Liver Neoplasms, Experimental Pathology Laboratories, Inc., at 4 (June 19, 1990) (Dupont Exhibit #57) (citing criteria on proliferative hepaocellular lesions, published in R.R. Maronpot, J.K. Haseman, G.A. Boorman, S.E. Eustis, G.N. Rao, and J.E. Huff, "Liver Lesions in B6C3F1 Mice: The National Toxicology Program, Experience and Position," Archives of Toxicology: Mouse Liver Tumors (1987)).

35. V. Reynolds, A. Sariff, "A Review of the Genetic Toxcity Studies on Benomyl and Carbendazim" (January 1, 1993); and A. Sarrif, "Assment of the Genetic Toxicological Studies on Benomyl and Carbendazim: A Review" (January 31, 1993). (Dupont Exhibits Nos. 64 and 65).

36. *See* DuPont Exhibits Nos. 105, 108, 109, 110.

37. 28-Day Feeding Study with Benomyl in Mice, Haskell Laboratory Report No. 324-90 (August 15, 1990). (Dupont Exhibit #60).

38. *Id.* at 12.

39. *Id.* at 5.

40. Memorandum from C.S. Van Pelt, DuPont, to R.A. Hamlen, Dupont, "Review of TNO Mouse Feeding Study and Interpretational Significance of Hepatoblastomas in Mouse Liver," (August 15, 1999). (Dupont Exhibit #59).

41. *CNI v. Young*, 773 F.2d at 1364.

42. DuPont objections at 59.

43. DuPont objections at 59.

44. 45 FR 8979 (February 11, 1980) (phosmet food additive regulation established on petition of Stauffer Chemical co.); 38 FR 26447 (September 21, 1973) 9benomyl food additive regulation established on petition of DuPont); 34 FR 531 (January 15, 1970) (trifluralin food additive regulation established on petition of Elanco Products Co.); and 32 FR 7523 (May 23, 1967) (mancozeb food additive regulation established on petition of Rohm 7 Haas Co.). 45. DuPont objections at 83.

VIII. Conclusion

For the reasons detailed above, all objections and hearing requests filed in response to the July 1993 Order are denied. All of the stay requests are denied as well. This Order is issued under section 409(f) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 348(f)) and is subject to judicial review as provided in section 409(g) of the act (21 U.S.C. 348(g)).

List of Subjects in 40 CFR Part 185

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

Dated: June 17, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

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

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

§ 185.350 [Removed]

2. By removing § 185.350 *Benomyl.*

§ 185.3950 [Removed]

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

§ 185.5900 [Removed]

4. By removing § 185.5900 *Trifluralin.*

§ 185.6300 [Amended]

5. By amending § 185.6300 *Zinc ion and maneb coordination product* in the list at the end of the section by removing the words ", and wheat" in the second entry.

[FR Doc. 94–15922 Filed 6–28–94; 11:46 am]
BILLING CODE 6560–50–F

---

40 CFR Part 185

[OPP–260054; FRL–4897–1]

RIN 2070–AB78

Mancozeb on Raisins; Removal of Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is removing the food additive regulation for mancozeb on raisins in 40 CFR 185.6300. Data show the food additive regulation is not needed because any residues of mancozeb on raisins are covered by the tolerance set for the corresponding raw commodity (grapes). This rule responds to a petition submitted by the Mancozeb Task Force, which requested that EPA revoke the food additive regulation for mancozeb on raisins.

EFFECTIVE DATE: This regulation is effective June 30, 1994. Written objections and/or request for a hearing may be submitted by August 1, 1994.

ADDRESSES: Written objections and/or requests for a hearing, identified by the document control number [OPP-260054], may be submitted to the: Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Copies of objections and/or hearing requests should also be submitted to the OPP docket for this action. Information supporting this regulaton is available through the Office of Pesticide Program's public docket. The docket is located in the Public Information Branch, Field Operations Division, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA. The telephone number for the OPP docket is (703)-305-5805. Comments or objections and/or hearing requests, identified by the document control number [OPP-260054], may be submitted to the Hearing Clerk. A copy of such comments should also be filed in the OPP docket for this action.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Office of Pesticide Programs (7508W), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703)-308-8010.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Background

The Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301 et seq.) authorizes EPA to establish maximum permissible levels or "tolerances" for pesticide residues in or on foods. The FFDCA has separate provisions for tolerances for raw agricultural commodities (RACs) and tolerances for processed foods. For pesticide residues in or on raw commodities, EPA establishes tolerances, or exemptions from the requirement of tolerances when appropriate, under section 408. 21 U.S.C. 346a. In processed foods, food additive regulations setting maximum permissible levels of pesticide residues are established under section 409. 21 U.S.C. 348. Section 409 tolerances are required, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, no section 409 tolerance is required if any pesticide residue in a processed food is equal to or below the tolerance for that pesticide in or on the RAC from which it was derived. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to the processed food form. Thus, a section 409 tolerance is only necessary to prevent foods from being deemed adulterated when the concentration of the pesticide residue in a processed food is greater than the tolerance prescribed for the raw agricultural commodity, or if the processed food itself is treated or comes in contact with a pesticide.

B. Petitions to Revoke

In 1989, the Natural Resources Defense Council, the State of California, Public Citizen, the AFL-CIO, and several individuals filed a petition requesting that EPA revoke several food additive regulations (including the food additive regulation for mancozeb on raisins) on the grounds that the regulations violated the Delaney clause in FFDCA section 409. In the **Federal Register** of July 14, 1993 (58 FR 37862), EPA revoked the food additive regulation for mancozeb on raisins; however, that revocation has been stayed. Published elsewhere in the rules and regulations section of this issue of the **Federal Register** is EPA's latest Order responding to the petition. That Order addresses food additive regulations other than mancozeb on raisins.

On January 23, 1993, the Mancozeb Task Force, which includes E.I. du Pont de Nemours Company, Elf Atochem North America, Inc., and Rohm and Haas Co., filed a petition requesting revocation of the food additive regulations for raisins and the brans of barley, oats, rye, and wheat. The petition was based on the assertion that the food additive regulations were not needed since there was no concentration of residues in these processed commodities, and, consequently, the corresponding tolerances on the raw agricultural commodities are adequate to cover residues in both raw and processed foods.

In the **Federal Register** of May 19, 1993 (58 FR 29318), EPA issued the receipt of that petition in a notice of availability and requested public comments on the petitioner's request and supporting materials. Contents of and comments received on that petition regarding the requested action on raisins are described in the next section. The Agency has not yet finished its review of the data submitted for the brans of barley, oats, rye, and wheat.

II. Revocation of the Food Additive Regulation for Mancozeb on Raisins

The Mancozeb Task Force's petition requests revocation of the section 409 tolerance for mancozeb on raisins, on the basis of data showing that residues in grapes do not concentrate in raisins. The Task Force cited two studies reflecting six different use patterns. In all cases, mancozeb residues were lower in raisins than in the raw commodity, grapes. In addition to the petition, the Mancozeb Task Force filed comments in response to the May 19, 1993 Federal Register notice, where they reiterated their position and the significance of the supporting data. No other comments were filed in response to the May 19, 1993 notice of availability.

EPA agrees with the petitioner's assertion that the food additive regulation for mancozeb on raisins is not needed since the data show that levels of mancozeb on typically processed raisins are lower than those in the unprocessed grapes. The study used as a basis for setting the original food additive regulation was not reflective of the current typical processing practices which include washing of raisins as one of the processing steps. Subdivision O Residue Chemistry Guidelines require that the processing data submitted reflect typical processing practices (Refs. 1 and 2: U.S. EPA, Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry, p. 21, October 1982 and Considine Considine, eds., Foods and Food Production Encyclopedia, p. 1640 (1982)). Information currently available confirms that raisins are typically washed as a part of normal processing. In 1990, prior to the submission of their petition, the Mancozeb Task Force submitted a new processing study which did simulate commercial processing including washing of the raisins (Ref. 3: U.S. EPA, MRID 41483801). In an EPA review of those data, completed on August 11, 1992, EPA concluded that "residues of mancozeb concentrated up to 30x in raisin waste but did not concentrate in raisins, wet pomace, dry pomace, or juice" (Ref. 4: U.S. EPA, Memorandum from Edward Zager, Health Effects Division, EPA to Lois Rossi, Reregistration Branch, EPA, "Mancozeb Update to Reregistration Standard," p. 106 (August 11, 1992)). A copy of this EPA review is located in the OPP docket, the location of which is given under the "Addresses" section earlier in this document. EPA determined that "the established food additive tolerance for mancozeb on raisins is not needed

and should be revoked" (Ref. 5: Same as Ref. 4, p. 107).

EPA's current policy mandates that we compare the residues in processed commodities to the residues in the raw agricultural commodities to determine whether concentration occurs. In this case, the residues in raisins, which have been washed during normal commercial processing are compared to the residues in unwashed grapes. Since the data show that levels of mancozeb on typically processed raisins are lower than those in the unprocessed grapes, EPA is granting the Mancozeb Task Force's petition as to the revocation of the section 409 food additive regulation for mancozeb on raisins.

III. Procedural Matters

A. Filing of Objections and Requests for Hearings

Any person adversely affected by this Order may file written objections to the Order, and may include with any such objection a written request for an evidentiary hearing on the objection. Such objections must be submitted to the Hearing Clerk at the address listed under "ADDRESSES" on or before August 1, 1994. Copies of such objections should be filed with the OPP docket for this action. Regulations applicable to objections and requests for hearings are set out at 40 CFR parts 178 and 179. Those regulations require, among other things, that objections specify with particularity the provisions of the Order objected to, the basis for the objections, and the relief sought. Additional requirements as to the form and manner of the submission of objections are set out at 40 CFR 178.25. The Administrator will respond as set forth in 40 CFR 178.30, 178.35 and/or 178.37 to objections that are not accompanied by a request for evidentiary hearing.

A person may include with any objection a written request for an evidentiary hearing on the objection. A hearing request must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. A copy of any hearing requests filed with the Hearing Clerk should also be filed with the OPP docket for this action. Additional requirements as to the form and manner of submission of requests for an evidentiary hearing are set out at 40 CFR 178.27. Under 40 CFR 178.32(c), the Administrator, where appropriate, will make rulings on any issues raised by an objection if such issues must be resolved prior to determining whether a request for an evidentiary hearing should be granted. The Administrator will respond to requests for evidentiary hearings as set forth in 40 CFR 178.30, 178.32, 178.35, 178.37, and/or 179.20. Under 40 CFR 178.32(b), a request for an evidentiary hearing on an objection will be granted if the objection and request have been properly submitted and if the Administrator determines that the material submitted show: (1) There is a genuine and substantial issue of fact for resolution at a hearing; (2) there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor; and (3) resolution of one or more of the factual issues in the manner sought by the person requesting the hearing would be adequate to justify the action requested.

Any person wishing to comment on any objections or requests may submit such comments to the Hearing Clerk on or before August 15, 1994. A copy of such comments should also be filed with the OPP docket for this action.

IV. Executive Order 12866

Under Executive Order 12866 (58 FR 1735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (or review by the Office of Budget and Management). Section 3(f) defines "significant" as those actions likely to (1) have an annual effect on the economy of $100 million or more, or adversely or materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

The Agency has determined that this rule is not "significant" within the meaning of that term as defined in section 3(f) of Executive Order 12866. EPA is taking this action because it has determined that the subject food additive regulation is not needed; the Agency believes that mancozeb, when used according to the label instructions, will not result in residues on raisins that exceed the section 408 tolerance prescribed to cover mancozeb residues from the use on grapes. Therefore, the Agency expects no economic impact will result.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.) requires EPA to analyze regulatory options to assess the economic impact on small businesses, small governments and small organizations. As explained above, the Agency believes there will be no economic impact on small businesses, governments and organizations.

VI. Paperwork Reduction Act

This order does not contain any information collection requirements subject to review by Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in CFR Part 185

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Records and recordkeeping.

Dated: June 18, 1994.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 185 is amended as follows:

PART 185—[AMENDED]

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

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

§ 185.6300 [Amended]

2. By amending § 185.6300 *Zinc ion and maneb coordination product* in the list at the end of the section by removing the entry for raisins.

[FR Doc. 94–15924 Filed 6–28–94; 11:46 am]
BILLING CODE 6560–60–F

---

40 CFR Part 761

[OPPTS–66018; FRL–4866–8]

Polychlorinated Biphenyls (PCBs); Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule; technical amendment.

SUMMARY: The Environmental Protection Agency is issuing a technical amendment to the PCB regulations to update agency mail codes, and remove references to obsolete room numbers

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, Fax (202) 554–5603, document requests only.

SUPPLEMENTARY INFORMATION: On October 1, 1993, the Office of Administration and Resources Management instituted new mail codes for EPA headquarters offices. This notice is amending the PCB regulations at 40 CFR part 761 to replace references to old mail codes with the appropriate new codes. These references occur at §§761.19, 761.185, 761.187, and 761.205. In addition, reference is also made to obsolete room numbers at §§761.185, 761.187 and 761.205. These room numbers are being eliminated from those sections. References to room numbers are not being updated, as they are unnecessary for the delivery of mail, and further, they are likely to be changed again in the future.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: June 9, 1994.

John W. Melone,

Director, Chemical Management Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 761 is amended as follows:

PART 761 — [AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

§761.19 — [Amended]

2. Section 761.19(b) is amended by replacing "(TS–793)" with "(7407)".

§761.185 — [Amended]

3. Section 761.185(f) is amended by replacing "(TS–790)" with "(7407)" and removing "Rm. L–100".

§761.187 — [Amended]

4. Section 761.187(d) is amended by replacing "(TS–790)" with "(7407)" and removing "Rm. L–100".

§761.205 — [Amended]

5. In §761.205, paragraph (a)(3) is amended by replacing "(TS–798)" with "(7404)", and paragraph (d) is amended by replacing "(TS–798)" with "(7404)" and by removing "Rm. NE–117".

[FR Doc. 94–15931 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7066

[NM–930–4210–06; NMNM 055653]

Partial Revocation of Public Land Order No. 2051; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 160 acres of public land withdrawn for New Mexico State University (formerly New Mexico College of Agriculture and Mechanic Arts) for research programs in connection with Federal programs. The land is no longer needed for this purpose, and the revocation is needed to permit disposal of the land through sale as directed by Public Law 100–559.

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505–438–7594.

By virtue of the authority vested in the Secretary of the Interior by Section 502 of Public Law 100–559, it is ordered as follows:

1. Public Land Order No. 2051, which withdrew public lands for use by the New Mexico College of Agriculture and Mechanic Arts, now New Mexico State University, for research programs in connection with Federal programs, is hereby revoked insofar as it affects the following described land:

New Mexico Principal Meridian

T. 23 S., R. 2 E.,
Sec. 26, SE¼.

The area described contains 160 acres in Dona Ana County.

2. The land described above is hereby made available for conveyance as authorized and directed by Section 502 of Public Law 100–559.

Dated: June 24, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–15865 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 930479–4171; I.D. 052794A]

RIN 0648–AG69

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations protecting sea turtles to allow compliance with tow-time limits as an alternative to the use of turtle excluder devices (TEDs) by shrimp trawlers in a 30-square mile (48.3-square km) area off the coast of North Carolina (North Carolina Restricted Area) through November 30, 1994. This area seasonally exhibits high concentrations of red and brown algae that make trawling with TEDs impracticable. This final rule authorizes a 30-minute tow limit through August 15, 1994; a 55-minute tow limit from August 16 through October 31, 1994; and a 75-minute tow limit from November 1 through November 30, 1994, to allow shrimp trawlers to harvest shrimp efficiently during their traditional shrimping season (March through November) and maintain adequate protection for sea turtles in this area.

EFFECTIVE DATE: June 27, 1994.

ADDRESSES: Send comments to Dr. William Fox, Jr., Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910. Comments on the collection-of-information requirement subject to the Paperwork Reduction Act should be directed to the Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910; Attention: Phil Williams; and to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Phil Williams, Acting Chief, Endangered Species Division, NMFS (301/713–2319), or Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Region (813/893–3366).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered

Species Act of 1973 (ESA), U.S.C. 1531 *et seq.* Incidental capture by shrimp trawlers has been documented for five species of sea turtles that occur in offshore waters of North Carolina. Sea turtle conservation regulations at 50 CFR parts 217 and 227 require all shrimp trawlers, regardless of length, in offshore waters of the Atlantic Area, including off North Carolina, to have an approved TED installed year-round in each net rigged for fishing, unless specifically exempted.

NMFS has allowed shrimpers in the North Carolina restricted area to limit tow-times, rather than use TEDs, due to the presence of algae that makes trawling with TED-equipped nets impracticable. A comprehensive list of cites relating to this exemption is as follows: 57 FR 33452 (July 29, 1992); 57 FR 40859 (September 8, 1992); 57 FR 45986 (October 6, 1992); 57 FR 52735 (November 5, 1992); 57 FR 57968 (December 8, 1992); 58 FR 19631 (April 12, 1993); 58 FR 28793 (May 12, 1993); 58 FR 33219 (June 11, 1993); 58 FR 38537 (July 13, 1993); and 58 FR 43820 (August 18, 1993).

NMFS proposed a permanent exemption on May 25, 1993 (58 FR 30007), and a discussion of special environmental conditions, an assessment of the algae problem, a history of the local fishery, and a discussion of tow times can be found there. Comments received on the proposed rule were addressed in an interim final rule extending the tow-time allowance through November 30, 1993 (September 21, 1993, 58 FR 48975). No comments were received on the most recent interim final rule.

This final rule implements the exemption through November 30, 1994, instead of permanently, as provided in the proposed rule. NMFS decided to implement this final rule only for the current fishing season for several reasons. First, NMFS believes that close review of algae conditions and tow time compliance is necessary to ensure that the exemption is effective in preventing incidental takes. Second, NMFS is considering implementation of an incidental take permit system under section 10 of the ESA that could authorize this exemption through an incidental take permit. An incidental take permit would require periodic NMFS review and a conservation plan, thereby ensuring consistent enforcement and mitigation of any incidental takes.

NMFS' review of the North Carolina restricted area exemption program for the 1992–1993 season indicates that sea turtle mortalities do not appear to be associated with the allowance of tow times in lieu of TEDs. NMFS has reached this conclusion based on the lack of observer-documented takes, the observed compliance with tow-time restrictions, the cooperation of the fishermen, the small number of participants in the fishery, and the local knowledge required to trawl in the restricted area without losing gear on bottom obstructions (which effectively limits entry into the fishery). These factors are discussed in previous temporary rules and in the proposed rule (see above citations). NMFS is particularly concerned about possible interactions between shrimping operations and turtles during the turtle nesting season. NMFS will continue to monitor this situation during the remainder of the 1994 shrimping season.

Based on information received during the 1992–1993 season, NMFS has determined that algal concentrations may be characteristic of the restricted area or may recur in an intermittent or unpredictable pattern and, thus, render TED-use impracticable. NMFS will continue to monitor algal concentrations to determine whether these concentrations are consistently problematic or whether there are times or seasons when TEDs could be used. Shrimp trawling observed out of Sneads Ferry, NC, on April 28, 1994, confirmed the presence of algal concentrations sufficient to clog three of four Anthony Weedless TEDs used in the observed tows.

This rule makes effective for the remainder of the traditional shrimping season, through November 30, 1994, the policies and procedures that were temporarily in effect in the North Carolina restricted area under previous exemptions. Specifically, under this final rule, tow times in the North Carolina restricted area are limited to 50 minutes through August 15; 55 minutes from August 16 through October 31; and 75 minutes from November 1 through November 30, 1994. These measures should not, in the long run, significantly impact fishermen's normal trawl times, since heavy algae concentrations characteristic of the warmer months cause fishermen to voluntarily shorten tow times to approximately 15–30 minutes. When algal concentrations are light, shrimpers usually opt to use TEDs.

Also, under this final rule, registration with the Director, Southeast Region, NMFS (Regional Director), is required before a vessel may trawl in the restricted area, and vessels using the tow-time alternative are required to carry a NMFS-approved observer if requested to do so by the Regional Director. The observer will monitor compliance with required conservation measures, including restricted tow times, and resuscitation of any captured turtles in accordance with 50 CFR 227.72(e)(1)(i). Data collected by observers may be used for enforcement purposes. Violations of tow-time restrictions documented by North Carolina enforcement officers may be prosecuted under the ESA by the Office of the General Counsel, NMFS, Southeast Region. In addition, violators may face prosecution under State law. NMFS and North Carolina Division of Marine Fisheries (NCDMF) will jointly monitor compliance with the tow-time alternative.

In addition, this rule makes a technical correction to the general tow-time provision of 50 CFR 227.72(e)(3)(i). The interim rule published September 21, 1993 (58 FR 48977) inadvertently amended this section to apply only to 1993. This final rule revises the general tow time provision to apply every year, as intended.

Additional Sea Turtle Conservation Measures

Pursuant to the provisions of 50 CFR 227.72(e) (3) and (6), the Assistant Administrator for Fisheries, NOAA, (AA) may modify the required conservation measures by publishing notification in the **Federal Register**, if necessary, to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA would impose any necessary additional or more stringent measures, including more restrictive tow times, synchronized tow times, or termination of the tow-time alternative, if the AA determines that: (1) The concentration of algae no longer makes trawling with TEDs impracticable; (2) there is insufficient compliance with the required conservation measures; (3) compliance cannot be monitored effectively; (4) significant or unanticipated levels of lethal or non-lethal takings or strandings of sea turtles have occurred in or near the North Carolina restricted area; or (5) the incidental take level, authorized by biological opinion, of one mortality of Kemp's ridley, green, hawksbill, or leatherback turtles, or two mortalities of loggerhead turtles attributable to shrimp fishing in the North Carolina restricted area is met or exceeded during the exemption period.

Classification

The AA has determined that this rule is consistent with the ESA and other applicable law and is "not significant" for purposes of E.O. 12866.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed rule if adopted would not have a significant economic impact on a substantial number of small entities. As a result, a final regulatory flexibility analysis was not prepared.

The AA prepared an Environmental Assessment (EA) for this rule that concludes that the rule will have no significant impact on the human environment. A copy of the EA is available (see **ADDRESSES**) and comments on it are requested.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act, namely, registration to trawl in the North Carolina restricted area. This collection of information has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0267. The public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to NMFS or OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: June 24, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.72, paragraphs (e)(3)(i) and (e)(3)(ii)(B) are revised to read as follows:

§ 227.72 Exceptions to prohibitions.

* * * * *

(e) * * *

(3) * * * (i) *Duration of tows.* If tow-time restrictions are utilized pursuant to paragraphs (e)(2)(ii), (e)(3)(ii), or (e)(3)(iii) of this section, a shrimp trawler must limit tow times to no more than 55 minutes from April 1 through October 31; and to no more than 75 minutes from November 1 through March 31. A shrimp trawler in the North Carolina restricted area must limit tow times to no more than 30 minutes from May 16 through August 15. The tow time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow time is measured from the time the codend enters the water until it is removed from the water.

(ii) * * *

(B) *North Carolina restricted area.* From June 27, 1994 through November 30, 1994, a shrimp trawler in the North Carolina restricted area, as an alternative to complying with the TED requirement of paragraph (e)(2)(i) of this section, may comply with the tow-time restrictions set forth in paragraph (e)(3)(i) of this section. The owner or operator of a shrimp trawler who wishes to operate his or her shrimp trawler in the North Carolina restricted area must register pursuant to paragraph (e)(3)(v) of this section, with registration received by the Director, Southeast Region, NMFS, at least 24 hours before the first use of such tow times. Registration may be made by telephoning (813) 893–3141 or writing to 9721 Executive Center Drive, St. Petersburg, FL 33702. The owner or operator of a shrimp trawler in the North Carolina restricted area must carry onboard a NMFS-approved observer upon written notification by the Director, Southeast Region, NMFS. Notification shall be made to the address specified for the vessel in either the NMFS or state fishing permit application, the registration or documentation papers, or otherwise served upon the owner or operator of the vessel. The owner or operator must comply with the terms and conditions specified in such written notification. All observers will report any violations of this section, or other applicable regulations and laws; such information may be used for enforcement purposes.

* * * * * *

[FR Doc. 94–15876 Filed 6–27–94; 12:12 pm]

BILLING CODE 3510–22–W

---

50 CFR Part 301

[Docket No. 931235–4107; I.D. 062394B]

Pacific Halibut Fisheries

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

ACTION: Notice of inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes notice of this inseason action pursuant to IPHC regulations approved by the United States Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stocks in order to help sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: June 15, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, telephone 907-586-7221; Gary Smith, telephone 206-526-6140; or Donald McCaughran, telephone 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State of the United States of America (59 FR 22522, May 2, 1994). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action:

1994 Halibut Landing Report No. 4

Southeastern Area 4E to Close June 15

IPHC estimates that nearly 50,000 lb (22.7 mt) have been landed from the Bristol Bay portion of Regulatory Area 4E. As this total has exceeded the 30,000 lb (13.7 mt) catch limit by 20,000 lb (9.1 mt), that portion of Area 4E that is south and east of a line from 58°21′25″N., 163°0′00″W. to Cape Newenham (58°39′00″N., 162°10′25″) shall be closed to commercial halibut fishing effective at 12:00 Noon, Alaska Daylight Time, on June 15, 1994.

The northwestern portion of Regulatory Area 4E (Nunivak Island/Nelson Island) will remain open to halibut fishing on the schedule published in the 1994 Pacific Halibut Fishery.

Dated: June 24, 1994

David S. Crestin,

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

[FR Doc. 94–15882 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 301

[Docket No. 931235–4107; I.D.062394C]

Pacific Halibut Fisheries

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

ACTION: Notice of inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes notice of this inseason action pursuant to IPHC regulations approved by the United States Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stocks in order to help sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: June 9, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, telephone 907-586-7221; Gary Smith, telephone 206-526-6140; or Donald McCaughran, telephone 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State of the United States of America (59 FR 22522, May 2, 1994). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1994 Halibut Landing Report No. 5

North Washington Coast Sport Fishery Re-opens for 3 Days

Due to poor weather conditions, the north Washington coast (waters west of the Bonilla-Tatoosh line and south to the Queets River) sport halibut harvest fell 13,309 lb (6.0 mt) short of the 68,039 lb (30.9 mt) catch limit. Therefore, this area will reopen for 3 days beginning June 9 and ending at 11:59 p.m., Pacific Daylight Time, on June 11, 1994. If enough catch limit remains after June 11, an additional opening may be announced by IPHC.

Dated: June 24, 1994.

David S. Crestin,

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

[FR Doc. 94–15881 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 663

[Docket No. 931249–3349; I.D. 062394A]

Pacific Coast Groundfish Fishery

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces a reduction in the cumulative vessel trip limit for the Dover sole, thornyheads, and trawl-caught sablefish complex (DTS) and reductions in the cumulative vessel trip limits for thornyheads and trawl-caught sablefish in the groundfish fishery off Washington, Oregon, and California. This action is authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP). The trip limits are designed to keep landings within the 1994 harvest guidelines for these species while extending the fishery as long as possible during the year.

DATES: Effective from 0001 hours (local time) July, 1, 1994, until December 31, 1994. Comments will be accepted through July 15, 1994.

ADDRESSES: Submit comments to J. Gary Smith, Acting Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115–0070; or Rodney McInnis, Acting Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140; or Rodney McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION: The FMP and its implementing regulations (50 CFR part 663) provide for rapid changes to specific management measures that have been designated routine. Trip landing and frequency limits for the DTS complex are among those management measures that have been designated as routine at 50 CFR 663.23(c)(1). Implementation and further adjustment of those measures may occur after consideration at a single Pacific Fishery Management Council (Council) meeting.

A trip limit is defined at 50 CFR 663.2 as:

> the total allowable amount of a groundfish species or species complex by weight, or by percentage of weight of fish on board, that may be taken and retained, possessed, or landed from a single fishing trip.

A cumulative trip limit is the maximum amount that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips. Cumulative trip limits for 1994 apply to calendar months.

On January 1, 1994, the cumulative trip limit for the DTS complex was set at 50,000 lb (22,680 kg) per month, including no more than 30,000 lb (13,608 kg) of thornyheads and 12,000 lb (5,443 kg) of trawl-caught sablefish. In any landing of the DTS complex, the trip limit for trawl-caught sablefish was set at 1,000 lb (454 kg) or 25 percent of the DTS complex, whichever was greater, and applied to each trip. In any landing, no more than 5,000 lb (2,268 kg) could be trawl-caught sablefish smaller than 22 inches (56 cm) (total length) (59 FR 685, January 6, 1994).

In order to simplify the percentage portion of the trip limit, on May 6, 1994, NMFS restated it in equivalent terms that are easier to calculate—25 percent of the DTS complex (including sablefish) is equivalent to 33.333 percent (approximately one third) of the legal thornyheads and Dover sole (i.e., the DTS complex excluding sablefish) (59 FR 23638, May 6, 1994).

DTS are managed collectively as the DTS complex because they are often caught together in the trawl fishery. Information on DTS complex landings indicated that at the current rate of harvest, the harvest guidelines for thornyheads and trawl-caught sablefish would be achieved well before the end of the year. The Council, therefore, convened an emergency tele-conference Council meeting to consider the issue on June 17, 1994. The best available information presented at the June 17, 1994, teleconference Council meeting indicated that the trawl catch of sablefish through May 28, 1994, was 1,803 mt or 51 percent of the 1994 trawl allocation, and that the catch rate for trawl-caught sablefish during April-May

1994 was 112 percent of the catch rate average for this period in 1992 and 1993. The data also indicated that the catch of thornyheads through May 28, 1994, was 3,829 mt or 55 percent of the 1994 harvest guideline for thornyheads. High thornyhead prices to the fishers have attracted much greater effort, and the recent rate of thornyhead landings was 78 percent above the 1992–1993 catch rate average.

Consequently, if landing rates are not curtailed, the harvest guideline for trawl-caught sablefish (3,521 mt) would be taken near August 26, 1994, and the harvest guideline for thornyheads (7,000 mt) would be taken near August 7, 1994. In order to delay the achievement of the harvest guidelines, the Council recommended imposing an immediate reduction in the cumulative trip limit for the DTS complex from 50,000 lb (22,680 kg) to 30,000 lb (13,608 kg) per calendar month. Within this limit, no more than 8,000 lb (3,629 kg) may be thornyheads (down from 30,000 lb (13,608 kg)) and no more than 6,000 lb (2,722 kg) may be trawl-caught sablefish (down from 12,000 lb (5,443 kg)). The individual trip limit for trawl-caught sablefish of 1,000 lb (454 kg) or 33.333 percent of the legal thornyheads and Dover sole, whichever is greater, and the 5,000 pound (2,268 kg) limit on trawl-caught sablefish smaller than 22 inches (56 cm) (total length) remain unchanged.

The sharp increase in monthly catch of thornyheads and sablefish has been associated with a decrease in the monthly catch of Dover sole. The reduction in the thornyhead cumulative limit is expected to greatly reduce the magnitude and frequency of trips in deep water. The shift in effort to shallow water should increase the catch of Dover sole and decrease the catch of thornyheads, but sablefish are caught in association with both species. Because the sablefish limit has been reduced to 6,000 lb (2,721 kg), the reduction in the DTS complex limit from 50,000 lb (22,680 kg) to 30,000 lb (13,608 kg) is designed to prevent increases in sablefish discard as vessels increase targeting on Dover sole.

Secretarial Action

NMFS hereby announces the following change to the management measures announced at 59 FR 685, January 6, 1994, pursuant to 50 CFR 663.23(c)(1):

(1) Coastwide, no more than 30,000 lb (13,608 kg) cumulative of the DTS complex may be taken and retained, possessed, or landed per vessel in a calendar month, of which no more than 8,000 lb (3,629 kg) cumulative of thornyheads and 6,000 lb (2,722 kg) cumulative of trawl-caught sablefish may be taken and retained, possessed, or landed per vessel in a calendar month.

(2) In any trip, no more than 1,000 lb (454 kg) or 33.333 percent of the legal thornyheads and Dover sole, whichever is greater, may be trawl-caught sablefish; and no more than 5,000 lb (2,268 kg) may be trawl-caught sablefish smaller than 22 inches (56 cm) (total length).

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Director, Northwest Region, (see **ADDRESSES**) during business hours.

Classification

Delay in the implementation of this action could result in exceeding the trawl-caught sablefish allocation and/or exceeding the thornyhead limited entry harvest guideline. Furthermore, there was an opportunity for public comment at the June 17 Council meeting. The Secretary therefore finds good cause under 5 U.S.C. 553(b)(B) and 553(d)(3) to waive the requirements for publication of a general notice of proposed rulemaking and a 30-day delay in effectiveness for this action.

This action is taken under the authority of 50 CFR 663.23(c) and is exempt from OMB review under E.O. 12866.

Dated: June 24, 1994.

David S. Crestin,

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

[FR Doc. 94–15838 Filed 6–27–94; 12:12 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 59, No. 125
Thursday, June 30, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708

Mergers of Federally-Insured Credit Unions: Voluntary Termination or Conversion of Insured Status

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would amend part 708 to clarify that the rules and regulations on mergers, voluntary termination and insurance conversion apply not only to federally-insured credit unions converting to non federally-insured credit unions, but to federally-insured credit unions converting to any institution that is not NCUSIF insured.

DATES: Comments must be postmarked or posted on the NCUA electronic bulletin board by August 1, 1994.

ADDRESSES: Send comments to Becky Baker, Secretary to the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6553.

SUPPLEMENTARY INFORMATION:

A. Background

Section 205(b)(1) of the Federal Credit Union Act, 12 U.S.C. 1785(b)(1) provides that a federally-insured credit union seeking to merge or consolidate with a "noninsured credit union or institution" must obtain the prior written consent of the NCUA Board. The term "insured credit union" means one that is insured by the NCUA Board through the National Credit Union Share Insurance Fund (NCUSIF); "noninsured credit union" means one that is not so insured. (See Section 101(7) of the Act (12 U.S.C. 1752(7)). The Board has determined that the term "institution" as used in Section 205(b)(1)(A) of the Act applies to any financial institution that is not insured through the NCUSIF, such as banks and savings and loans as well as institutions that carry no federal insurance. Section 205(c) of the Act sets forth the six criteria the Board will consider in granting or withholding approval under subsection (b).

In addition, part 708 of the NCUA Rules and Regulations sets forth procedures and requirements of mergers and termination/conversion of insurance. Part 708 addresses situations where an insured credit union either voluntarily terminates federal insurance or merges with a credit union that is not federally insured. It does not specifically address the situation where an insured credit union merges with a non credit union institution. The effect on credit union members—that is, the loss of membership in a federally insured credit union—is the same no matter what type of financial institution the credit union merges into. This amendment clarifies part 708 to apply to all merger and termination/conversion situations where the continuing institution is not insured by NCUSIF.

The amendment is also needed to provide NCUA with clear authority to prevent abuses in connection with conversions of insured status. In a limited number of past cases, credit unions attempting to convert to private insurance or FDIC insurance have argued that NCUA has no jurisdiction over these actions. This has called into question NCUA's authority to require membership votes, to monitor the fairness of those votes, and to ensure the transaction is handled in the best interests of the members and the NCUSIF.

In one case, a credit union incurred substantial legal and other expenses attempting to convert to an FDIC insured bank. The credit union was unsuccessful and was ultimately liquidated for insolvency due in part to the expenses associated with the conversion efforts.

The Board is aware of a limited number of more recent instances where federally insured credit unions have been solicited for conversion to other institution charters by law firms and consultants. The supposed benefits that have been cited in these solicitations have had nothing to do with the good of the credit union membership, but rather have been motivated by the significant fee income the outside parties expect to generate and the prospect of financial gain to management, through compensation of directors, increased management salary potential, stock options and other means. The Board hereby serves notice that these solicitations should stop, and that any expense of credit union funds pursuing such a transaction that is motivated by other than the members' interests will be addressed through the use of all available administrative powers.

Further, while this regulatory action addresses mergers and consolidations, the Board cautions anyone who would consider using, as a substitute, a voluntary liquidation with the payout to members being in the form of deposits and/or stock in another institution. Voluntary liquidation requires a direct payout, to the members of all shares and equity, and the NCUA Board, working with state regulators where appropriate, will stop any liquidation transaction that does not include direct payment as a clear element of the liquidation plan.

The Board has in the past worked with the state regulators when approving mergers and consolidations of federally-insured state chartered credit unions with other credit unions. It will do so as well when reviewing mergers and consolidations of federally-insured state chartered credit unions with other financial institutions. The Board values its positive working relationship with state credit union supervisors. This action is not intended to supplant that relationship, but to ensure the means exist to prevent losses to the National Credit Union Share Insurance Fund and protect the rights of members. The Board will continue to cooperate with state regulators in cases involving federally insured state chartered credit unions.

The current rule requires credit unions considering the merger/conversion route to submit modifications or additions to the member notices to the NCUA Regional Director and the appropriate state authority for approval before the information is sent to the members. 12 CFR 708.303. The Board is proposing to modify the requirement for Regional Director approval and require all credit unions to obtain institution merger/conversion notice modification

approvals from the Board. As under the current rule, the Board will not approve proposed notices that do not fully apprise members of the negative consequences of the action as well as any windfall benefits to officials. The rule states that approval of the modifications may be withheld if it "is determined that the credit union, by inclusion or omission of information, would materially mislead or misinform its membership." The Board wants to be very clear that approval of a proposed notice to members is not an approval of the proposed merger/conversion. Since part 708 does not provide an approved notice to members for credit union to institution merger/conversions, the Board expects all federally insured credit unions proposing such a merger/conversion to request its approval of proposed notices. The Board is requesting comment on whether part 708 should include a uniform member notice for institution merger/conversions.

B. Section by Section Analysis

Section 708.0(a)

This section is amended to clarify that "institution" is within the scope of part 708.

Section 708.0(b)

This section is amended by substituting the term "nonNCUSIF insurance" for "nonfederal insurance" to clarify that the regulations apply to all financial institutions.

Section 708.0(e)

This section is amended by adding the modifier "additional" to clarify that state procedures are not substitute for NCUA procedures.

Section 708.1(i)

This definition has been added to clarify that the term "institution" as used in Section 205(b)(1)(A) of the Act applies to any financial institution that is either nonfederally-insured or insured by an agency of the federal government other than NCUSIF and is covered by part 708.

Section 708.1(j)

This definition has been added to clarify that although only the term "merger" is used in part 708, Section 205(b)(1)(A) of the Act applies to all forms of consolidations.

Section 708.101(a)

This section has been modified by substituting the term "nonNCUSIF insurance" for "nonfederal insurance" to clarify that the merger requirements apply to all financial institutions.

Section 708.101(b)

This section has been modified by adding the term "institution" to clarify that all financial institutions must seek approval from the NCUA Board prior to merging with a federally insured credit union.

Section 708.102(c)

This section has been modified by adding the term "institution" to clarify that all nonNCUSIF-insured financial institutions would be entitled to a refund of the merging credit union's NCUSIF deposit and the unused portion of the merging credit union's NCUSIF share insurance premium.

Section 708.102(d)

This section has been modified by adding the term "institution" to clarify that NCUSIF insurance terminates for all nonNCUSIF-insured financial institutions member accounts as of the effective date of the merger.

Section 708.108 (a) and (b)

These sections have been modified by adding the term "institution" and substituting "affected supervisory authority" for "state supervisory authority" to clarify that all financial institutions must certify the completion of the merger to the Regional Director.

Section 708.203 (a), (b), (c) and (d)

These sections have been modified by adding the term "institution" to clarify that this regulation applies to additional methods whereby federally-insured state chartered credit unions and federal credit unions might consider converting to nonNCUSIF insurance.

Section 708.204(a)

This section has been modified by substituting the term "nonNCUSIF" for "nonfederal" to clarify that the notice requirements apply to conversions to all institutions.

Section 708.303

This section has been modified by deleting the reference to subparagraph (a) and inserting as a new second sentence, "Proposed notices or ballots concerning mergers or conversions to institutions will be made with the approval of the Board and, in the case of a state credit union, the appropriate state authority."

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a potential number of small credit unions (primarily those under $1 million in assets). Preliminary analysis concerning the effect the proposed rule will have on small credit unions indicates that no significant economic impact will result if the rule is promulgated by the NCUA Board. The proposed rule merely clarifies statutory authority. Therefore, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

These amendments do not change the paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed regulation applies to all federally insured credit unions. However, it makes no substantive changes but merely clarifies existing requirements. The Federal Credit Union Act gave the NCUA the authority to approve all insured credit union mergers or consolidations with "institutions." 12 U.S.C. 1785(b)(1)(A). The NCUA Office of General Counsel has also issued several public opinion letters consistent with these clarifications. These letters are available on request to the NCUA Public and Congressional Affairs Office. The NCUA Board has determined that this amendment is not likely to have any direct effect on states, on the relationship between the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 708

Back deposit insurance, Credit Unions and Reporting and record keeping requirements.

By the National Credit Union Administration Board on June 23, 1994.

Becky Baker,

Secretary to the Board.

Accordingly, NCUA proposes to amend 12 CFR part 708 as follows:

PART 708—MERGERS OF FEDERALLY-INSURED CREDIT UNIONS: VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

1. The authority citation of part 708 continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1785, 12 U.S.C. 1786, 12 U.S.C. 1789.

2. Section 708.0 is amended by revising paragraphs (a), (b) and (e) to read as follows:

§ 708.0 Scope.

(a) Subpart A of this part prescribes the procedures for merging on or more credit unions with a continuing credit union or institution where at least one is federally-insured.

(b) Subpart B of this part prescribes the procedures and notice requirements for termination of Federal insurance or conversion of Federal insurance to nonNCUSIF insurance, including termination or conversion resulting from a merger.

* * * * *

(e) This part does not address additional procedures or requirements that may be applicable under state law for a state credit union.

3. Section 708.1 is amended by adding paragraphs (i) and (j) to read as follows:

§ 708.1 Definitions.

* * * * *

(i) *Institution* means any bank, savings, and loan, mutual savings bank, or similar institution that is nonfederally-insured or insured by an agency of the federal government other than NCUSIF.

(j) *Merger* includes any consolidation or its equivalent under applicable laws, including a merger or consolidation of an existing credit union with a newly chartered credit union or other institution.

4. Section 708.101 is amended by revising paragraphs (a) and (b) to read as follows:

§ 708.101 Mergers generally.

(a) In any case where a merger will result in the termination of Federal insurance or conversion to nonNCUSIF insurance, the merging credit union must comply with the provisions of subpart B in addition to this subpart A.

(b) No federally-insured credit union shall merge with any other credit union or institution without the prior written approval of the Board.

* * * * *

5. Section 708.102 is amended by revising paragraphs (c) and (d) to read as follows:

§ 708.102 Special provisions for Federal insurance.

* * * * *

(c) Where the continuing entity is uninsured or a nonfederally-insured credit union or an institution and does not make application for insurance, but the merging credit union is federally-insured, the continuing credit union or institution is entitled to a refund of the merging credit union's NCUSIF deposit and to a refund of the unused portion of the NCUSIF premium (if any). If the continuing credit union or institution is uninsured, the refund will be made only after expiration of the one-year period of continued insurance coverage noted in paragraph (e) of this section.

(d) Where the continuing entity is a nonfederally-insured credit union or an institution, NCUSIF insurance of the member accounts of a merging federally-insured credit union ceases as of the effective date of the merger. (Refer to subpart B, §§ 708.203 and 708.204 and subpart C, § 708.302(b).

* * * * *

6. Section 708.108 is amended by revising paragraphs (a) and (b) to read as follows:

§ 708.108 Completion of merger.

(a) Upon approval of the merger proposal by NCUA and by any other affected supervisory authority (where a continuing or merging credit union or institution is not a Federal credit union) and by the members of each credit union where required, action may be taken to complete the merger.

(b) Upon completion of the merger, the board of directors of the continuing credit union or institution shall certify the completion of the merger to the Regional Director within 30 days after the effective date of the merger.

* * * * *

7. Section 708.203 is revised to read as follows:

§ 708.203 Conversion of insurance.

(a) A federally-insured state credit union may convert to nonNCUSIF insurance, if permitted by state law, either on its own or by merging into a nonfederally-insured credit union or an institution.

(b) A Federal credit union may convert to nonNCUSIF insurance only by merging into, or converting its charter to, a nonfederally-insured credit union or an institution.

(c) Conversion of Federal to nonNCUSIF insurance must be approved by an affirmative vote of a majority of the credit union's members who vote on the proposition, provided at least 20 percent of the total membership participates in the voting. The credit union must notify the Board, through the Regional Director, in writing at least 90 days prior to conversion. Notice to the Board may be given when membership approval is solicited or after membership approval is obtained.

(d) No federally-insured credit union shall convert to nonNCUSIF insurance without the prior written approval of the Board. The Board will approve or disapprove the conversion in writing within 90 days after being notified by the credit union.

8. Section 708.204 is amended by revising paragraph (a) to read as follows:

§ 708.204 Notice to members of conversion of insurance.

(a) When a federally-insured credit union proposes to convert to nonNCUSIF insurance, including conversion due to a merger or conversion of charter, it shall provide its members with written notice of the proposal to convert and of the date set for the membership vote. Notice of the proposal shall be as set forth in either § 708.203 (a)(1) or (b)(1), or as provided in § 708.302(c), as the circumstances warrant.

* * * * *

9. Section 708.303 is amended by revising paragraph (a) to read as follows:

§ 708.303 Modifications to notice.

(a) Any modifications or additions to the notices or ballot concerning insurance coverage, and any additional communications concerning insurance coverage included with the notice or ballot, may be made with the approval of the Regional Director and, in the case of a state credit union, the appropriate state authority. Proposed notices or ballots concerning mergers or conversions to institutions will be made with the approval of the Board and, in the case of a state credit union, the appropriate state authority. Approval of such modifications, additions or additional communications will not be withheld unless it is determined that the credit union, by inclusion or omission of information, would materially mislead or misinform its membership.

* * * * *

[FR Doc. 94-15800 Filed 6-29-94; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-CE-11-AD]

Airworthiness Directives: All Model Airplanes Equipped with Turbocharged Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: Numerous accidents and incidents attributed to turbocharger failure has prompted the Federal Aviation Administration (FAA) to more thoroughly investigate the conditions related to these accidents. Improper or lack of pilot action following the turbocharger failures may have contributed to many of the accidents and incidents. In order to adequately make a determination as to what type of action to take (if any), the FAA is issuing this advance notice to seek comments from interested persons regarding possible problems with airplanes equipped with turbocharged engines. The FAA will evaluate all comments and ideas and then research the situation to decide whether rulemaking is needed.

DATES: Comments must be received on or before September 23, 1994.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–11–AD." The postcard will be date stamped and returned to the commenter.

Availability of ANPRMs

Any person may obtain a copy of this ANPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

From January 1986 to May 1993, the FAA received 580 service difficulty reports relating to failures of turbocharger systems on airplanes equipped with turbocharged engines. A study of a five-year time period (January 1988 through May 1993) reveals 88 accidents and incidents, resulting in 35 injuries and 6 deaths.

Several reports of these accidents, incidents, and service difficulties indicate problems with installation, inspection, maintenance, service, or overhaul. After accomplishing a thorough review of these failures, the National Transportation Safety Board (NTSB) notes that improper pilot action following the turbocharger malfunction or failure may have been a contributing factor in many of the accidents and incidents.

Numerous airplane manufacturers do not provide written procedures addressing turbocharger failures. Section 23.1585 of the Federal Aviation Regulations (14 CFR 23.1585) consists of the following:

> For each airplane, information concerning normal and emergency procedures and other pertinent information necessary to safe operation must be furnished, including.
> * * *

The regulation then goes on to list several different examples, but is not specific as to information regarding turbocharger failures. In addition, FAA-approved Specification for Pilots Operating Handbook (GAMA Specification No. 1), prepared by the General Aviation Manufacturers Association (GAMA), does not specifically address this issue, but, like the regulations, includes a general statement:

> Emergency procedures and other pertinent information necessary for safe operations shall be provided for emergencies peculiar to a particular airplane design, operating or handling characteristic.

In order to adequately make a determination as to what type of action to take (if any), the FAA is issuing this advance notice of proposed rulemaking (ANPRM) to provide an opportunity for the general public to participate in the decision whether to initiate rulemaking. Interested persons are encouraged to provide information that describes what they consider the best action (if any) to be taken to correct the possible problem. In this regard, the FAA is especially interested in comments and viewpoints on the following:

1. If your airplane was to experience turbocharger failure, would you know what precautions and pilot actions to take? Would these be as a result of Airplane Flight Manual/Pilot Operating Handbook (AFM/POH) issues and supplements? Do you believe a safety hazard exists if information related to this subject is not included in the AFM/POH?

2. Does a safety issue exist on turbocharged airplanes that do not have an AFM/POH, and would placarding these airplanes solve this safety problem?

3. Should FAA-approved GAMA Specification No. 1 be revised to include the requirement of AFM/POH information regarding precautions and pilot action in case of a turbocharger failure?

4. Should the FAA change policy to require direct reference to this subject on all new model airplanes equipped with turbocharged engines?

5. Please provide any other information that you feel is pertinent in helping the FAA determine what type of action (if any) needs to be taken.

Issued in Kansas City, Missouri, on June 24, 1994.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–15860 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Texas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Texas permanent regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas regulations and statute pertaining to ownership and control. The amendment is intended to revise the Texas program to be consistent with and no less effective than the corresponding Federal regulations and no less stringent than SMCRA.

DATES: Written comments must be received by 4:00 p.m., c.d.t., August 1, 1994. If requested, a public hearing on the proposed amendment will be held on July 25, 1994. Requests to present oral testimony at the hearing must be received by 4:00 p.m., c.d.t., July 15, 1994. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Texas program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 550, Tulsa, OK 74135

Railroad Commission of Texas, Surface Mining and Reclamation Division, Capitol Station, P.O. Drawer 12967, Austin, TX 78711, Telephone: (512) 463–6900

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program can be found in the February 27, 1980 **Federal Register** (45 FR 12998). Subsequent actions concerning Texas' program and program amendments can be found at 30 CFR 943.15 and 943.16.

II. Proposed Amendment

By letter dated May 24, 1994, (Administrative Record No. TX–576), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to required program amendments at 30 CFR 943.16(c) (1) and (2), (d), (f), (j) (1), (2), (3), and (4), (r), and (s) (59 FR 13200, March 21, 1994). The provisions of the Texas Administrative Code (TAC) at 16 TAC 11.221 and the Texas Surface Coal Mining and Reclamation Act that Texas proposes to amend are:

1. *Texas Coal Mining Regulations (TCMR) 778.116(m), Identification of interests and compliance information.*

Texas proposes to add language to require a permit application to include information on violations received pursuant to SMCRA's implementing Federal regulations, all SMCRA-approved Federal programs (OSM-administered Indian lands program and Federal programs for States), and all SMCRA-approved State programs, not just the Texas program, and information on air or water environmental protection violations received pursuant to any State laws, rules or regulations enacted pursuant to Federal laws, rules, or regulations and incurred by the applicant in any State, not just Texas.

2. *TCMR 786.215 (e) and (f), Review of permit applications.*

(a) Texas proposes at TCMR 786.215(e)(1) to require the Commission to consider, as a basis for permit denial, information on cessation orders issued by States other than Texas, and

(b) Texas proposes at TCMR 786.215(f) to require that issuance of permits is specifically prohibited whenever the Commission makes a determination that the applicant, anyone who owns or controls the applicant, or the operator specified in the application controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Texas Surface Coal Mining and Reclamation Act (TSCMRA), SMCRA, SMCRA's implementing Federal regulations, SMCRA-approved Federal programs, and all SMCRA-approved State programs, not just the Texas program, of such nature, duration, and with such resulting irreparable damage to the environment, as to indicate an intent not to comply with these laws, rules, and regulations.

3. *TCMR 786.216 (i) through (n), Criteria for permit approval or denial.*

Texas proposes to delete TCMR 786.216(i) and to recodify paragraphs (j) through (o), accordingly. Existing TCMR 786.216(i) prohibits permit approval unless the Commission finds, in writing, that the applicant or the operator, if other than the applicant, does not control and has not controlled mining operations with a demonstrated pattern of willful violations of TSCMRA.

4. *TCMR 788.225 (f), (g) and (h), Commission review of outstanding permits.*

(a) Texas proposes to revise TCMR 788.225(f)(3) to allow the Commission, when it finds that a permit was improvidently issued, to suspend the permit until the outstanding violation is abated or the penalty or fee is paid, and to add TCMR 788.225(f)(4) to allow the Commission to rescind such permit under the provisions of proposed TCMR 788.225(g).

(b) Texas proposes to add TCMR 788.225(g) to provide that the Commission shall, for a permit found to have been improvidently issued, (1) serve the permittee with notice of the proposed suspension and rescission, and include in the notice the reasons for the Commission's findings, and (2) specify the conditions that must be met in order to prevent suspension or rescission of such improvidently issued permit.

(c) Texas proposes to add TCMR 788.25(h) to specify that upon permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations, except for specific abatement, reclamation, and other environmental protection measures required by the Commission.

(d) Texas proposes to recodify existing paragraph (h) as TCMR 788.225(i).

5. *Article 5920–11, (TSMCRA), section 21(c), Reporting notices of violations in permit applications.*

Texas proposes to delete from the first sentence of section 21(c) the words "within the state" from the phrase "in connection with any surface coal mining operation within the state during the three-year period."

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t., July 15, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2 Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 24, 1994.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 94–15661 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 10

[Docket No. 940547–4147]

RIN 0651–AA72

Revision of Patent Cooperation Treaty Provisions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) proposes to amend the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) in accordance with revised regulations under the PCT. The proposed changes will result in a procedure whereby international applications improperly filed in the United States Receiving Office (RO/US) will, for a fee, be forwarded for processing by the International Bureau as Receiving Office.

DATES: Written comments must be submitted on or before August 29, 1994.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attention: Charles Pearson, Crystal Park II, Room 919, or by Fax to (703) 308–6459. No oral hearing will be held.

FOR FURTHER INFORMATION CONTACT: Charles Pearson by telephone at (703) 308–6515 or by mail marked to his attention and addressed as above.

SUPPLEMENTARY INFORMATION: These proposed rule changes will improve filing and processing procedures for applicants in the filing of international applications.

On September 20 to 29, 1993, representatives of the patent offices of the member countries, in a series of meetings held in Geneva, Switzerland, agreed upon several changes to the PCT regulations which are designed to make the PCT more user-friendly. One of the significant changes to the PCT regulations was the addition of a new section (PCT Rule 19.4) which provides for transmittal of an international

application to the International Bureau, acting in its capacity as Receiving Office, in certain instances. Several other changes were agreed upon including modifications to certain existing regulations. Some of these adopted changes require corresponding changes in Title 37, CFR.

Under the regulations currently in effect, an applicant is required, on filing the international application in the United States, to specify an applicant who is a resident or national of the United States.

The practice under the revised PCT regulations permits an international application filed with the United States Receiving Office to be forwarded to the International Bureau for processing in its capacity as a receiving office if the international application has an applicant who is a resident or national of a PCT Contracting State or has no residence or nationality indicated, but does not have an applicant who is indicated as being a U.S. resident or national. The Receiving Office of the International Bureau will consider the international application to be received as of the date accorded by the United States Receiving Office. This practice will avoid the loss of a filing date in those instances where the United States Receiving Office is not competent to act, but where the international application is filed by an applicant who is a national or resident of a PCT Contracting State. Where questions arise regarding residence or nationality, e.g., where residence and nationality are not clearly set forth, the application will be forwarded to the International Bureau as Receiving Office. If all of the applicants are indicated to be residents and nationals of non-PCT Contracting States, PCT Rule 19.4 does not apply and the application is denied an international filing date.

Discussion of Specific Rules

Section 1.412(c)(6), if added as proposed, would reflect that the United States Receiving Office, where it is not a competent Receiving Office under PCT Rule 19.1 or 19.2, could transmit the international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.421(a), if amended as proposed, would clarify that applications filed by applicants who are not residents or nationals of the United States, but who are residents or nationals of a PCT Contracting state or who indicate no residence or nationality, will, upon timely payment of the proper fee, have their application forwarded to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.445(a)(5), if added as proposed, would establish a fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 10.9, if amended as proposed, would add a new provision to be consistent with the change to PCT Rule 90.1, clarifying that an attorney or agent having the right to act before the International Bureau when acting as Receiving Office may represent the applicant before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority. An individual who has the right to practice before the International Bureau when acting as Receiving Office, and who is not registered under § 10.6, may not prosecute patent applications in the national stage in the Office.

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule changes will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)), because the proposed rules would affect only a small number of international applications and would provide more streamlined and simplified procedures for filing and prosecuting international applications under the PCT.

The Patent and Trademark Office has also determined that this notice has no federalism implications affecting the relationship between the National government and the States as outlined in Executive Order 12612.

These rule changes will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The paperwork burden imposed by adherence to the PCT is currently approved by the Office of Management and Budget under control number 0651–0021.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

37 CFR Part 10

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and record keeping requirements, Trademarks.

For the reasons set forth in the preamble, 37 CFR Parts 1 and 10 are proposed to be amended as follows, with removals indicated by brackets ([ ]) and additions by arrows (> <):

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.412 is proposed to be amended by adding new paragraph (c)(6) to read as follows:

§ 1.412 The United States Receiving Office.

* * * * *

(c) The major functions of the Receiving Office include:

* * * * *

>(6) Reviewing and, where the United States Receiving Office is not the competent Receiving Office under § 1.421(a) and PCT Rule 19.1 or 19.2, transmitting the international application to the International Bureau for processing in its capacity as a competent Receiving Office (PCT Rule 19.4).<

3. Section 1.421 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. >If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:

(1) Has indicated a residence or nationality in a PCT Contracting State, or

(2) Has no residence or nationality indicated;

applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(5), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office. (See also § 1.412(c)(6)).

4. Section 1.445 is proposed to be amended by adding new paragraph (a)(5) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

>(5) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a competent Receiving Office (PCT Rule 19.4).<

* * * * *

PART 10—[AMENDED]

5. The authority citation for 37 CFR Part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

6. Section 10.9 is proposed to be amended by revising paragraph (c) read as follows:

§ 10.9 Limited recognition in patent cases.

* * * * *

(c) An individual not registered under § 10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: the individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455) >or before the International Bureau when acting as Receiving Office (PCT Rule 90.1)<.

Dated: June 23, 1994.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 94–15946 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA38–1–6207; FRL–5005–8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional approval.

SUMMARY: EPA is proposing to conditionally approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in the counties of Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Centre, Chester, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York. The intended effect of this action is to propose conditional approval of the Pennsylvania enhanced motor vehicle I/M program. This action is being taken under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before August 1, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly L. Bunker, (215) 597–4554.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxide (NOx) emissions. An important control measure to reduce these emissions is the implementation of a motor vehicle inspection and maintenance (I/M) program. Despite being subject to the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone air pollution and nearly all of the carbon monoxide air pollution in United States cities, as well as toxic contaminants. Of all highway vehicles, passenger cars and light-duty trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. They also emit substantial amounts of nitrogen oxides and air toxics. Although the U.S. has made progress in reducing emissions of these pollutants, total fleet emissions remain high. This is because the number of vehicle miles travelled on U.S. roads has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same two decades. Projections indicate that the steady growth in vehicle travel will continue. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

Today's cars are absolutely dependent on properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly, and the average car on the road emits three to four times the new car standard. Major malfunctions in the emission control system can cause emissions to skyrocket. As a result, 10 to 30 percent of cars are causing the majority of the vehicle-related pollution problem. Unfortunately, it is rarely obvious which cars fall into this category, as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle driveability.

Effective I/M programs, however, can identify these problem cars and assure their repair. I/M programs ensure that cars are properly maintained in customer use. I/M produces emission reduction results soon after the program is put in place.

EPA projects that "enhanced" I/M programs in the most polluted cities around the country would cut vehicle emissions by 28 percent, at a cost of about $12.50 per vehicle per year. This represents a major step toward the Clean Air Acts's requirement that the most seriously polluted cities achieve a 24 percent overall emissions reduction by 2000.

The Clean Air Act as amended in 1990 (the Act) requires that most polluted cities adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the

population of the area. The moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs, fall under the "basic" I/M requirements. Enhanced programs are required in serious, severe, and extreme ozone nonattainment areas with urbanized populations of 200,000 or more; CO areas that exceed a 12.7 parts per million (ppm) design value [1] with urbanized populations of 200,000 or more; and all metropolitan statistical areas with a population of 100,000 or more in the Northeast Ozone Transport Region.

"Basic" and "enhanced" I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program covers more of the vehicles in operation, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired.

The Act requires states to make changes to improve existing I/M programs or to implement new ones for certain nonattainment areas. Section 182(a)(2)(B) of the Act directed EPA to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The Act further requires each area required to have an I/M program to incorporate this guidance into the SIP. Based on these requirements, EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950, codified at 40 Code of Federal Regulations (CFR) 51.350–51.373).

Under sections 182(c)(3), 187(a)(6) and 187(b)(1) of the Act, any area having a 1980 Bureau of Census-defined urbanized area population of 200,000 or more and either: (1) designated as serious or worse ozone nonattainment or (2) moderate or serious CO nonattainment areas with a design value greater than 12.7 ppm shall implement enhanced I/M in the 1990 Census-defined urbanized area. The Act also established the ozone transport region (OTR) in the northeastern United States which includes the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland and Northern Virginia and the District of Columbia. Sections 182(c)(3) and 184(b)(1)(A) of the Act require the implementation of enhanced I/M programs in all metropolitan statistical areas (MSAs) located in the OTR which have a population of 100,000 or more people.

The Act requires basic I/M programs to be implemented in the 1990 Census-defined urbanized area of the following nonattainment areas: (1) any area which is classified as moderate or worse ozone nonattainment and is not required to implement enhanced I/M or (2) any area outside the OTR that is classified as serious or worse ozone nonattainment or moderate or serious CO nonattainment with a design value greater than 12.7 ppm and having a 1990 Census-defined urbanized area population of less than 200,000. Any areas classified as marginal ozone nonattainment or moderate CO nonattainment with a design value of 12.7 ppm or less shall continue operating existing programs that are part of an approved SIP as of November 15, 1990 or implement any previously required program, and shall update the program to meet the basic I/M requirements set forth in §§ 51.350–51.373.

The I/M regulation establishes minimum performance standards for basic and enhanced I/M programs as well as requirements for the following: network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification; public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines. The performance standard for basic I/M programs remains the same as it has been since initial I/M policy was established in 1978, pursuant to the 1977 amendments to the Clean Air Act. The performance standard for enhanced I/M programs is based on a high-technology transient test, known as IM240, for new technology vehicles (i.e, those with closed-loop control and, especially, fuel injected engines), including a transient loaded exhaust short test incorporating hydrocarbons (HC), CO and NO_x cutpoints, an evaporative system integrity (pressure) test and an evaporative system performance (purge) test. For enhanced I/M programs, all requirements must initially be implemented by January 1, 1995 except that areas switching from an existing test-and-repair network to a test-only network may phase in that change between January 1995 and January 1996.

II. Background

The Commonwealth of Pennsylvania is part of the OTR and contains the following MSAs or parts thereof with a population of 100,000 or more: Allentown-Bethlehem, Altoona, Beaver, Erie, Harrisburg Lebanon-Carlisle, Johnstown, Lancaster, Philadelphia, Pittsburgh-Beaver Valley, Reading, Scranton-Wilkes-Barre, Sharon, State College, Williamsport, and York. Sections 182(c)(3) and 184(b)(1)(A) of the Act require all states in the OTR region which contain MSAs or parts thereof with a population of 100,000 or more, to submit a SIP revision for an enhanced I/M program. Section 51.372(b)(2) of the federal I/M regulation required affected states to submit full I/M SIP revisions that met the requirements of the Act by November 15, 1993.

On November 5, 1993, the Pennsylvania Department of Environmental Resources (PADER) submitted to EPA a SIP revision for an enhanced I/M program. The revision included a copy of the final enhanced I/M regulation, 67 Pennsylvania (PA) Code Chapter 178; the Pennsylvania I/M Request for Proposals (RFP); the Pennsylvania I/M legislation, Act 166; and supporting documents. On March 30, 1994, PADER submitted an addendum to the SIP which included portions of the selected I/M contractor's proposal. The I/M regulations were adopted by the Commonwealth of Pennsylvania on June 3, 1993 and become effective on January 1, 1995. EPA's I/M regulations require state I/M rules to be effective by November 15, 1993. However, EPA believes that the effective date of the Pennsylvania enhanced I/M program is approvable for two reasons. First, it would be a futile act to require the Commonwealth to amend its regulations to require an earlier effective date at this time. It would normally take Pennsylvania more than the six months remaining before the effective date of January 1, 1995 to complete the administrative process to amend the regulations. Secondly, an earlier effective date would not change

[1] The air quality design value is estimated using EPA guidance. Generally, the fourth highest monitored value with 3 complete years of data is selected as the ozone design value because the standard allows one exceedance for each year. The highest of the second high monitored values with 2 complete years of data is selected as the carbon monoxide design value.

any of the requirements of the regulations. Pennsylvania has already initiated all of the steps required under the federal I/M regulations to be conducted prior to January 1, 1995 under independent authority. The January 1, 1995 effective date will allow the Commonwealth to fully implement the enhanced I/M program consistent with the requirements of the federal I/M rule. Therefore, EPA concludes that the delay in the effective date of the Pennsylvania I/M rule is deminimis, and EPA proposes to approve the January 1, 1995 effective date.

EPA summarizes the requirements of the federal I/M regulations as found in 40 CFR part 51.350–51.373 and its analysis of the Commonwealth's submittal below. A more detailed analysis of the Commonwealth's submittal is contained in a Technical Support Document (TSD) dated May 18, 1994, which is available from the Region III office, listed in the ADDRESSES section. Parties desiring additional details on the federal I/M regulation are referred to the November 5, 1992 **Federal Register** notice (57 FR 52950) or 40 CFR part 51.350–51.373.

III. EPA's Analysis of Pennsylvania Enhanced I/M Program

As discussed above, sections 182(c)(3), 184(b)(1)(A), 187(a)(6) and 187(b)(1) of the Act require that states adopt and implement regulations for an enhanced I/M program in certain areas. The following sections of this notice address some specific elements of the Commonwealth's submittal. Parties desiring more specific information should consult the TSD.

Applicability—40 CFR Part 51.350

Sections 182(c)(3) and 184(b)(1)(A) of the Act and 40 CFR part 51.350(a) require all states in the OTR which contain MSAs or parts thereof with a population of 100,000 or more to implement an enhanced I/M program. The Commonwealth of Pennsylvania is part of the OTR and contains the following MSAs or parts thereof with a population of 100,000 or more: Allentown-Bethlehem, Altoona, Beaver, Erie, Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, Philadelphia, Pittsburgh-Beaver Valley, Reading, Scranton-Wilkes-Barre, Sharon, State College, Williamsport, and York. The Philadelphia area is classified as a severe ozone nonattainment area and also required to implement an enhanced I/M program as per section 182(c)(3) of the Act and 40 CFR part 51.350(2). In addition, the Philadelphia area of Pennsylvania is designated as moderate nonattainment for CO with a design value of less than 12.7 ppm. As per 40 CFR part 51.350(3), any area classified as moderate CO nonattainment with a design value of 12.7 ppm or less shall continue operating I/M programs that were part of an approved SIP as of November 15, 1990 and shall update those programs as necessary to meet the basic I/M program requirements.

Under the requirements of the Clean Air Act, the following 33 counties in Pennsylvania (which are located in the above listed MSAs) would be subject to the enhanced I/M program requirements: Adams, Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Carbon, Centre, Chester, Columbia, Cumberland, Dauphin, Delaware, Erie, Fayette, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Monroe, Montgomery, Northampton, Perry, Philadelphia, Somerset, Washington, Westmoreland, Wyoming and York. However, under the federal I/M regulations, specifically 40 CFR part 51.350(b), some rural counties having a population density of less than 200 persons per square mile based on the 1990 census can be excluded from program coverage provided that at least 50% of the MSA population is included in the program. The following eight counties in the Commonwealth qualify for the exemption discussed in 40 CFR part 51.350(b) and are exempt from participation in the program: Adams, Carbon, Columbia, Fayette, Monroe, Perry, Somerset and Wyoming. Consequently, the Pennsylvania I/M regulation requires that the enhanced I/M program be implemented in 25 counties in the Commonwealth. The 25 counties are as follows: Allegheny, Beaver, Berks, Blair, Bucks, Cambria, Centre, Chester, Cumberland, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Northampton, Philadelphia, Washington, Westmoreland and York.

The Pennsylvania I/M legislative authority (referred to as Act 166 throughout the remainder of this notice) provides the legal authority to establish the geographic boundaries. The program boundaries listed in an appendix to the SIP include the 25 counties listed above and meet the federal I/M requirements under section 51.350. However, part of this provision states "this program shall be established in all areas of this Commonwealth where the secretary certifies by publication in the *Pennsylvania Bulletin* that a system is required in order to comply with Federal law. Any area, counties, county or portion thereof certified to be in the program by the secretary must be mandated to be in the program by Federal law." Act 166 requires "at least 60 days prior to the implementation of any enhanced emission inspection program developed under this subsection, the Secretary of Transportation shall certify by notice in the *Pennsylvania Bulletin* that an enhanced emission inspection program will commence". The Pennsylvania I/M regulation states that the program begins 60 days after publication of the notice. It is stated in the Pennsylvania I/M SIP that "it is not possible at this time to furnish a copy of that notice since it will be published in calendar year 1994." The SIP goes on to state that "when that notice has appeared in the *Bulletin*, the Department shall furnish a copy to the EPA as an amendment to this SIP". EPA interprets this language as a commitment on the part of the Commonwealth to publish the bulletin notice and submit it as an amendment to the SIP by December 31, 1994. EPA is proposing to find that the geographic applicability requirements are satisfied based on the condition that the Commonwealth of Pennsylvania will submit to EPA by December 31, 1994 the *Pennsylvania Bulletin* notice certifying the geographic coverage. EPA, therefore, proposes to conditionally approve the Pennsylvania SIP based on the Commonwealth's commitment to publish the notice certifying the need for the I/M program and the geographic scope of the program by December 31, 1994. The geographic coverage certified in the notice must include the 25 counties listed above or EPA will consider the commitment not met and will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

The federal I/M regulation requires that the state program shall not sunset until it is no longer necesary. EPA interprets the federal regulation as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. The Pennsylvania I/M regulation provides for the program to continue past the attainment dates for all applicable nonattainment areas in the Commonwealth and is therefore approvable.

Enhanced I/M Performance Standard—40 CFR Part 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local

characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Pennsylvania submittal the most current version was MOBILE5a. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both NO_x and HC. The Pennsylvania submittal must meet the enhanced I/M performance standard for HC and NO_x in all subject I/M areas in the Commonwealth.

The Pennsylvania submittal includes the following program design parameters:

Network type—centralized, test-only
Start date—January 1995
Test frequency—biennial
Model year/vehicle type coverage—all 1968 and newer light duty gasoline vehicles (LDGV), light duty gasoline trucks 1 & 2 (LDGT1, LDGT2) up to 9,000 lbs gross vehicle weight rating (GVWR)
Exhaust emission test type—transient test for 1977 and newer model year vehicles, idle testing for 1968 to 1976 model year vehicles
Emission standards—permanent transient test standards (1983 and newer vehicles): 0.8 gpm HC, 15 gpm CO, 2.0 gpm NO_x from 1/1/97 through 12/31/01, 0.6 gpm HC, 15 gpm CO and 1.5 gpm NO_x from 1/1/02 and after. Please refer to the Pennsylvania I/M regulations found in the June 19, 1993 edition of the *Pennsylvania Bulletin* for idle standards and for transient test standards for other applicable model years
Emission control device—visual inspection of fuel inlet restrictor and catalytic converter on all 1984 and newer vehicles
Evaporative system function checks—pressure and purge check on all 1977 and newer vehicles
Stringency (pre-1981 failure rate)—20%
Waiver rate—3% on pre and post 1981 vehicles
Compliance rate—96%
Evaluation dates—For HC and NO_x: 7/1/99, 7/1/02 and 7/1/05 for Philadelphia area and 7/1/99 for other other areas

The Pennsylvania program design parameters meet the federal I/M regulations and are approvable.

The emission levels achieved by the Commonwealth were modeled using MOBILE5a. The modeling demonstration was performed correctly, used local characteristics and demonstrated that the program design will meet the minimum enhanced I/M performance standard, expressed in gpm, for HC, and NO_x, for each milestone and for the attainment deadline. The Philadelphia area was required to meet the basic I/M program requirements because of the areas' CO nonattainment classification. The modeling demonstration shows that the program meets the enhanced I/M performance standard and in so doing is exceeding the basic I/M program requirements. The modeling demonstration is approvable.

Network Type and Program Evaluation—40 CFR Part 51.353

Enhanced I/M programs shall be operated in a centralized test-only format, unless the state can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard. The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of the Act and the federal I/M regulation. The SIP shall include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports, data from a state monitored or administered mass emission test of at least 0.1% of the vehicles subject to inspection each year, description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

Both Act 166 and the Commonwealth's I/M regulation provide for a centralized, test-only network. Pennsylvania's centralized, test-only network type is approvable. The submittal includes an ongoing program evaluation which meets the federal I/M regulations. However, Act 166 and the Commonwealth regulation prohibit the contractor from having any business interest in a vehicle repair facility in the Commonwealth but does not prohibit such interest in the entire continental United States. EPA interprets section 51.353 of the federal regulation as prohibiting this business interest without geographic limitation. EPA is aware that as a matter of fact the present contractor for Pennsylvania's enhanced I/M program does not have any vehicle repair facility business interests in any other state, and is in fact prohibited from such interests as per contracts with several other state enhanced I/M programs. Based on this knowledge, EPA is proposing to find that this requirement is met with the contingency that the present contractor or any future contractors for the Pennsylvania I/M program will not at any time in the future have any business interest in a vehicle repair facility anywhere in the continental United States. EPA proposes to approve the Pennsylvania SIP on this basis. EPA's proposed approval is contingent on implementation of the program consistent with this finding. Should the contractor for the Pennsylvania I/M program at any time acquire any prohibited repair business interest EPA will rescind its approval and disapprove the SIP.

Adequate Tools and Resources—40 CFR Part 51.354

The federal regulation requires the state to demonstrate that adequate funding of the program is available. A portion of the test fee or separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if demonstrated that the funding can be maintained. Reliance on funding from the state or local General Fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The Pennsylvania State Constitution prohibits monies received from test fees or any other fees received to be deposited in a proprietary account. The Pennsylvania Department of Transportation (PADOT), which implements the I/M program, has no means to fund the I/M program and must rely on future uncommitted annual appropriations from the General Assembly. The federal I/M regulations allow for this funding method if, as in Pennsylvania, doing otherwise would be a violation of the State Constitution. The submittal demonstrates that sufficient funds, equipment and personnel have

been appropriated to meet program operation requirements.

The SIP indicates that the average per vehicle cost for oversight of the program will be 59 cents per vehicle. Other states are planning to spend roughly $1 per vehicle for oversight of an enhanced I/M program. EPA is concerned that Pennsylvania's level of oversight committed may be too low. However, the federal regulation does not set a prescribed amount to be spent for oversight. Therefore, EPA is proposing to approve the current level of funding for program oversight. But, EPA will monitor program implementation closely to ensure that the current level of funding devoted to oversight is sufficient.

The Commonwealth's submittal meets the adequate tools and resources requirements set forth in the federal I/M regulations and is approvable.

Test Frequency and Convenience—40 CFR Part 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

The Pennsylvania enhanced I/M regulation provides for a biennial test frequency. The Commonwealth has submitted modeling that demonstrates that the performance standard is met using the biennial test frequency. Act 166 and the Commonwealth's I/M regulation provide the legal authority to implement and enforce the biennial test frequency. The Pennsylvania I/M Request for Proposals (RFP), and the Pennsylvania I/M contractors' proposal (hereafter the contractors' proposal) provide sufficient evidence that convenient services will be provided to the motorist. The Pennsylvania submittal meets the test frequency and convenience requirements of the federal I/M regulations and is approvable.

Vehicle Coverage—40 CFR Part 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds GVWR, and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements of 40 CFR part 51.353(a). Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the state or local I/M area.

The federal I/M regulation requires that the SIP shall include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption.

The Pennsylvania enhanced I/M program requires coverage of all 1968 and newer LDGV, LDGT1 and LDGT2 up to 9,000 pounds GVWR which are registered or required to be registered in the I/M program area. As of the date of the SIP submittal, 5,815,580 vehicles will be subject to enhanced I/M testing. The Commonwealth's regulation does not currently include vehicles operating on all fuel types but Pennsylvania commits to adding the required testing of these vehicles once EPA promulgates regulations on alternative fueled vehicle I/M testing. Act 166 and the Pennsylvania I/M regulation provide the legal authority to implement and enforce the vehicle coverage. This level of coverage is currently approvable because it provides the necessary emission reductions to meet the performance standard.

Pennsylvania's program provides that large fleets will make special testing arrangements with the Pennsylvania I/M contractor. This will include appointments scheduled during non-peak hours using a dedicated lane, testing scheduled after hours and the establishment of a test lane at a large fleet location if such a fleet determines that this would be a more cost effective approach for their particular needs. Small fleets will be tested on a first-come, first-served basis at the regular test stations in the same manner as a privately-owned vehicle. The Commonwealth's plan for testing fleet vehicles is acceptable and meets the requirements of the federal I/M regulation. The Commonwealth's regulation requires vehicles which are operated on Federal installations located within an I/M program area to be tested, regardless of whether the vehicles are registered in the state or local I/M area, and is approvable.

The Commonwealth's regulation provides for no special exemptions.

Test Procedures and Standards—40 CFR Part 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR part 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, dated April 1994. The federal I/M regulation also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be tested in the same manner as other subject vehicles.

The Commonwealth's regulation includes a description of the test procedure for idle emission and evaporative system pressure testing and for a visual emission control device inspection which conform to EPA approved test procedures and are approvable.

The Commonwealth regulations provide a general description of the test procedure for transient emission and evaporative system purge testing. However, the Commonwealth regulations do not provide specific transient and purge test procedures as described in the EPA document entitled "High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, April 1994. The Pennsylvania SIP states that the regulation will be amended by January 1995 to include the test procedures found in the July 1993 version of the EPA document referenced above. EPA interprets this language as a commitment on the part of the Commonwealth to amend the Commonwealth regulations by December 31, 1994 to incorporate the

test procedures from the EPA document. Since the release of the July 1993 version of the EPA document, a final version, dated April 1994, has been released which contains minor changes from the July 1993 version. EPA believes that the Commonwealth can incorporate the minor changes from the final version into their regulation amendments. Section 178.205(2) of the Commonwealth's regulation allows the Commonwealth to approve alternate purge procedures if they are shown to be equivalent or better than Commonwealths' existing purge test procedure. EPA's concern is that this provision does not require EPA approval before implementation of the alternate test procedure in the Commonwealth's program. EPA is proposing to find that the test procedure requirements of the federal regulation are satisfied based on the condition that the Commonwealth of Pennsylvania will submit to EPA by December 31, 1994 the amended Commonwealth's regulation incorporating the transient and evaporative purge test procedures from the final version of the EPA I/M document referenced above and requiring EPA approval prior to the use of any alternate purge test procedure. EPA proposes to conditionally approve the Pennsylvania SIP based on the Commonwealth's commitment to amend its regulations consistent with this finding. The effective date of these regulation amendments must coincide with the start date of the enhanced I/M program. If the Commonwealth fails to fulfill this condition by December 31, 1994, EPA will consider the commitment not met and will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

The Commonwealth regulation establishes HC, CO, and CO_2 pass/fail exhaust standards for the idle test procedure for each applicable model year and vehicle type. The idle exhaust standards adopted by the Commonwealth conform to EPA established standards and are approvable.

The Pennsylvania regulation applies one set of start-up transient emission standards and two sets of permanent transient emission standards for all vehicle types, i.e. LDGT, LDGT1, LDGT2 and Tier 1 vehicles. The Commonwealth regulation fails to provide Phase 2 standards for all vehicle types and model years. The net result of this is that the Commonwealth emission standards that apply to LDGT1 and LDGT2 vehicles are more stringent than federal requirement, which is approvable; however, the Commonwealth emission standards applied to Tier 1 vehicles in the Commonwealth's regulation do not meet the minimum federal requirements. The SIP states that the Commonwealth will be amending their regulation to replace the existing standards with the standards found in the July 1993 version of the EPA I/M document referenced above and further states that the changes can be accomplished by the end of calendar year 1994. EPA interprets this language as a commitment on the part of the Commonwealth to amend the Commonwealth's regulation by December 31, 1994 to incorporate the emission standards from the EPA document. Since the release of the July version of the EPA document, a final version, dated April 1994, has been released which contains minor changes from the July 1993 version. EPA believes that the Commonwealth can incorporate the minor changes from the final version into their regulation amendments. EPA is proposing to find that the test standard requirements of the federal regulation are satisfied based on the condition that the Commonwealth of Pennsylvania will submit to EPA by December 31, 1994 the amended Commonwealth's regulation incorporating the Tier 1 and Phase 2 emission standards from the final version of EPA I/M document referenced above. EPA is proposing to conditionally approve the Pennsylvania SIP based on the Commonwealth's commitment to revise its regulations consistent with this finding. The effective date of these regulation amendments must coincide with the start date of the enhanced I/M program. If the Commonwealth fails to fulfill this condition by December 31, 1994, EPA will consider the commitment not met and will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

EPA intends to promulgate the test procedures and related requirements found in the final version of the EPA I/M document referenced above as official I/M tests in part 85 of the CFR. Any changes made during the rulemaking process, which EPA believes would be minimal, should also be made in the Pennsylvania regulation.

The Commonwealth regulation establishes evaporative purge and pressure test standards which conform to EPA established standards and are approvable.

The Pennsylvania regulation provides start-up emission standards for the transient test that apply during calendar year 1995 and 1996. The schedule for implementation of these start-up emission standards is approvable. The Pennsylvania regulation provides for two sets of permanent emission standards for the transient test, one set which applies from 1997 through 2001 and the second set which applies in calendar year 2002 and on. The schedule for implementation of the permanent standards is approvable and was used in the performance standard modeling demonstration.

The Commonwealth's regulation also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be tested in the same manner as other subject vehicles.

Test Equipment—40 CFR Part 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The federal I/M regulation requires that the state SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Commonwealth submittal contains the written technical specifications for all test equipment to be used in the program. The specifications require the use of computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems which meet the federal I/M regulations and are approvable.

Quality Control—40 CFR Part 51.359

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

The Commonwealth's submittal contains the RFP and the contractors' proposal which describe and establish quality control measures for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. This portion of the Commonwealth's submittal complies with the quality control requirements set forth in 40 CFR part 51.359 and is approvable.

Waivers and Compliance Via Diagnostic Inspection—40 CFR Part 51.360

The federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program

requirements that allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

Act 166 and the Pennsylvania I/M regulation provide the necessary authority to issue waivers, set and adjust cost limits, administer and enforce the waiver system, and set a $450 cost limit and allow for an annual adjustment of the cost limit to reflect the change in the CPI as compared to the CPI in 1989. The Pennsylvania regulation, RFP, and the contractors' proposal include provisions which address waiver criteria and procedures, including cost limits, tampering and warranty related repairs, quality control and administration. These provisions meet the federal I/M regulations requirements and are approvable. The Pennsylvania I/M regulation requires repairs for 1980 and later model year vehicles to be performed by a recognized repair technician. The Commonwealth's regulation allows for compliance via diagnostic inspection and the policies and procedures outlined in the submittal meet federal I/M regulations and are approvable. The Commonwealth's regulation does not allow for time extensions. The Commonwealth has set a maximum waiver rate of 3% for both pre-1981 and 1981 and later vehicles and has described corrective actions to be taken if the waiver rate exceeds 3%. This waiver rate has been used in the performance standard modeling demonstration and is approvable. The waiver provisions of the SIP meet federal requirements and are approvable.

Motorist Compliance Enforcement—40 CFR Part 51.361

The federal regulation requires that compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. An enhanced I/M area may use either sticker-based enforcement programs or computer-matching programs if either of these programs were used in the existing program and it can be demonstrated that the alternative has been more effective than registration denial. For newly implementing enhanced areas, including newly subject areas in a state with an I/M program in another part of the state, there is no provision for enforcement alternatives in the Act. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, and a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice.

Both Act 166 and the Pennsylvania I/M regulation provide the legal authority to implement a registration denial system. The Pennsylvania SIP commits to a compliance rate of 96% which was used in the performance standard modeling demonstration and is approvable. The submittal includes detailed information concerning the registration denial enforcement process which meets the federal I/M regulation requirements and is approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR Part 51.362

The federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program.

The Pennsylvania SIP describes in general how the enforcement program oversight is quality controlled and quality assured and includes the establishment of an information management system.

The SIP includes a commitment to develop the procedures document which will detail the specifics of the implementation of the oversight program by the fall of 1994. The SIP includes a commitment to submit this procedures document as an amendment to the SIP. EPA proposes conditional approval of the Pennsylvania SIP with the condition that the Commonwealth meet its commitment that the motorist compliance enforcement program oversight procedures manual be submitted as a SIP amendment within one year from the date of publication of the Federal Register notice which conditionally approves the SIP.

Quality Assurance—40 CFR Part 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all state I/M enforcement officials and auditors. A description of the quality assurance program which includes written procedure manuals on the above discussed items must be submitted as part of the SIP.

The Pennsylvania submittal describes the quality assurance program and includes regulations and supporting documents which describe procedures for implementing inspector, records and equipment audits as well as providing formal training to all Commonwealth enforcement officials. Performance audits of inspectors will consist of both covert and overt audits. The SIP states that a quality assurance procedure manual is under development which will be consistent with federal regulation and will include written procedures for performing covert and overt audits. EPA interprets this as a commitment to develop the procedures manual and submit it to EPA as a SIP revision. EPA proposes to conditionally approve the SIP based on its finding that the SIP meets the quality assurance requirements of the federal regulation with the condition that the Commonwealth meet its commitment that the quality assurance program procedures manual will be submitted as a SIP amendment within one year from the date of publication of the Federal Register notice which conditionally approves the SIP.

Enforcement Against Contractors, Stations and Inspectors—40 CFR Part 51.364

Enforcement against licensed stations, contractors and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which

can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits, unless constitutionally prohibited. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases and the resources and sources of those resources which will support this function.

The Pennsylvania submittal includes the legal authority to establish and impose penalties against stations, contractors and inspectors. The penalty schedules for inspectors and stations which are found in the Commonwealth's regulation meet the federal I/M regulation requirements and are approvable. The penalty schedule for contractors is approvable with one contingency. 67 PA Code § 178.602(b), entitled Schedule of Penalties for Emission Inspection Contractors, states that "the contractor shall be subject to the terms and conditions of the Contractor Responsibility Program and may be subject to penalties and sanctions thereunder in addition to or in lieu of those imposed under this section or the contract". The Contractor Responsibility Program (CRP) is not a statute but rather a Governors' Office Management Directive and is found in the SIP in Addendum I of the RFP. The Management Directive does not list specific monetary penalties to be assessed to the contractor but rather provides for suspension or debarment of the contractor. EPA is concerned that the penalties imposed under the CRP could be less stringent than those in the Commonwealth's I/M regulation. The Commonwealth has indicated that it intends to use this authority only to impose penalties that are more stringent than those in the Commonwealth's regulation. Therefore, EPA is proposing to approve the penalty schedule against contractors which is found in section 178.602(b) of the Commonwealth's regulation with the contingency that penalties assessed against the contractor under the CRP in lieu of the penalties in the Commonwealth's I/M regulation must be equal to or more stringent than those in the Commonwealth's I/M regulation. However, should Pennsylvania at any time assess penalties less stringent than those in the regulation EPA will rescind its approval and disapprove the SIP.

The Commonwealth's I/M regulation gives the state auditor the authority to temporarily suspend station and inspector licenses or certificates immediately upon finding a violation. The submittal include descriptions of administrative and judicial procedures relevant to the enforcement process which meet federal I/M regulations and are approvable.

Data Collection—40 CFR Part 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR part 51.359.

The Commonwealth's regulation and RFP require the collection of data on each individual test conducted and describe the type of data to be collected. The type of test data collected meets the federal I/M regulation requirements and is approvable. The submittal also commits to gather and report the results of the quality control checks required under 40 CFR part 51.359 and is approvable.

Data Analysis and Reporting—40 CFR Part 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the state and EPA. The federal I/M regulation requires annual reports to be submitted which provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA which addresses changes in program design, regulations, legal authority, program procedures and any weaknesses in the program found during the two year period and how these problems will be or were corrected.

The Pennsylvania I/M SIP provides for the analysis and reporting of data for the testing program, quality assurance program, quality control program and the enforcement program. The type of data to be analyzed and reported on meets the federal I/M regulation requirements and is approvable. The Commonwealth commits to submit annual reports on these programs to EPA by July of the subsequent year. A commitment to submit a biennial report to EPA which addresses reporting requirements set forth in 40 CFR part 51.366(e) is also included in the SIP.

Inspector Training and Licensing or Certification—40 CFR Part 51.376

The federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections.

The Pennsylvania I/M regulation requires all inspectors to receive formal training, be certified by the PADOT and renew the certification every two years. The Commonwealth's I/M regulation, the RFP and the contractors' proposal include a description of and the information covered in the training program, a description of the required written and hands-on tests and a description of the certification process. The SIP meets the federal I/M regulation requirements for inspector training and certification and is approvable.

Public Information and Consumer Protection—40 CFR Part 51.368

The federal I/M regulation requires the SIP to include public information and consumer protection programs. The RFP and the contractors' proposal include a public information program which educates the public on I/M, state and federal regulations, air quality and the role of motor vehicles in the air pollution problem, and other items as described in the federal rule. The consumer protection program includes provisions for a challenge mechanism, protection of whistle blowers and providing assistance to motorists in obtaining warranty covered repairs. The public information and consumer protection programs contained in the SIP submittal meet the federal regulations and are approvable.

Improving Repair Effectiveness—40 CFR Part 51.369

Effective repairs are the key to achieving program goals. The federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the federal regulation and a description of the repair technician training resources available in the community.

The Pennsylvania I/M regulation, the RFP, and the contractors' proposal require the implementation of a technical assistance program which includes a hot line service to assist repair technicians and a method of regularly informing the repair facilities of changes in the program, training courses, and common repair problems. A repair facility performance monitoring program is also included in the Commonwealth's I/M regulation, the RFP, and the I/M contractors' proposal which includes providing the motorist whose vehicle fails the test a summary of local repair facilities performances, provides regular feedback to each facility on their repair performance and requires the submittal of a completed repair form at the time of retest. The performance monitoring program design meets the criteria described in the federal regulation and is approvable. The Commonwealth's regulation provides for the establishment and implementation of a repair technician training program which, at a minimum, covers the four types of training described in 40 CFR part 51.369(c) of the federal regulation. The repair effectiveness program described in the SIP meets the federal regulation and is approvable.

Compliance With Recall Notices—40 CFR Part 51.370

The federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in an emission related recall receive the required repairs prior to completing the emission test and/or renewing the vehicle registration.

Act 166 and the Commonwealth's I/M regulation provide the legal authority to require owners to comply with emission related recalls before completing the emission test and renewing the vehicle registration. The SIP includes procedures to be used to incorporate national database recall information into the Commonwealth's inspection database and quality control methods to insure recall repairs are properly documented and tracked. The submittal includes a commitment to submit an annual report to EPA which includes the recall related information as required in 40 CFR part 51.370(c). The recall compliance program contained in the SIP submittal meets the federal requirements and is approvable.

On-Road Testing—40 CFR Part 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

Legal authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements is contained in Act 166 and the Commonwealth's I/M regulation. The SIP submittal requires the use of RSD to test 20,000 vehicles per year in the I/M program area and will be implemented by the contractor. A description of the program which includes test limits and criteria, resource allocations, and methods of collecting, analyzing and reporting the results of the testing are detailed in the submittal. The on-road testing program described in the SIP meets federal requirements and is approvable.

State Implementation Plan Submissions/Implementation Deadlines—40 CFR Part 51.372–373

The Pennsylvania submittal included the Commonwealth's final I/M regulations, legislative authority to implement the program, a final RFP, portions of the contractor's proposal, the signed contract between the Commonwealth and the contractor, a modeling demonstration showing that the program design meets the performance standard, evidence of adequate funding and resources to implement the program, and a detailed discussion on each of the required program design elements. The submittal states that all inspectors and stations will be certified by December 22, 1994 and the start date for implementation of full-stringency cutpoints will be January 1, 1997. The submittal also includes a commitment to include onboard diagnostic checks in the I/M program within 2 years after promulgation of onboard diagnostic check regulations for I/M programs.

Act 166 provides the legal authority to implement the program. However, part of this provision states "this program shall be established in all areas of this Commonwealth where the secretary certifies by publication in the *Pennsylvania Bulletin* that a system is required in order to comply with Federal law." Act 166 requires "at least 60 days prior to the implementation of any enhanced emission inspection program developed under this subsection, the Secretary of Transportation shall certify by notice in the *Pennsylvania Bulletin* that an enhanced emission inspection program will commence". The Pennsylvania I/M regulation states that the program begins 60 days after publication of the notice. It is stated in the Pennsylvania I/M SIP that "it is not possible at this time to furnish a copy of that notice since it will be published in calendar year 1994." The SIP goes on to state that "when that notice has appeared in the *Bulletin*, the Department shall furnish a copy to the EPA as an amendment to this SIP". EPA interprets this language as a commitment on the part of the Commonwealth to publish the bulletin notice announcing the start date of the program and submit it as an amendment to the SIP by December 31, 1994. EPA also interprets this language to mean that the program will commence no later than March 1, 1995. Although the federal I/M regulation requires programs to commence on January 1, 1995, EPA believes that Pennsylvania can test the appropriate number of vehicles in calendar year 1995 and that therefore a two-month delay in the start date is de minimis. EPA is therefore proposing to find that the SIP submission and implementation deadline requirements set forth in the federal I/M regulation are substantially satisfied based on the condition that the Commonwealth of Pennsylvania will submit to EPA by December 31, 1994 the *Pennsylvania Bulletin* notice certifying the need for the program and that the program begins sixty days after the date of the *Pennsylvania Bulletin* notice. EPA is proposing to conditionally approve the Pennsylvania SIP based on the Commonwealth's commitment to meet this condition. If the *Pennsylvania Bulletin* notice is not received by December 31, 1994, EPA will consider the commitment not met and will promptly issue a letter to the Commonwealth indicating that the conditional approval has been converted to a disapproval.

EPA's review of the material indicates that with the conditions and contingencies described above the Commonwealth has adopted an enhanced I/M program in accordance with the requirements of the Act. EPA is proposing to conditionally approve the Pennsylvania SIP revision and the addendum to the revision for an enhanced I/M program, which were submitted on November 5, 1993 and March 30, 1994, respectively, subject to the conditions and contingencies described above. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will

be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

EPA is proposing to conditionally approve this revision to the Pennsylvania SIP for an enhanced I/M program based on certain contingencies. The conditions for approvability are as follows: (1) by December 31, 1994 a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Department of Transportation which certifies that the enhanced I/M program is required in order to comply with federal law, certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the November 5, 1993 SIP submittal), and certifies the commencement date of the enhanced I/M program. This notice must be submitted to EPA as an amendment to the SIP by December 31, 1994; (2) by December 31, 1994 the Commonwealth must revise and submit to EPA as a SIP amendment, the amendments to the Pennsylvania I/M regulation, 67 PA Code Chapter 178.202–205, which require EPA approval prior to implementation of any alternate purge test procedure and incorporate the transient emission standards for Tier 1 vehicles, the Phase 2 standards for all vehicle types and model years, and the transient and evaporative purge test procedures found in the final version of the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, April 1994, (3) within one year from the date that EPA conditionally approves the Pennsylvania I/M SIP, the Commonwealth must submit the PADOT procedures manual for motorist compliance enforcement program oversight as an amendment to the SIP and (4) within one year from the date that EPA conditionally approves the Pennsylvania I/M SIP, the Commonwealth must submit the PADOT procedures manual for quality assurance as an amendment to the SIP. The contingencies for approvability are as follows: (1) if penalties are assessed against the contractor under the Contractor Responsibility Program in lieu of the penalties in 67 PA Code § 178.602(b) of the Pennsylvania I/M regulation, the penalties must be equal to or more stringent than those in the Commonwealth's I/M regulation and (2) the present contractor or any future contractors for the Pennsylvania I/M program may not have any business interest in a vehicle repair facility anywhere in the continental United States.

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

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the Commonwealth 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of Commonwealth action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the Commonwealth fails to meet any of the conditions of this approval action, the EPA Regional Administrator would directly make a finding, by letter, that the conditional approval had converted to a disapproval and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the Federal Register announcing that the SIP revision has been disapproved.

If the conditional approval is converted to a disapproval under section 110(k), based on the Commonwealth's failure to meet the commitment, it will not affect any existing Commonwealth requirements applicable to small entities. Federal disapproval of the Commonwealth's 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 requirements nor does it substitute a new federal requirement.

Under Executive Order 12866, this action is not significant. It has not been submitted to OMB for review.

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q

Dated: June 23, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 94–15982 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[NC–056–6068b; FRL–4892–4]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to North Carolina Regulations for Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of North Carolina for the purpose of establishing an Oxygenated Fuel Program in the Winston-Salem and Raleigh/Durham Metropolitan Statistical Areas. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rational 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 EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties

interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by August 1, 1994.

ADDRESSES: Comments may be mailed to Benjamin Franco at the EPA Region IV address listed below.

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

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

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

State of North Carolina, Department of Environment, Health, and Natural Resources, Division of Environmental Management, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Benjamin Franco of the EPA Region IV Air Programs Branch at (404) 347–2864 and at the Regiog IV address indicated in the **Addresses** section.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the final rule section of this **Federal Register.**

Dated: May 24, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–15253 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Part 55

[FRL–5005–7]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed rulemaking ("NPR"); consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), the Clean Air Act Amendments of 1990. The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), the South Coast Air Quality Management District (South Coast AQMD), and the Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The OCS requirements for the above Districts, contained in the Technical Support Document, are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations. Proposed changes to the existing requirements are discussed below.

DATES: Comments on the proposed update must be received on or before August 1, 1994.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (A–5), Attn: Docket No. A–93–16 Section V, Environmental Protection Agency, Air and Toxics Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105. *Docket:* Supporting information used in developing the proposed notice and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 (Section V). This docket is available for public inspection and copying Monday–Friday during regular business hours at the following locations:

EPA Air Docket (A–5), Attn: Docket No. A–93–16 Section V, Environmental Protection Agency, Air and Toxics Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section V, Environmental Protection Agency, 401 M Street SW., Room M–1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air and Toxics Division (A–5–3), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1992, EPA promulgated 40 CFR part 55 [1], which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent (NOI) under § 55.4; and (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This NPR is being promulgated in response to the submittal of rules by three local air pollution control agencies. Public comments received in writing within 30 days of publication of this notice will be considered by EPA before promulgation of the final updated rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

EPA Evaluation and Proposed Action

In updating 40 CFR part 55, EPA reviewed the state and local rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules.[2]

A. After review of the rules submitted by the Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rules applicable to OCS sources for which the Santa Barbara County APCD is designated as the COA. None of the existing OCS requirements were deleted. The following new rules were submitted by the District to be added:

Rule 316 Storage and Transfer of Gasoline (Adopted 12/14/93)
Rule 325 Crude Oil Production and Separation (Adopted 1/25/94)
Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 12/14/93)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)

The following new rules were submitted by the District, but will be incorporated into part 55 at a future date, when they become applicable in the corresponding onshore area:

Rule 1301 Part 70 Operating Permits—General Information (Adopted 11/9/93)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/9/93)
Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/9/93)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/9/93)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/9/93)

B. After review of the rules submitted by the South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rules applicable to OCS sources for which the South Coast AQMD is designated as the COA.

The following Regional Clean Air Incentives Market (RECLAIM) requirements were submitted by the District to be added:

Rule 301 Permit Fees (Adopted 6/11/93) except(e)(3) and Table IV
Rule 2000 General (Adopted 10/15/93)
Rule 2001 Applicability (Adopted 10/15/93)
Rule 2002 Allocations for oxides of nitrogen (NO_x) and oxides of sulfur (SO_x) (Adopted 10/15/93)
Rule 2004 Requirements (Adopted 10/15/93) except (l)(2 and 3)
Rule 2005 New Source Review for RECLAIM (Adopted 10/15/93) except (i)
Rule 2006 Permits (Adopted 10/15/93)
Rule 2007 Trading Requirements (Adopted 10/15/93)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 10/15/93)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for oxides of sulfur (SO_x) Emissions (Adopted 10/15/93)
Appendix A Volume IV—Protocol for oxides of sulfur (Adopted 10/93)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for oxides of nitrogen (NO_x) Emissions (Adopted 10/15/93)
Appendix A Volume V—Protocol for oxides of nitrogen (Adopted 10/93)
Rule 2015 Backstop Provisions (Adopted 10/15/93)except (b)(1)(G) and (b)(3)(B)

C. After review of the rules submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rules applicable to OCS sources for which Ventura County APCD is designated as the COA. None of the existing OCS requirements were deleted.

The following new rules were submitted by the District to be added:

Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 74.24 Marine Coating Operations (Adopted 3/8/94)

The following new rules were submitted by the District, but will be incorporated into part 55 at a future date, when they become applicable in the corresponding onshore area:

Rule 33 Part 70 Permits—General (Adopted 10/12/93)
Rule 33.1 Part 70 Permits—Definitions (Adopted 10/12/93)
Rule 33.2 Part 70 Permits—Application Content (Adopted 10/12/93)
Rule 33.3 Part 70 Permits—Permit Content (Adopted 10/12/93)
Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 10/12/93)
Rule 33.5 Part 70 Permits—Timeframes for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Adopted 10/12/93)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 10/12/93)
Rule 33.10 General Part 70 Permits (Adopted 10/12/93)

The following rule was submitted by the District as a revision:

Rule 23 Exemptions from Permits (Adopted 3/22/94)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)

The following rule was revised and renamed by the District, but is not proposed for inclusion in the above document because it is now an administrative or procedural rule:

Rule 15 Standards for Permit Issuance (Adopted 10/12/93)

The following rules were submitted by Ventura County APCD, but are not proposed for inclusion in the above document because they are administrative or procedural:

Rule 8 Access to Facilities (Adopted 10/12/93)
Rule 25 Action on Applications for an Authority to Construct (Adopted 10/12/93)

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of proposed rulemaking will not have a

[2] Upon delegation the onshore area will use its administrative and procedural rules as onshore. In those instances where EPA does not delegate authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992 under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and Recordkeeping requirements, Sulfur oxides.

Dated: June 16, 1994.

John Wise,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 et seq.) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraphs (e)(3)(ii)(F), (e)(3)(ii)(G), and (e)(3)(ii)(H) to read as follows:

Section 55.14 Requirements That Apply to OCS Sources Located Within 25 Miles of States Seaward Boundaries, by State

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources.*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

4. Appendix A to 40 CFR part 55 is proposed to be amended by revising paragraphs (b) (6)–(8) under the heading California to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

(b) * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 102 Definitions (Adopted 7/30/91)
Rule 103 Severability (Adopted 10/23/78)
Rule 201 Permits Required (Adopted 7/2/79)
Rule 202 Exemptions to Rule 201 (Adopted 3/10/92)
Rule 203 Transfer (Adopted 10/23/78)
Rule 204 Applications (Adopted 10/23/78)
Rule 205 Standards for Granting Applications (Adopted 7/30/91)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 5/7/91)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter-Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration-Southern Zone (Adopted 10/23/78)
Rule 306 Dust and fumes-Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate-Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 12/14/93)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems-Southern Zone (Adopted 10/23/78)
Rule 321 Control of Degreasing Operations (Adopted 7/10/90)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 2/20/90)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 1/25/94)
Rule 326 Storage and Transfer of Gasoline (Adopted 12/14/93)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 11/13/90)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 12/10/91)
Rule 342 Control of Oxides of Nitrogen (NO_x from Boilers, Steam Generators and Process Heaters (Adopted 03/10/92)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 505 Breakdown Conditions Sections A.,B.1,. and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources:*

Rule 102 Definition of Terms (Adopted 11/4/88)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 3/6/92)
Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit for Open Burning (Adopted 1/5/90)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications (Adopted 1/5/90)
Rule 212 Standards for Approving Permits (9/6/91) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Stack Monitoring (Adopted 8/7/81)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 9/11/92)
Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)

Rule 301 Permit Fees (Adopted 6/11/93) except (e)(3) and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 6/11/93)
Rule 304.1 Analyses Fees (Adopted 6/6/92)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 7/6/90)
Rule 401 Visible Emissions (Adopted 4/7/89)
Rule 403 Fugitive Dust (Adopted 7/9/93)
Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (e) only. (Adopted 5/5/78)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 10/2/92)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 5/4/90)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 3/5/82)
Rule 444 Open Fires (Adopted 10/2/87)
Rule 463 Storage of Organic Liquids (Adopted 12/7/90)
Rule 465 Vacuum Producing Devices or Systems (Adopted 11/1/91)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77)

Addendum to Regulation IV (effective 1977)

Rule 701 General (Adopted 7/9/82)
Rule 702 Definitions (Adopted 7/11/80)
Rule 704 Episode Declaration (Adopted 7/9/82)
Rule 707 Radio—Communication System (Adopted 7/11/80)
Rule 708 Plans (Adopted 7/9/82)
Rule 708.1 Stationary Sources Required to File Plans (Adopted 4/4/80)
Rule 708.2 Content of Stationary Source Curtailment Plans (Adopted 4/4/80)
Rule 708.4 Procedural Requirements for Plans (Adopted 7/11/80)
Rule 709 First Stage Episode Actions (Adopted 7/11/80)
Rule 710 Second Stage Episode Actions (Adopted 7/11/80)
Rule 711 Third Stage Episode Actions (Adopted 7/11/80)
Rule 712 Sulfate Episode Actions (Adopted 7/11/80)
Rule 715 Burning of Fossil Fuel on Episode Days (Adopted 8/24/77)

Regulation IX—New Source Performance Standards (Adopted 4/9/93)

Rule 1106 Marine Coatings Operations (Adopted 8/2/91)
Rule 1107 Coating of Metal Parts and Products (Adopted 8/2/91)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/6/81)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/5/85)
Rule 1110.2 Emissions from Gaseous and Liquid-Fueled Internal Combustion Engines (Adopted 9/7/90)
Rule 1113 Architectural Coatings (Adopted 9/6/91)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/1/78)
Rule 1122 Solvent Cleaners (Degreasers) (Adopted 4/5/91)
Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1129 Aerosol Coatings (Adopted 11/2/90)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/4/89)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 1/6/89)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 7/10/92)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 4/1/88)
Rule 1168 Control of Volatile Organic Compound Emissions from Adhesive Application (Adopted 12/4/92)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 12/7/90)
Rule 1176 Sumps and Wastewater Separators (Adopted 1/5/90)
Rule 1301 General (Adopted 6/28/90)
Rule 1302 Definitions (Adopted 5/3/91)
Rule 1303 Requirements (Adopted 5/3/91)
Rule 1304 Exemptions (Adopted 9/11/92)
Rule 1306 Emission Calculations (Adopted 5/3/91)
Rule 1313 Permits to Operate (Adopted 6/28/90)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 10/6/89)
Rule 1701 General (Adopted 1/6/89)
Rule 1702 Definitions (Adopted 1/6/89)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 1/6/89)
Rule 1706 Emission Calculations (Adopted 1/6/89)
Rule 1713 Source Obligation (Adopted 10/7/88)

Regulation XVII Appendix (effective 1977)

Rule 2000 General (Adopted 10/15/93)
Rule 2001 Applicability (Adopted 10/15/93)
Rule 2002 Allocations for oxides of nitrogen (NOX) and oxides of sulfur (SOX) (Adopted 10/15/93)
Rule 2004 Requirements (Adopted 10/15/93) except (l) (2 and 3)
Rule 2005 New Source Review for RECLAIM (Adopted 10/15/93) except (i)
Rule 2006 Permits (Adopted 10/15/93)
Rule 2007 Trading Requirements (Adopted 10/15/93)
Rule 2008 Mobiles Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 10/15/93)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_x) Emissions (Adopted 10/15/93)

Appendix A Volume IV—Protocol for oxides of sulfur (Adopted 10/93)

Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_x) Emissions (Adopted 10/15/93)
Rule 2015 Backstop Provisions (Adopted 10/15/93) except (b)(1)(G) and (b)(3)(B)

(8) The following requirements are contained in Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:

Rule 2 Definitions (Adopted 12/15/92)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 7/5/83)
Rule 11 Application Contents (Adopted 8/15/78)
Rule 12 Statement by Application Preparer (Adopted 6/16/87)
Rule 13 Statement by Applicant (Adopted 11/21/78)
Rule 14 Trial Test Runs (Adopted 5/23/72)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 Permit Contents (Adopted 12/2/80)
Rule 18 Permit to Operate Application (Adopted 8/17/76)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 21 Expiration of Applications and Permits (Adopted 6/23/81)
Rule 23 Exemptions from Permits (Adopted 3/22/94)
Rule 24 Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review—Definitions (Adopted 10/22/91)
Rule 26.2 New Source Review—Requirements (Adopted 10/22/91)

Rule 26.3 New Source Review—Exemptions (Adopted 10/22/91)
Rule 26.6 New Source Review—Calculations (Adopted 10/22/91)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 10/22/91)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)

Appendix II–A Information Required for Applications to the Air Pollution Control District (Adopted 12/86)

Appendix II–B Best Available Control Technology (BACT) Tables (Adopted 12/86)

Rule 42 Permit Fees (Adopted 12/22/92)
Rule 44 Exemption Evaluation Fee (Adopted 1/8/91)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter—Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter—Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 7/5/83)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 57 Combustion Contaminants—Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment—Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 7/5/83)
Rule 66 Organic Solvents (Adopted 11/24/87)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 6/8/93)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 72 New Source Performance Standards (NSPS) (Adopted 7/13/93)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 08/11/92)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 5/8/90)
Rule 74.6.1 Cold Cleaning Operations (Adopted 9/12/89)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 9/12/89)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 1/10/89)
Rule 74.8 Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 6/16/92)
Rule 74.11 Natural Gas-Fired Residential Water Heaters—Control of NOx (Adopted 4/9/85)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 11/17/92)
Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 12/3/91)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1–5MM BTUs) (Adopted 5/11/93)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 6/8/93)
Rule 74.24 Marine Coating Operations (Adopted 3/8/94)
Rule 75 Circumvention (Adopted 11/27/78)

Appendix IV–A Soap Bubble Tests (Adopted 12/86)

Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 103 Stack Monitoring (Adopted 6/4/91)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

[FR Doc. 94–16012 Filed 6–29–94, 8:45 am]
BILLING CODE 6560–50–P

---

40 CFR Part 180

[PP 0E3859/R2053; FRL–4897–7]

Proposed Pesticide Tolerance for Procymidone; Comment Period Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Extension of comment period.

SUMMARY: Because EPA has added additional documentation to the docket, it is reopening and extending for 30 days the comment period on the proposal to establish a permanent tolerance for residues of the fungicide procymidone, *N*-(3,5-dichlorophenyl)-1,2-dimethylcyclopropane-1,2-dicarboximide, in or on the raw agricultural commodity (RAC) wine grapes at 5.0 parts per million (ppm).

DATES: Comments, identified by the document control number, [PP 0E3859/R2053], must be received on or before August 1, 1994.

ADDRESSES: By mail, submit written comments to: Public Document and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Progams, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document 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 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. All 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: Steve Robbins, Acting Product Manager (PM) 21, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 31, 1994 (59 FR 15144), EPA issued a proposed rule that gave notice that the Sumitomo Chemical Co., Ltd., had petitioned EPA under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, to establish a permanent tolerance under 40 CFR 180.455 for procymidone in or on wine grapes at 5.0 ppm. The comment period on the proposal was to expire on April 30, 1994.

Because EPA has added additional documentation to the public docket on the proposed tolerance under section 408 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a) for residues of the fungicide procymidone on wine grapes, EPA is reopening and extending for 30 days the comment period on the proposed rule. Comments on the proposed rule to establish a

tolerance of 5.0 ppm for residues of the fungicide procymidone on grapes that appeared in the **Federal Register** of March 31, 1994 (59 FR 15144), may be submitted to the address noted above in this document on or before August 1, 1994.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 23, 1994.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 94–15811 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–6

Fire Protection Engineering

AGENCY: Public Buildings Service (PBS), GSA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The General Services Administration has proposed a regulation to further define the term *equivalent level of safety* (59 FR 26768, May 24, 1994). The Federal Fire Safety Act of 1992 amended the Fire Prevention and Control Act of 1974 to require sprinklers or an *equivalent level of safety* in certain types of Federal Employee office buildings, Federal employee housing units, and Federally assisted housing units. This regulation establishes certain criteria which alternative approaches must satisfy to be judged equivalent. These criteria have been selected to provide the level of life safety prescribed in the Act.

DATES: To ensure consideration, comments must be received at the address, as provided below, no later than 5:00 p.m. on July 25, 1994.

ADDRESSES: Mail comments to the following address: General Services Administration, Safety and Environmental Management Division (PMS), Federal Fire Safety Act Comments, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Donald G. Bathurst, (202) 501–1271.

SUPPLEMENTARY INFORMATION: At the request of the Department of Defense, the period for public comments on the proposed rule further defining an *equivalent level of safety* is being extended. The public will have until July 25, 1994, to comment on the regulation.

A survey of individuals involved in fire protection, conducted by the Naval Facilities Engineering Command, indicated a number of people were unaware of the proposed rule and the request for public comments. A thirty-day extension of the public comment period should provide sufficient time for interested individuals to respond. Consideration of all substantive issues is important is ensuring that the rule reflects sound state-of-the-art fire protection engineering principles, fosters science and technological advancements, and provides reasonable flexibility.

Dated: June 22, 1994.

David L. Bibb,

Acting Commissioner, Public Buildings Service.

[FR Doc. 94–15898 Filed 6–29–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC53

Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Notice of Public Hearing on Proposed Threatened Status for the Virgin Spinedace (Lepidomeda Mollispinis Mollispinis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that a public hearing will be held on the proposed determination of threatened status for the Virgin spinedace (*Lepidomeda mollispinis mollispinis*) and that the comment period on the proposal is extended. This small fish in the minnow family (*Cyprinidae*) is endemic to the Virgin River drainage, a tributary to the Colorado River of southwestern Utah, northwestern Arizona, and southeastern Nevada.

All interested parties are invited to submit comments on this proposal.

DATES: The public hearing will be held from 4 p.m. to 6 p.m. and 7 p.m. to 9 p.m., with registration beginning at 3:30 p.m., on Wednesday, July 13, 1994. The comment period, which originally closed on July 18, 1994, now closes on August 17, 1994.

ADDRESSES: The public hearing will be held at the St. George Hilton Inn, 1450 South Hilton Drive, St. George, Utah. The hearing will be held in the Garden Room of the hotel. Written comments and materials should be sent to the Field Supervisor, Fish and Wildlife Service, Suite 404, Lincoln Plaza, 145 East 1300 South, Salt Lake City, Utah 84115. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Assistant Field Supervisor, telephone 801/524–5001 (See **ADDRESSES** Section).

SUPPLEMENTARY INFORMATION:

Background

The Virgin spinedace (*Lepidomeda mollispinis mollispinis*) is endemic to the Virgin River drainage, a tributary to the Colorado River of southwestern Utah, northwestern Arizona, and southeastern Nevada. Approximately 40 percent of the historical habitat of the Virgin spinedace has been lost due to human impacts, which include habitat fragmentation; introduction of nonnative fishes; and dewatering due to agriculture, mining, and urbanization. These impacts continue to threaten the Virgin spinedace. Listing this species as threatened would afford the Virgin spinedace protection under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

On May 18, 1994, the Fish and Wildlife Service (Service) published a proposed rule (59 FR 25875) to list the Virgin spinedace as threatened under the Act. Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of publication of the proposal in the **Federal Register**. A public hearing request was received within the allotted time period from Ronald W. Thompson, District Manager, St. George, Utah, representing the Washington County Water Conservancy District.

The Service has scheduled this hearing on Wednesday, July 13, 1994, from 4 p.m. to 6 p.m. and 7 p.m. to 9 p.m., with registration beginning at 3:30 p.m. mountain daylight time (see **ADDRESSES** above). Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement to be presented to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. An adjacent room

also will be provided for those who wish to ask questions and to obtain additional information during and after the formal hearing.

Oral and written statements concerning the proposed rule that are presented at the hearing will receive equal consideration by the Service. There are no limits to the length of written comments presented at this hearing or mailed to the service. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Legal notices and news releases announcing the date, time, and location of the hearing are being published in newspapers concurrently with this **Federal Register** notice.

The comment period on the proposal originally closed on July 18, 1994. In order to accommodate the hearing, the Service hereby extends the comment period until August 17, 1994. Written comments may now be submitted to the Service office identified in the **ADDRESSES** section, however, all comments must be received before the close of the comment period to be considered.

The Service stated in the proposed rule (59 FR 25875) that critical habitat will be proposed for the Virgin spinedace and the other listed Virgin River species before publishing a final determination to list the Virgin spinedace only, this could have a negative impact on the Virgin spinedace. Section 7 of the Act requires that: "Each Federal agency shall * * * insure that any action authorized, funded, or carried out by such agency * * * is not likely to jeopardize the continued existence of any endangered species or result in the destruction or adverse modification of habitat of such species which is determined * * * to be critical, unless such agency has been granted an exemption for such action * * *." The Virgin spinedace presently occupies areas of the Virgin River drainage that overlap or are upstream of areas occupied by the endangered Virgin River chub (*Gila robusta seminuda*) and woundfin (*Plagopterus argentissimus*). Because these species occur in such close proximity and they, in part, share common resources, the Service finds that critical habitat must be determined only on a multispecies level using an ecosystem approach. If critical habitat and its constituent elements were determined for the Virgin spinedace only, this could have a negative impact on the Virgin River chub and woundfin minnow. Therefore, in the case of the Virgin River fishes, it would not be prudent to designate critical habitat for a single species.

At this time, the Service is seeking comments related to the proposed listing of the Virgin spinedace. At a later date, the Service will publish a proposed rule for determining critical habitat for the Virgin River fishes, and additional comments concerning its multispecies approach to endangered species conservation for the Virgin River will be sought. After the proposed rule for critical habitat is published in the **Federal Register**, the Service will open a public comment period, hold public hearings, and request comments from all interested parties on the proposed critical habitat designation. After the public comment period has expired, the Service will review the public input, consider any areas recommended for exclusion, make a final critical habitat designation, and publish the critical habitat designation.

Authors

The primary authors of the notice are Janet Mizzi, Utah Field Office (see **ADDRESSES** above), telephone 801/524–5001, and Harold Tyus, Denver Regional Office.

Authority

Authority for this action is the Endangered species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: June 20, 1994.

Robert D. Jacobsen,

Acting Regional Director, Region 6, Denver, Colorado.

[FR Doc. 94–15850 Filed 6–29–94, 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 125
Thursday, June 30, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 94–060–1]

Availability of Environmental Assessments and Findings of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that eight environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection 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 those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
94–105–02, renewal of permit 92–164–02, issued on 07–30–92.	Michigan State University	5–18–94	Melon plants genetically engineered to express resistance to zucchini yellow mosaic virus.	Michigan.
94–090–02, renewal of permit 93–053–02, issued on 05–20–93.	Upjohn Company	5–24–94	Squash plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus.	California, Georgia, Texas.
94–024–01	Monsanto Agricultural Company.	5–26–94	Wheat plants genetically engineered to express marker genes including glyphosate herbicide tolerance as a marker.	Montana.
94–039–01	Petoseed Company, Incorporated.	5–26–94	Squash plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus.	California.
94–010–01	Connecticut Agricultural Experiment Station.	6–03–94	*Cryphonectria parasitica*, a causal agent of chestnut blight, genetically engineered to be hypovirulent.	Connecticut, West Virginia.
94–060–01	Upjohn Company	6–03–94	Lettuce plants genetically engineered to express resistance to tomato spotted wilt virus.	Georgia.

Permit No.	Permittee	Date issued	Organisms	Field test location
94–090–01	Upjohn Company	6–03–94	Melon plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus.	Oregon.
94–098–02 renewal of permit 90–135–01, issued on 09–04–90.	University of Wisconsin-Madison.	6–03–94	*Pseudomonas syringae* genetically engineered to be avirulent through the use of Tn5.	Wisconsin.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 24th day of June, 1994.

Alex B. Theirmann,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15948 Filed 6–29–94; 8:45 am]

BILLING CODE 3410–34–P

Soil Conservation Service

Blanchard River Watershed, Allen, Hancock, Hardin, and Putnam Counties, OH

AGENCY: Soil Conservation Service, Agriculture.

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 Regulations (40 CFR Part 1500); and the Soil Conservation Service Regulations (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Blanchard River Watershed, Allen, Hancock, Hardin, and Putnam Counties, Ohio.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Clark, State Conservationist, Soil Conservation Service, 200 North High Street, room 522, Columbus, Ohio 43215, telephone (614) 469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Lawrence E. Clark, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are to improve stream flow, reduce streambank erosion, reduce flooding, and improve recreational uses. The planned works of improvement include removing 700 leaning trees, 865 logjams, and 29 sediment bars over a total stream length of approximately 98 miles.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert L. Burris.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Lawrence E. Clark,

State Conservationist.

[FR Doc. 94–15828 Filed 6–29–94; 8:45 am]

BILLING CODE 3410–16–M

Orchard Mesa Mutual Lateral, Mesa County, CO

AGENCY: Soil Conservation Service.

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 Regulations (40 CFR part 1500); and the Soil Conservation Service Regulations (7 CFR part 650; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Orchard Mesa Mutual Lateral Project, Mesa County, Colorado.

FOR FURTHER INFORMATION CONTACT: Duane Johnson, State Conservationist, Soil Conservation Service, 655 Parfet Street, Room E200C, Lakewood, CO 80215, phone: 303–236–2886.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Duane L. Johnson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are to improve water quality and quantity in the Colorado River through salt loading reductions and irrigation water delivery system improvements.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency an to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessments are on file and may be reviewed by contacting Duane Johnson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Duane L. Johnson,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.070, Colorado River Salinity Control, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

[FR Doc. 94–15894 Filed 6–29–94; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place

in Washington, DC on Tuesday and Wednesday, July 12–13, 1994, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, July 12, 1994

9:00–10:30 A.M. Children's Facilities Work Group
10:30–12:00 P.M. Federal Facilities Work Group
12:00–1:30 P.M. Lunch (on your own)
1:30–5:00 P.M. Briefing on the Recreation Access Advisory Committee Recommendations

Wednesday, July 13, 1994

9:00–10:30 A.M. Technical Programs Committee
11:00–12:00 P.M. Planning and Budget Committee, Ad Hoc Committee on Communications
12:00–1:30 P.M. Lunch (on your own)
1:30–3:30 P.M. Board Meeting

ADDRESSES: The meetings will be held at: Holiday Inn Crowne Plaza, Salons A and B, 775 12th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the Minutes of the January 12, 1994, Board Meeting.
- Executive Director's Report.
- Ad Hoc Committee on Communications' Report on Public Forum.
- Change in the FY 1994 Research Project.
- Status Report on Fiscal Years 1992–1994 Research Projects.
- Proposed Research Coordination Activities.
- Reprogramming the Fiscal Year 1994 Budget.
- Status Report on Fiscal Year 1995 Budget.
- Report on Extraordinary Work.
- Complaint Status Report.
- Recreation Access Advisory Committee Status Report.
- Report on Rulemaking for Children's Environments.
- Report on the Federal Facilities Work Group.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings. On Tuesday, July 12, 1994, from 1:30 PM to 5 PM and on Wednesday, July 13, 1994, from 1:30 PM to 3:30 PM the Board's Recreation Access Advisory Committee will present its final report and recommendations to the Board. This meeting is open to the public and the Board encourages interested persons to attend.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 94–15640 Filed 6–29–94; 8:45 am]

BILLING CODE 8150–01–M

BIPARTISAN COMMISSION ON ENTITLEMENT AND TAX REFORM

Meeting

Notice is hereby given, pursuant to the Public Law 92–463, that the Bipartisan Commission on Entitlement and Tax Reform will hold a meeting on Friday, July 15, 1994 from 1:00 p.m. to 4:00 p.m in the Cannon House Office Building, Room 210, Washington, DC.

The meeting of the Commission shall be open to public. The proposed agenda includes discussion on entitlement expenditure growth and its relation to long-term fiscal and budget policy.

Records shall be kept of all Commission proceedings and shall be available for public inspection in room 825 of the Hart Senate Office Building, 120 Constitution Avenue, NE., Washington, DC 20510.

J. Robert Kerrey,

Chairman.

John C. Danforth,

Vice-Chairman.

[FR Doc. 94–15977 Filed 6–29–94; 8:45 am]

BILLING CODE 4151–04–M

U.S. COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Tuesday, July 26, 1994, at the Doubletree Hotel, 2649 S. Bayshore Drive, Biscayne Boardroom, 19th Floor, (across from Coconut Grove Convention Center), Miami, Florida 33133. The purpose of the meeting is to: (1) discuss the status of the Commission, reauthorization, and recent staff appointments; (2) to discuss and update the current project, *Racial and Ethnic Tensions in Florida;* and (3) to discuss civil rights developments in the state.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Bradford Brown, 305–361–4284, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 23, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–15835 Filed 6–29–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, July 27, 1994 at the Anderson Conference Center at Winston-Salem State University in Winston-Salem, North Carolina 27101. The purpose of the meeting is: 1) to discuss the status of the Commission, reauthorization, and recent staff appointments; 2) to hear reports on civil progress and/or problems in the State; and 3) to discuss the current project on racial tensions in North Carolina.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Asa Spaulding, Jr, 704–786–5171, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 23, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–15836 Filed 6–29–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Ohio Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will be held from 1 p.m. until 5 p.m. on Thursday, July 21, 1994, at the Hyatt Regency, 350 North High Street, Columbus, Ohio 43215. The purpose of the meeting is to discuss current issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Lynwood L. Battle, 513–983–2843 or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 22, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–15834 Filed 6–29–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062194E]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council and its Surf Clam and Ocean Quahog and Comprehensive Management Committees will hold a public meeting on July 12–14, 1994, at the Guest Quarters, 707 N. King Street, Wilmington, DE 19801; telephone: (302) 656–9300.

On July 12, the Surf Clam and Quahog Committee will meet from 1:00 p.m. until 5:00 p.m. On July 13, the Council meeting will begin at 8:00 a.m. and is scheduled to adjourn at 5:00 p.m. The meeting will reconvene at 8:00 a.m on June 14 and will end at 12:00 noon.

The following topics will be discussed:

(1) Vessel call-in;

(2) Sale of cage tags;

(3) Amendment 9;

(4) Committee Reports;

(5) Other fishery management matters; and

(6) Discuss comprehensive management.

The Council meeting may be lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: June 24, 1994.

David S. Crestin,

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

[FR Doc. 94–15843 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 062194F]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a public meeting at the Cheeca Lodge, Mile Marker 82, Islamorada, FL; telephone: (800) 327–2888.

On July 13, 1994, the Council will convene at 8:30 a.m. and recess at 5:00 p.m, to receive Public Testimony on Amendment 2/Supplemental Environmental Impact Statement to the Coral Fishery Management Plan, Generic Trap Definition Amendment, and Proposed Fishing Rules for Florida Keys National Marine Sanctuary (NOTE: Testimony cards must be turned in to staff before the start of public testimony).

From 2:30 p.m. until 3:45 p.m., the Council will take final action on Coral Amendment 2.

From 3:45 p.m. until 4:45 p.m., it will take final action on the Generic Trap Definition Amendment, and consider the appointment of Scientific and Statistical Committee Members (CLOSED SESSION from 4:45 p.m. until 5:00 p.m.).

The Council will reconvene on July 14 at 8:30 a.m. and adjourn at 11:45 a.m. to receive the Habitat Protection Committee Report and Advisory Panel Recommendations, and consider zoning restrictions proposed by the Florida Keys National Marine Sanctuary. It will receive reports as follows:

9:30 a.m. until 10:00 a.m., from the Budget Committee;

10:00 a.m. until 10:15 a.m. from the Shrimp Management Committee; and

10:15 a.m. until 10:30 a.m. from the Migratory Species Management Committee.

This will be followed by a report on the Council Chairmen's Meeting, Enforcement Reports, Directors' Reports, and Other Business.

Committees

On July 11, at 1:00 p.m. the Budget Committee and the Habitat Protection Committee will convene and recess at 5:00 p.m. They will reconvene on July 12 from 8:00 a.m. until 5:00 p.m. to meet with the Coral Management Committee, Shrimp Management Committee, Reef Fish Management Committee, Migratory Species Management Committee, and Scientific and Statistical Committee (CLOSED SESSION from 4:30 p.m. until 5:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office at the above address by July 1, 1994.

Dated: June 23, 1994.

David S. Crestin,

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

[FR Doc. 94–15877 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–22–F

National Telecommunications and Information Administration

Public Hearing on Universal Service and Open Access and the National Information Infrastructure

NTIA will hold a public hearing, titled "At the Crossroads: Defining Universal Service and Open Access Policies for the NII" in Indianapolis, Indiana at the Indiana Government Center South Building, 1st floor auditorium, 402 West Washington Street, Indianapolis, Indiana, from 8 a.m. to 5 p.m. on July 12. There will also be demonstrations of advanced telecommunications technologies held from 11:30 a.m. to 3:30 p.m. in Conference Room A of the Indiana Government Center, South Building.

The hearing is open to the press and public, but space is limited. To register in advance please provide NTIA with your name, company, address, phone and fax number, and indicate whether you will be submitting written testimony for the record. The following contact numbers may be used for registration:

Voice Mail—202/273–3366 or
Bulletin Board—202/482–1199 or
Internet Mail—nii@ntia.doc.gov

This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paige Darden or Roanne Robinson at the following phone number: 202/482–1551.

FOR FURTHER INFORMATION CONTACT: Jim McConnaughey at 202/482–1880 (voice) or 202/482–6173 (fax) or Paige Darden or Roanne Robinson at 202/482–1551 (voice) or 202/482–1635 (fax).

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 94–15950 Filed 6–29–94; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary of the Army

Notice of Availability of the Draft Environment Impact Statement for Disposal and Reuse of Fort Benjamin Harrison, IN

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act and the President's Council on Environmental Quality, the Army has prepared a Draft Environmental Impact Statement (DEIS) for disposal of excess property at Fort Benjamin Harrison, Indiana. The DEIS also analyzes impacts on a range of potential reuse alternatives.

Copies of the DEIS have been forwarded to various federal agencies, state and local agencies, and predetermined interested organizations and individuals.

DATES: Written public comments and suggestions received within 45 days of this Notice of Availability will be considered in preparing the Final Environmental Impact Statement and in preparing a Record of Decision for the Army action.

ADDRESSES: Copies of the Draft Environmental Impact Statement can be obtained by writing or calling Robert Bax of Harland Bartholomew and Associates, Inc., Suite 330, 400 Woods Mill Road South, St. Louis, MO 63017, (314) 434–2900 (Monday–Friday, 8:00 a.m.–5:00 p.m.). Questions about the DEIS and written comments may be addressed to the U.S. Army Corps of Engineers, Louisville District, ATTN: Ray Haynes, CEORL–PD–R, P.O. Box 59, Louisville, KY 4021–0059, (502) 582–6475.

Dated: June 24, 1994.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (IL&E).

[FR Doc. 94–15959 Filed 6–29–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Army

Environmental Assessment and Finding of No Significant Impact for Disposal and Reuse of Pontiac Storage Activity, Michigan

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The proposed action is the disposal of the Pontiac Storage Activity (PSA) Pontiac, Michigan. The 32-acre site is closed and maintained in a caretaker condition. The Army considers PSA unencumbered, meaning no conditions or restrictions have been placed on the PSA property for transfer. A Statement of Condition was issued by the Department of the Army on August 11, 1993, which stated that the site has been fully restored and is available for reuse. The screening process has been completed for PSA with the Department of Defense, other Federal agencies, the McKinney Act, and state and local agencies. The City of Pontiac was the only organization showing interest in the PSA property.

As part of PSA's disposal, the Army has worked with Federal, state and local entities in order to identify three reasonable reuse options for the reuse of PSA. These alternatives were evaluated against PSA's existing baseline condition in order to determine an environmentally sound and socioeconomically beneficial use for the property. The baseline was described as the environmental and socioeconomic conditions of the site in caretaker status. The three alternatives considered included: (1) Light Industrial and Commercial; (2) Light Industrial and Warehouse; and (3) the No-Action Alternative, as required by National Environmental Policy Act and AR 200–2. Alternative 1, Light Industrial and Commercial, is the local community's preferred reuse of the site.

Alternative 1 was chosen over Alternatives 2 and 3 because it provides the greatest economic benefits for the state and local community, while having no significant impact on the natural or human environment. While Alternative 2, Light Industrial and Warehouse, has even less impact on the human and natural environment than Alternative 1, it does not provide the most beneficial economic gain. Alternative 3, the No-Action Alternative, would provide no economic benefits to the area and no benefit to the Federal government. The property would remain under the care of the Army and may experience some deterioration of buildings and overgrowth of grounds.

Placing the property into the local economy would create revenues for the state and local tax base. In addition, implementation of Alternative 1 would have a positive effect on the regional economy by creating as many as 250 new jobs and increasing local sales volumes. It would not have a significant impact on the population or housing market, public services, and infrastructure. Land use would be compatible with the current zoning of the site. Local traffic flow may be altered in the immediate vicinity of the facility when compared with baseline conditions, but would require only minor mitigative measures to lessen impacts to traffic and transportation. Additional traffic signals and entrances to the site would alleviate impacts to local traffic.

The environmental resources affects associated with the disposal would be insignificant. The topography or geology of the site would not be affected under the proposed activities. Additional parking requirements may cause minor disturbances to soils and loss of vegetative cover, but the impacts would

be minor. Water resources would not be affected under the disposal. It is anticipated that the ambient air quality would not be significantly impacted nor the National Air Quality Standards levels would be exceeded. No hazardous materials nor waste generation is expected. However, if they are included in the reuse, the appropriate regulatory requirements would be met. Plant and animal resources effects are expected to be insignificant. No wetlands, threatened and endangered species, and cultural resources exist within the boundaries of PSA. Noise levels are not anticipated to be above background levels and the aesthetic value of the site is expected to remain the same.

Based on the environmental and socioeconomic impact analysis in the Environmental Assessment for the Disposal and Reuse of Pontiac Storage Activity, which is incorporated into this Finding of No Significant Impact (FNSI), it has been determined that the disposal of real property and its subsequent reuse would not have a significant impact on the quality of the natural or human environment. Because there would be no significant environmental or socioeconomic impacts resulting from implementation of the proposed action, an Environmental Impact Statement is not required and will not be prepared.

ADDRESSES: Persons wishing to comment may obtain a copy of the EA or inquire into this FNSI by writing to the U.S. Army Materiel Command, Attn: AMSCO (Robert Jameson), 5001 Eisenhower Avenue, Alexandria, VA 22333–0001 or by calling (703) 274–9166 within 30 days of the date of publication of this notice.

Dated: June 24, 1994.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety & Occupational Health), OASA (IL&E)

[FR Doc. 94–15958 Filed 6–29–94; 8:45 am]

BILLING CODE 3710–08–M

Inland Waterways Users Board

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of open meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) and AR 15–1, Committee Management, announcement is made of the following meeting:

Name of Committee: Inland Waterways Users Board.

Date of Meeting: July 26, 1994.

Place: Washington Court Hotel, 525 New Jersey Ave., NW., Washington, DC (Tel: 202–628–2100).

Time: 8:30 a.m.–4 p.m.

Proposed Agenda:

A.M. Session

8:30 Registration
9:00 Chairman's Call to Order
9:05 Chairman's Remarks and Introductions
9:15 Executive Directors' Remarks
9:30 Approval of Previous Meeting Minutes
9:35 Status of IW Trust Fund and Discussion and Questions
10:00 Lock Operating Controls with Discussion and Questions
10:20 Break
10:40 Corps/Industry partnerships for Quality Improvements in Lock Operations
11:20 Status of Regional Partnership for Innovative Design and Construction
12:00 Lunch

P.M. Session

1:00 Inner Harbor Navigation Canal (IHNC) Lock Plan Formulation with Discussion and Questions
2:15 Fiscal Year 1994 Annual Report
2:45 Break
3:00 Project Updates
3:30 Public Comment Period
4:00 Call for Adjournment

This meeting is open to the public. Any interested person may attend, appear before, on file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. Larry J. Prather, Headquarters, U.S. Army Corps of Engineers, CECW–P, Washington, DC 20314–1000, telephone (202) 272–1956.

Kenneth L. Denton,

Army Federal Liaison Officer.

[FR Doc. 94–15897 Filed 6–29–94; 8:45 am]

BILLING CODE 3710–92–M

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 26–28 July 1994.

Time of Meeting: 0800–1700.

Place: Ft. Leavenworth, KS.

Agenda: The Army Science Board's Ad Hoc Subgroup on "The Science and Engineering Requirements for Military Officers and Civilian Personnel in the High Tech Army of Today and Tomorrow" will meet on 26–28 July at Ft. Leavenworth, Kansas, to receive briefings from, and discuss science and engineering requirements for Army personnel with, Field Artillery Center and School; Engineer Center and School; Intelligence Center and School; Command and General Staff College; Combined Arms Services Staff School; School of Advanced Military Studies; School of Command Performance; and Battle Command Battle Lab. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–15895 Filed 6–29–94; 8:45 am]

BILLING CODE 3710–08–M

Patents Available for Licensing

AGENCY: U.S. Army Aviation and Troop Command, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or non-exclusive licenses under the following patent. Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Issued Patent: 5,315,718
Title: Protective Helmet and Retention System Therefor
Issue Date: 05/31/94

ADDRESSES: Patent Attorney, Intellectual Property Law Branch, U.S. Army Aviation and Troop Command, 4300 Goodfellow Blvd., St. Louis, Missouri 63120–1798.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Lamming, Patent Attorney, (314) 263–9150.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–15896 Filed 6–29–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on July 25, 1994, at the Russell Senate Office Building, Washington, DC, at 8:30 a.m. The session will be open to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

For further information concerning this meeting contact: LCDR Timothy A. Batzler, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 20404-5000, telephone (410) 293-1503.

Dated: June 24, 1994.

Lewis T. Booker, Jr.;

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94-15833 Filed 6-29-94; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by July 5, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of Review Requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of Collection; (6) Affected Public; and (7) Reporting and/or Recordkeeping Burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: June 24, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited.

Title: Teacher Status Information for the Teacher Followup Survey.

Abstract: This survey will be used to identify and sample all teachers who have left teaching positions and to draw a random sample of those teachers who have remained in the teaching profession. This is advance contact with the schools to obtain teacher status information.

Additional Information: An expedited review is necessary in order to design the samples for the Teacher Followup Survey for school year 1994–95. Clearance for this information collection is requested for July 5, 1994.

Frequency: On occasion.

Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.

Reporting Burden:
Responses: 13,338
Burden Hours: 3,335

Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–15840 Filed 6–29–94; 8:45 am]

BILLING CODE 4000–01–U

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Management Service, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by June 30, 1994.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Information Resources Management Service, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: June 24, 1994.

Mary P. Liggett,

Acting Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Expedited.

Title: National Center for Education Statistics Long Range Planning Survey

Abstract: This customer survey will request information from respondents regarding NCES data collection programs. The results will inform NCES in the planning of future data collections and their content and format.

Additional Information: Clearance for this information collection is requested for June 30, 1994. An expedited review is necessary so that responses may be requested by the end of July, and the results of the survey can go into planning for the new fiscal year.

Frequency: One time.

Affected Public: Individuals or households.

Reporting Burden:
Responses: 105
Burden Hours: 26
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

[FR Doc. 94–15839 Filed 6–29–94; 8:45 am]
BILLING CODE 4000–1–U

DEPARTMENT OF ENERGY

Office of Policy, Planning, and Program Evaluation; Guidelines for Voluntary Reporting of Greenhouse Gas Emissions and Reductions, and Carbon Sequestration

AGENCY: Energy (DOE).

ACTION: Notice of availability of draft sector-specific supporting document and request for comment.

SUMMARY: Pursuant to Section 1605(b) of the Energy Policy Act of 1992, the Department of Energy is developing guidelines for the voluntary reporting of greenhouse gas emissions, their reduction, and carbon fixation achieved through any measure. The data will be reported on forms to be developed by the Energy Information Administration (EIA) and entered into an EIA database.

The draft technical supporting document for the voluntary reporting of greenhouse gas emissions and reductions, and of carbon sequestration, in the agriculture sector is available for public review and comment.

DATES: Written comments on the draft technical supporting document for the agriculture sector (10 copies) are due on or before August 1, 1994.

ADDRESSES: Written comments (10 copies) should be submitted to: U.S. Department of Energy, Office of Policy, PO–63/VRP NOA, Docket No. PO–VR–94–101, Room 4G–036, 1000 Independence Avenue, SW., Washington, DC 20585.

A copy of the draft supporting document for the agriculture sector may be obtained by telephone request to (301) 601–8284. Persons who requested the draft guidelines through a request to this number will be mailed the agriculture document automatically, and do not need to transmit an additional request.

FOR FURTHER INFORMATION CONTACT: Mr. Elmer Holt at (202) 586–0714.

SUPPLEMENTARY INFORMATION: Under section 1605(b) of the Energy Policy Act of 1992 (EPAct; Pub.L. 102–486), the Secretary of Energy with the Energy Information Administration is to establish a voluntary reporting system and database on emissions of greenhouse gases (GHGs), reductions in emissions of these gases, and carbon fixation. Draft guidelines and supporting methodologies provide guidance on the institutional and technical aspects of the voluntary program. They are provided in discrete parts, as discussed below. DOE requests comment on the draft supporting document for the agriculture sector.

A complete discussion of the relevant legislative provisions and the organization of the guidelines and supporting documents is set forth in the June 1, 1994, Notice of Availability and Request for Comment on the draft guidelines and sector-specific supporting documents (59 FR 28345). The reader is referred to that notice for a discussion of the voluntary reporting program and issues in the development of the program, including those that may apply to greenhouse gas emissions and reductions and carbon sequestration in the agriculture sector.

Sector-specific supporting documents for five of the six sectors were made available for comment on June 1, 1994. These are the sector-specific documents dealing with the following sectors: electricity supply, residential and commercial buildings, industrial, transportation, and forestry. At that time, DOE stated that the sector-specific supporting document for the agriculture sector would be available at a later date. The sector-specific supporting document for the agriculture sector is now available for public review and comment.

Written Comments

Interested persons are invited to submit comments on the draft document, Agriculture Sector-Specific Issues and Reporting Methodologies Supporting the General Guidelines for the Voluntary Reporting of Greenhouse Gases under Section 1605(b) of the energy Policy Act of 1992. Ten copies should be submitted to the address indicated in the ADDRESSES section above, and must be received by the date indicated in the DATES section of this notice. All written comments received will be available for public inspection in the DOE Freedom of Information Office reading Room at the address provided at the beginning of this notice.

Pursuant to provisions of 10 CFR 1004.11, any person submitting information which that person believes to be confidential information and which may be exempt from law from public disclosure, should submit one complete copy of the document as well as two copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information and to treat it according to its determination.

Issued in Washington, DC on June 22, 1994.

Susan F. Tierney,

Assistant Secretary, Office of Policy, Planning, and Program Evaluation.

[FR Doc. 94–15824 Filed 6–29–94; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

Project No. 2513–003 Vermont

Green Mountain Power Corp.; Notice of Availability of Draft Environmental Assessment

June 24, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Essex No. 19 Hydroelectric Project, located in the townships of Essex Junction and Williston, Chittendon County, Vermont and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and

should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. Please affix "Essex No. 19 Hydroelectric Project No. 2513" to all comments. For further information, please contact Frankie Green at (202) 501–7704.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15857 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2459–005 West Virginia]

West Penn Power Co.; Notice of Availability of Draft Environmental Assessment

June 24, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Lake Lynn Hydroelectric Project, located in Monongalia County, West Virginia, and Fayette County, Pennsylvania, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix "Lake Lynn Hydroelectric Project No. 2459" to all comments. For further information, please contact Tom Dean at (202) 219–2778.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15855 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–41–025]

Columbia Gas Transmission Corporation; Refund Report

June 24, 1994.

Take notice that on June 17, 1994, Columbia Gas Transmission Corporation (Columbia) filed a refund report advising the Commission that on April 21, 1994, Columbia made lump sum refunds in the amount of $138,521,816 to disburse refunds received after Columbia filed for bankruptcy.

Columbia states that it made refunds in the amount of $135,526,272 pursuant to an April 14, 1994 order in Docket No. RP91–41–021. The April 14 order accepted Columbia's March 18, 1994 filing to reinstate its implementation of Order No. 528 and make certain refunds in accordance with an order of the Bankruptcy Court dated March 15, 1994. Columbia reports that it also refunded (1) $476,956 to its customers for amounts owed for transportation refunds received from upstream suppliers after Columbia filed for bankruptcy, related to the period April 1, 1987 through March 31, 1990, and (2) $2,535,954 for refunds paid by Transcontinental Gas Pipe Line Corporation to Columbia after Columbia filed for bankruptcy, which as a result of the merger of Commonwealth Gas Pipeline Corporation and Columbia, Columbia refunded to the former customers of Commonwealth.

After it paid the refunds on April 21, Columbia states it discovered that the transportation refunds of $476,956 included $457,460 that Columbia had received from Texas Eastern and Texas Gas that related to Columbia's capacity allocation program. These refunds were for a time period when Columbia had released its capacity on these two pipelines to other shippers. Therefore, Columbia believes it should have refunded the $457,460 only to shippers to whom the capacity was assigned. On May 6, 1994, Columbia refunded $458,512.87 ($457,460 plus $1,052.87 for interest from April 21 through May 5) to the shippers to whom the capacity was assigned. Columbia states that it will bill other customers $457,460 in its May invoices to recover the amounts refunded in error.

Because Columbia's refunds to customers were being disputed in Columbia's bankruptcy, Columbia had deposited all prebankruptcy petition period refunds in a restricted investment arrangement (RIA), as authorized by the Bankruptcy Court and the Commission. Columbia states that it calculated the interest to be refunded based on the interest it actually earned in the RIA. It notes that it has petitioned the Commission in Docket No. GP94–2–000, seeking to pay customers the interest actually earned in RIA rather than the interest otherwise required by the Commission's regulations. Columbia recognizes that its flowthrough of refunds here is subject to the Commission's final decision on the petition.

Columbia states that it has mailed a copy of its refund report to interested state Commissions and, to each jurisdictional customer, a copy of the refund schedule showing the refund amount by issue.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 and Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 1, 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. 94–15856 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–41–026]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

June 24, 1994.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 21, 1994, tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective April 18, 1994:

Second Revised Sheet No. 60
Original Sheet No. 60A
First Revised Sheet No. 61
Original Sheet No. 61A

Columbia states that it tendered this filing in compliance with the Federal Energy Regulatory Commission's (Commission) other issued June 6, 1994 (Order) in Docket No. RP91–41, et al., which required Columbia to file within 15 days additional documentation or tariff sheets addressing certain issues raised by certain intervenors. In particular, Columbia states that this

filing reallocates among its customers certain costs originally flowed through pursuant to Order 500 et seq., attributable to Trunkline Gas Company.

Copies of the filing were served upon Columbia's firm customers, interested state commissions, and to each of the parties set forth on the Official Service List in these proceedings.

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 1, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15851 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–295–000]

Gasdel Pipeline System, Inc.; Rate Filing

June 24, 1994.

Take notice that on June 16, 1994, Gasdel Pipeline System, Inc. ("Gasdel") filed with the Commission in the proceeding referenced above an application for approval of flexible in-line ("FIL Rates") rates for firm and interruptible transportation services effective October 1, 1994, all as more fully set forth in its application on file with the Commission and available for public inspection.

Gasdel also requests that the Commission waive the notice requirements of Section 154.22 of the Commission's Regulations to permit Gasdel to submit the instant filing more than 60 days before the proposed effective date of October 1, 1994 for the proposed FIL Rates and that the Commission exercise its authority to suspend this filing for one day to permit the FIL Rates to become effective as of October 1, 1994.

Finally, Gasdel requests waiver of all other regulations that may otherwise be applicable so as to permit the proposed FIL Rates to become effective as of October 1, 1994.

Any person desiring to be heard or to protest said application 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 July 1, 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 application are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15854 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–6–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in FERC Gas Tariff

June 24, 1994.

Take notice that on June 16, 1994, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed Second Revised Sheet No. 25 in its FERC Gas Tariff, Third Revised Volume No. 1, proposing changes in rates for effectiveness on July 16, 1994.

According to Granite State, its filing is submitted to passthrough to its customers the take-or-pay buydown and buyout costs directly billed to Granite State by Tennessee Gas Pipeline Company (Tennessee).

Granite State states that, on May 31, 1994, Tennessee filed revised tariff sheets in Docket No. RP94–261–000 to adjust its recovery for the buydown and buyout of purchase gas contract obligations consistent with the Stipulation and Agreement (the Cosmic settlement) approved by the Commission in Docket Nos. RP83–119, *et al.* According to Granite State, its tariff sheet reflects the changes in Tennessee's allocation of take-or-pay costs to Granite State and also complies with the requirements of the reallocation of costs to small customers pursuant to Order No. 528–A.

According to Granite State the proposed rate changes are applicable to its jurisdictional sales services formerly rendered to Bay State Gas Company and Northern Utilities, Inc. and to a sale to a direct customer, Pease Air Force Base. Granite State further states that copies of its filing were served upon its customers and the regulatory commission of the States of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 1, 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 to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15852 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–67–012, RP94–133–005 and RP94–165–005]

Southern Natural Gas Company; Filing of Revised Tariff Sheets

June 24, 1994.

Take notice that on June 13, 1994, Southern Natural Gas Company ("Southern") tendered for filing the following tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to be effective April 1, 1994 and May 27 1994:

Second Revised Sheet No. 199
Second Substitute Second Revised Sheet No. 202
Second Revised Sheet No. 203

Southern states that the purpose of this filing is to make certain revisions to its transportation tariff in compliance with the Federal Energy Regulatory Commission's (" Commission") order issued on May 27, 1994, in the above-captioned proceedings concerning Southern's gas supply realignment surcharge.

Southern states that copies of the filing will be served upon its shippers, interested state commissions and all parties to this proceeding.

Any intervenor 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, NW., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should file on or before July 1, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make the 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. 94–15853 Filed 6–29–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51833; FRL–4871–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 200 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 94–696, 94–697, 94–698, 94–699, 94–700, 94–701, 94–702, 94–703, 94–704, 94–705, 94–706, 94–707, 94–708, 94–709, 94–710, 94–711, 94–712, 94–713, 94–714, 94–715, 94–716, 94–717, 94–718, 94–719, 94–720, 94–721, 94–722, 94–723, 94–724, 94–725, 94–726, 94–727, 94–728, 94–729, 94–730, 94–731, 94–732, 94–733, 94–734, 94–735, 94–736, 94–737, 94–738, 94–739, 94–740, 94–741, 94–742, 94–743, 94–744, 94–745, 94–746, 94–747, 94–748, 94–749, 94–750, 94–751, 94–752, 94–753, 94–754, 94–755, 94–756, 94–757, 94–758, 94–759, 94–760, 94–761, 94–762, 94–763, 94–764, 94–765, 94–766, 94–767, 94–768, 94–769, 94–770, 94–771, 94–772, 94–773, 94–774, 94–775, 94–776, 94–777, 94–778, 94–779, 94–780, 94–781, 94–782, 94–783, 94–784, 94–785, 94–786, 94–787, 94–788, 94–789, 94–790, 94–791, 94–792, 94–793, 94–794, 94–795, 94–796, 94–797, 94–798, 94–799, 94–800, 94–801, 94–802, 94–803, 94–804, 94–805, 94–806, 94–807, 94–808, 94–809, 94–810, 94–811, 94–812, 94–813, 94–814, 94–815, 94–816, 94–817, 94–818, 94–819, 94–820, 94–821, 94–822, 94–823, 94–824, 94–825, 94–826, 94–827, 94–828, 94–829, 94–830, 94–831, 94–832, 94–833, 94–834, 94–835, 94–836, 94–837, 94–838, 94–839, 94–840, 94–841, 94–842, 94–843, 94–844, 94–845, 94–846, 94–847, 94–848, 94–849, 94–850, 94–851, 94–852, 94–853, 94–854, 94–855, 94–856, 94–857, 94–858, 94–859, 94–860, 94–861, 94–862, 94–863, 94–864, 94–865, 94–866, 94–867, 94–868, 94–869, 94–870, 94–871, 94–872, 94–873, 94–874, 94–875, 94–876, 94–877, 94–878, 94–879, 94–880, 94–881, 94–882, 94–883, 94–884, 94–885, 94–886, 94–887, 94–888, 94–889, 94–890, 94–891, 94–892, 94–893, 94–894, 94–895, April 18, 1994.

Written comments by:

P 94–696, 94–697, 94–698, 94–699, 94–700, 94–701, 94–702, 94–703, 94–704, 94–705, 94–706, 94–707, 94–708, 94–709, 94–710, 94–711, 94–712, 94–713, 94–714, 94–715, 94–716, 94–717, 94–718, 94–719, 94–720, 94–721, 94–722, 94–723, 94–724, 94–725, 94–726, 94–727, 94–728, 94–729, 94–730, 94–731, 94–732, 94–733, 94–734, 94–735, 94–736, 94–737, 94–738, 94–739, 94–740, 94–741, 94–742, 94–743, 94–744, 94–745, 94–746, 94–747, 94–748, 94–749, 94–750, 94–751, 94–752, 94–753, 94–754, 94–755, 94–756, 94–757, 94–758, 94–759, 94–760, 94–761, 94–762, 94–763, 94–764, 94–765, 94–766, 94–767, 94–768, 94–769, 94–770, 94–771, 94–772, 94–773, 94–774, 94–775, 94–776, 94–777, 94–778, 94–779, 94–780, 94–781, 94–782, 94–783, 94–784, 94–785, 94–786, 94–787, 94–788, 94–789, 94–790, 94–791, 94–792, 94–793, 94–794, 94–795, 94–796, 94–797, 94–798, 94–799, 94–800, 94–801, 94–802, 94–803, 94–804, 94–805, 94–806, 94–807, 94–808, 94–809, 94–810, 94–811, 94–812, 94–813, 94–814, 94–815, 94–816, 94–817, 94–818, 94–819, 94–820, 94–821, 94–822, 94–823, 94–824, 94–825, 94–826, 94–827, 94–828, 94–829, 94–830, 94–831, 94–832, 94–833, 94–834, 94–835, 94–836, 94–837, 94–838, 94–839, 94–840, 94–841, 94–842, 94–843, 94–844, 94–845, 94–846, 94–847, 94–848, 94–849, 94–850, 94–851, 94–852, 94–853, 94–854, 94–855, 94–856, 94–857, 94–858, 94–859, 94–860, 94–861, 94–862, 94–863, 94–864, 94–865, 94–866, 94–867, 94–868, 94–869, 94–870, 94–871, 94–872, 94–873, 94–874, 94–875, 94–876, 94–877, 94–878, 94–879, 94–880, 94–881, 94–882, 94–883, 94–884, 94–885, 94–886, 94–887, 94–888, 94–889, 94–890, 94–891, 94–892, 94–893, 94–894, 94–895, May 18, 1994.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51833]" and the specific PMN number should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460 (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is1available in the TSCA Nonconfidential Information Center (NCIC), NEM–B607 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

P 94–696

Manufacturer. Confidential.

Chemical. (G) Organo silicon copolymer.

Use/Production. (S) Surface active and conditioning agent. Prod. range: Confidential.

P 94–697

Importer. Vista Chemical Company

Chemical. (S) Octanoic acid, 2-butyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–698

Importer. Vista Chemical Company.

Chemical. (S) Decanoic acid, 2-butyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–699

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-butyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–700

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-butyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–701

Importer. Vista Chemical Company.
Chemical. (S) Hexadecanoic acid, 2-butyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–702

Importer. Vista Chemical Company.
Chemical. (S) Octadecanoic acid, 2-butyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–703

Importer. Vista Chemical Company.
Chemical. (S) 9-Octadecenoic acid (Z), 2-butyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–704

Importer. Vista Chemical Company.
Chemical. (S) Isooctadecanoic acid, 2-butyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–705

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–706

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids coco, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–707

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–708

Importer. Vista Chemical Company.
Chemical. (S) Fatty acid, cottonseed-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–709

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–710

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–711

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, jojoba-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–712

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–713

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–714

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–715

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–716

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–717

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–718

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–719

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–720

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–721

Importer. Vista Chemical Company.
Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-butyl-1-octanol.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–722

Importer. Vista Chemical Company.
Chemical. (S) Octanoic acid, 2-hexyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–723

Importer. Vista Chemical Company.
Chemical. (S) Decanoic acid, 2-hexyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–724

Importer. Vista Chemical Company.
Chemical. (S) Dodecanoic acid, 2-hexyloctyl ester.
Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–725

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-hexyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–726

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanoic acid, 2-hexyloctyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–727

Importer. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-hexyloctyl ester.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–728

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acid, (*Z*), 2-hexyloctyl ester.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–729

Importer. Vista Chemical Company.

Chemical. (S) Isooctadeeanoic acid, 2-hexyloctyl ester.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–730

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–731

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–732

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hyrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–733

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–734

Manufacturer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–735

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–736

Importer. Vista Chemical Company.

Chemical. (S) Fatty acid, jojoba-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–737

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–738

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive–oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–739

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–740

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–741

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–742

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–743

Importer. Vista Chemicals Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–744

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile application. Import range: 300,000–600,000 kg/yr.

P 94–745

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–746

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-hexyl-1-octanol.

Use/Import. (G) Lubricant and textile applications. Import range: 300,000–600,000 kg/yr.

P 94–747

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–748

Importer. Vista Chemical Company.

Chemical. (S) Decanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–749

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–750

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–751

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–752

Importer. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–753

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acids, (Z), 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–754

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecanoic acid, 2-butyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–755

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–756

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–757

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, ester with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–758

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–759

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–760

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–761

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–762

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–763

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–764

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–765

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2 butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–766

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–767

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–768

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–769

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2 butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–770

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–771

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-butyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–772

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–773

Importer. Vista Chemical Company.

Chemical. (S) Decanoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–774

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–775

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–776

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanioc acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–777

Impoter. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–778

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–779

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecenoic acid, 2-hexyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–780

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–781

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–782

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–783

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters, with hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–784

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–785

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–786

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–787

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-hexyl-1-dwecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–788

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–789

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters 2-hexyl-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–790

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids. palm-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–791

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–792

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–793

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–794

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300.000–600,000 kg/yr.

P 94–795

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600.000 kg/yr.

P 94–796

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-hexyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–797

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range: 300.000–600,000 kg/yr.

P 94–798

Importer. Vista Chemical Company.

Chemical. (S) Decanioc acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–799

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–800

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–801

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–802

Importer. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–803

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecanoic acid, (Z), 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–804

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecanoic acid, 2-octyldecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–805

Importer. Vista Chemical Company.

Chemical. (S) Fatty acid, butter, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–806

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–807

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–808

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–809

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–810

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–811

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–812

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–813

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–814

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–815

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–816

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–817

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–818

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–819

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–820

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–821

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-octyl-1-decanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–822

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–823

Importer. Vista Chemical Company

Chemical. (S) Decanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–824

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–825

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–826

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–827

Importer. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–828

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acid, (Z), 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–829

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecenoic acid, 2-hexyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–830

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–831

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–832

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–833

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–834

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–835

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–836

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba-oil, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–837

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–838

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–839

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–840

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–841

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:

P 94–842

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–843

Manufacturer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–844

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–845

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-hexyl-1-dedocanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–846

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-hexyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–847

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-octyldodecyl.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–848

Importer. Vista Chemical Company.

Chemical. (S) Decanoic acid, 2-octyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–849

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-octyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–850

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-octyldoecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–851

Importer. Vista Chemical Company.I11*Chemical.* (S) Hexadecanoic acid, 2-octyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–852

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acid, (Z) 2-octyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–853

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecenoic acid, 2-octyldodecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–854

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–855

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-octyl-1-dodecanol.

(G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–856

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–857

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–858

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2- 1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–859

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2- octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–860

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba-oil, hydrogenated, esters with 2- octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–861

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–862

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–863

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–864

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–865

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–866

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape -oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–867

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–868

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–869

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–870

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated, esters with 2-octyl-1-dodecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–871

Importer. Vista Chemical Company.

Chemical. (S) Octanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–872

Importer. Vista Chemical Company.

Chemical. (S) Decanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–873

Importer. Vista Chemical Company.

Chemical. (S) Dodecanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–874

Importer. Vista Chemical Company.

Chemical. (S) Tetradecanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–875

Importer. Vista Chemical Company.

Chemical. (S) Hexadecanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–876

Importer. Vista Chemical Company.

Chemical. (S) Octadecanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–877

Importer. Vista Chemical Company.

Chemical. (S) 9-Octadecenoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–878

Importer. Vista Chemical Company.

Chemical. (S) Isooctadecanoic acid, 2-decyltetradecyl ester.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–879

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, butter, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–880

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, coco, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–881

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, corn-oil, hydrogenated, esters with 2- decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–882

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cottonseed-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–883

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, cuphea-oil, hydrogenated, esters with 2- decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–884

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, fish-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–885

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, jojoba oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–886

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, lard, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–887

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, olive-oil, hydrogenated, esters with 2- decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–888

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm kernel-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–889

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, palm-oil, hydrogenated, esters with 2- decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–890

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, peanut-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–891

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, rape-oil, hydrogenated, esters with 2- decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–892

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, soya, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–893

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, sunflower-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–894

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tall-oil, hydrogenated, esters with 2-decyl-1-tetradecanol.

Use/import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

P 94–895

Importer. Vista Chemical Company.

Chemical. (S) Fatty acids, tallow, hydrogenated esters with 2- decyl-1-tetradecanol

Use/Import. (G) Lubricant and textile applications. Import range:300,000–600,000 kg/yr.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: June 21, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–15813 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140224; FRL–4899–6]

Access to Confidential Business Information to a Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing industry to one contractor. Transfer of the information will allow the contractor to assist EPA in developing exposure assessments for the reregistration of microbiocides used in the pulp, paper, and paperboard industry under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The information being transferred was collected under the authority of section 308 of the Clean Water Act (CWA). Interested persons may submit comments on this intended transfer of information to the addresses noted below.

DATES: Comments on the transfer of data are due July 11, 1994.

ADDRESSES: Comments should be sent to Sidney Abel, Exposure Assessment Branch, Economics, Exposure, and Technology Division (7406), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sidney Abel at (202) 260–3920.

SUPPLEMENTARY INFORMATION: EPA intends to transfer information, including CBI, to one contractor: Versar, Inc., 6850 Versar Center, Springfield, VA 22151. More specifically, the information being transferred to the contractor includes the following information collected under section 308 of the CWA: Information collected through questionnaires and surveys of the industry.

EPA also intends to transfer to Versar all information listed above (including CBI) that may be collected or developed in the future under section 308 of CWA. This information is necessary to enable Versar to carry out the work required by their contract to support EPA's exposure assessment for the reregistration of microbiocides under FIFRA. The contractor, contract number, and type of support are as follows: Contractor: Versar, Inc.; Contract Number: 68–D3–0013; Type of Support: Exposure assessment.

In the case of information claimed to be proprietary, and therefore, confidential, all regulations and confidentiality agreements apply. This transfer would not affect the status of this information as information claimed to be proprietary. The relevant contract contains all confidentiality provision required by EPA's confidentiality regulations. Need for access to the information shall continue until March 9, 1996.

In accordance with those regulations, companies who have submitted information claimed to be confidential have until July 11, 1994, to comment on EPA's proposed transfer of this information to Versar for the purpose outlined above.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: June 22, 1994.

Linda A. Travers,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–15810 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–51832; FRL–4776–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 170 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 94–526, 94–527, 94–528, April 3, 1994.

P 94–529, 94–530, 94–531, 94–532, 94–533, 94–534, 94–535, 94–536, 94–537, 94–538, 94–539, 94–540, 94–541, 94–542, 94–543, 94–544, March 21, 1994.

P 94–545, April 4, 1994.

P 94–546, 94–547, 94–548, 94–549, April 5, 1994.

P 94–550, 94–551, 94–552, 94–553, 94–554, 94–555, 94–556, 94–557, 94–558, 94–559, 94–560, April 6, 1994.

P 94–561, April 9, 1994.

P 94–562, 94–563, April 6, 1994.

P 94–564, April 9, 1994.

P 94–565, 94–566, April 6, 1994.

P 94–567, 94–568, April 9, 1994.

P 94–569, 94–570, 94–571, 94–572, April 10, 1994.

P 94–573, 94–574, 94–575, 94–576, April 9, 1994.

P 94–577, 94–578, 94–579, April 10, 1994.

P 94–580, April 11, 1994.

P 94–581, 94–582, 94–583, 94–584, 94–585, 94–586, 94–587, 94–588, 94–589, 94–590, April 13, 1994.

P 94–591, April 17, 1994.

P 94–592, 94–593, 94–594, April 18, 1994.

P 94–595, 94–596, 94–597, April 20, 1994.

P 94–598, 94–599, 94–600, 94–601, 94–602, 94–603, 94–604, 94–605, 94–606, April 23, 1994.

P 94–607, 94–608, April 24, 1994.

P 94–609, 94–610, 94–611, 94–612, 94–613, 94–614, 94–615, 94–616, 94–617, 94–618, 94–619, 94–620, 94–621, 94–622, April 25, 1994.

P 94–623, 94–624, 94–625, 94–626, April 26, 1994.

P 94–627, 94–628, 94–629, 94–630, 94–631, 94–632, April 27, 1994.

P 94–633, April 30, 1994.

P 94–634, 94–635, 94–636, 94–637, 94–638, April 27, 1994.

P 94–639, 94–640, 94–641, 94–642, 94–643, April 30, 1994.

P 94–644, 94–645, 94–646, 94–647, 94–648, 94–649, 94–650, 94–651, 94–652, 94–653, 94–654, 94–655, 94–656, 94–657, 94–658, May 1, 1994.

P 94–659, May 2, 1994.

P 94–660, 94–661, May 3, 1994.

P 94–662, May 4, 1994.

P 94–663, May 7, 1994.

P 94–664, 94–665, 94–666, 94–667, 94–668, 94–669, May 8, 1994.

P 94–670, 94–671, 94–672, 94–673, 94–674, May 9, 1994.

P 94–675, 94–676, 94–677, May 14, 1994.

P 94–678, 94–679, 94–680, 94–681, May 15, 1994.

P 94–682, May 18, 1994.

P 94–683, 94–684, May 15, 1994.

P 94–685, 94–686, 94–687, 94–688, 94–689, 94–690, May 16, 1994.

P 94–691, May 18, 1994.

P 94–692, 94–693, 94–694, 94–695, May 17, 1994.

Written comments by:

P 94–526, 94–527, 94–528, March 4, 1994.

P 94–529, 94–530, 94–531, 94–532, 94–533, 94–534, 94–535, 94–536, 94–537, 94–538, 94–539, 94–540, 94–541, 94–542, 94–543, 94–544, February 19, 1994.

P 94–545, March 5, 1994.

P 94–546, 94–547, 94–548, 94–549, March 6, 1994.

P 94–550, 94–551, 94–552, 94–553, 94–554, 94–555, 94–556, 94–557, 94–558, 94–559, 94–560, March 7, 1994.

P 94–561, March 10, 1994.

P 94–562, 94–563, March 7, 1994.

P 94–564, March 10, 1994.

P 94–565, 94–566, March 7, 1994.

P 94–567, 94–568, March 10, 1994.

P 94–569, 94–570, 94–571, 94–572, March 11, 1994.

P 94–573, 94–574, 94–575, 94–576, March 10, 1994.

P 94–577, 94–578, 94–579, March 11, 1994.

P 94–580, March 12, 1994.

P 94–581, 94–582, 94–583, 94–584, 94–585, 94–586, 94–587, 94–588, 94–589, 94–590, March 14, 1994.

P 94–591, March 18, 1994.

P 94–592, 94–593, 94–594, March 19, 1994.

P 94–595, 94–596, 94–597, March 21, 1994.

P 94–598, 94–599, 94–600, 94–601, 94–602, 94–603, 94–604, 94–605, 94–606, March 24, 1994.

P 94–607, 94–608, March 25, 1994.

P 94–609, 94–610, 94–611, 94–612, 94–613, 94–614, 94–615, 94–616, 94–617, 94–618, 94–619, 94–620, 94–621, 94–622, March 26, 1994.

P 94–623, 94–624, 94–625, 94–626, March 27, 1994.

P 94–627, 94–628, 94–629, 94–630, 94–631, 94–632, March 28, 1994.

P 94–633, March 31, 1994.

P 94–634, 94–635, 94–636, 94–637, 94–638, March 28, 1994.

P 94–639, 94–640, 94–641, 94–642, 94–643, March 31, 1994.

P 94–644, 94–645, 94–646, 94–647, 94–648, 94–649, 94–650, 94–651, 94–652, 94–653, 94–654, 94–655, 94–656, 94–657, 94–658, April 1, 1994.

P 94–659, April 2, 1994.

P 94–660, 94–661, April 3, 1994.

P 94–662, April 4, 1994.

P 94–663, April 7, 1994.

P 94–664, 94–665, 94–666, 94–667, 94–668, 94–669, April 8, 1994.

P 94–670, 94–671, 94–672, 94–673, 94–674, April 9, 1994.

P 94–675, 94–676, 94–677, April 14, 1994.

P 94–678, 94–679, 94–680, 94–681, April 15, 1994.

P 94–682, April 18, 1994.

P 94–683, 94–684, April 15, 1994.

P 94–685, 94–686, 94–687, 94–688, 94–689, 94–690, April 16, 1994.

P 94–691, April 18, 1994.

P 94–692, 94–693, 94–694, 94–695, April 17, 1994.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–51832)" and the specific PMN number should be sent to: Document Control Center (4707), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460 (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (4708), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), NEM–B607 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

P 94–526

Importer. Confidential.

Chemical. (G) Unsaturated epoxy ester.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–527

Importer. Confidential.

Chemical. (G) Unsaturated epoxy ester.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–528

Importer. Confidential.

Chemical. (G) Calcium long chain alkyl phenate sulfide.

Use/Import. (G) Destructive use. Import range: Confidential.

P 94–529

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–530

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–531

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–532

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–533

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–534

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–535

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–536

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–537

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–538

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–539

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–540

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–541

Manufacturer. Confidential.

Chemical. (G) Substituted pyridine polymer.

Use/Production. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–542

Importer. Confidential.

Chemical. (G) Substituted pyridine polymer.
Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–543
Importer. Confidential.
Chemical. (G) Substituted pyridine polymer.
Use/Import. (G) Component of coatings, inks, and adhesive. Import range: Confidential.

P 94–544
Importer. Confidential.
Chemical. (G) Substituted pyridine polymer.
Use/Import. (G) Component of coatings, inks, and adhesives. Import range: Confidential.

P 94–545
Manufacturer. 3M. Company.
Chemical. (G) Fluoroacrylate polymer derivative.
Use/Production. (G) Fabric coating. Prod. range: Confidential.

P 94–546
Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (G) Polymer binder. Prod. range: Confidential.

P 94–547
Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (G) Polymer binder. Prod.range: Confidential.

P 94–548
Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (G) Carboxylated acrylate polymer.
Use/Production. (G) Adhesive. Prod.range: Confidential.

P 94–549
Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (G) Carboxylated acrylate polymer.
Use/Production. (G) Adhesive. Prod. range: Confidential.

P 94–550
Manufacturer. Confidential.
Chemical. (G) Modified fluorinated acrylic resin.
Use/Production. (G) Textile processing agent. Prod. range: Confidential.

P 94–551
Importer. Cytec Industries, In.
Chemical. (G) Thionocarbamate derivative.
Use/Import. (G) Mineral processing reagent. Import range: Confidential.

P 94–552
Importer. Cytec Industries, Inc.
Chemical. (G) Thionocarbamate derivative.
Use/Import. (G) Mineral processing reagent. Import range: Confidential.

P 94–553
Importer. Cytec Industries Inc.
Chemical. (G) Thiononcarbamate derivative.
Use/Import. (G) Mineral processing reagent. Import range: Confidential.

P 94–554
Importer. Cytec Industries, Inc.
Chemical. (G) Thionocarbamate derivative.
Use/Import. (G) Mineral processing reagent. Import range: Confidential.

P 94–555
Manufacturer. Confidential.
Chemical. (G) Alkoxylated dialkyl-polyamine.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–556
Manufacturer. Confidential.
Chemical. (G) Alkylated dialkyl-polyamine, acetate salt.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–557
Manufacturer. Confidential.
Chemical. (G) Alkoxylated dialky-polyamine.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–558
Manufacturer. Confidential.
Chemical. (G) Alkoxylated dialky-polyamine, acetate salt.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–559
Manufacturer. Confidential.
Chemical. (G) Alkoxylated dialkyl-polyamine.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–560
Manufacturer. Confidential.
Chemical. (G) Alkylated dialkyl-polyamine, acetate salt.
Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 94–561
Manufacturer. Olin Corporation.
Chemical. (S) 1-Tetrazol-5-amine, monopotassium salt.
Use/Production. (G) Gas generator. Prod. range: Confidential.

P 94–562
Importer. Confidential.
Chemical. (G) Substituted diphenol azo dye.
Use/Import. (G) Dye. Import range: Confidential.

P 94–563
Importer. Confidential.
Chemical. (G) Substituted diphenyl azo dye.
Use/Import. (G) Dye. Import range: Confidential.

P 94–564
Importer. Eagle Laboratories.
Chemical. (S) 1,2,2 Trichloro-11,2 difluoroethane.
Use/Import. (S) Degreaser/cleanser. Import range: 2.2 ml–6.6 ml. kg/yr.

P 94–565
Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate polymer.
Use/Production. (S) Adhesive. Prod.range: Confidential.

P 94–566
Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate polymer.
Use/Production. (S) Adhesive. Prod.range: Confidential.

P 94–567
Manufacturer. Confidential.
Chemical. (G) Flue dust.
Use/Production. (G) Masonary/asphalt constituent. Prod.range: Confidential.

P 94–568
Manufacturer. Confidential.
Chemical. (G) Sludge waste water treatment plant.
Use/Production. (G) Asphalt constituent. Prod. range: Confidential.

P 94–569
Manufacturer. Confidential.
Chemical. (G) Carbomer, calcium salt.
Use/Production. (G) Suspension agent and rehology modifier. Prod.range: Confidential.

P 94–570
Manufacturer. Confidential.
Chemical. (G) An azo monohloro triazine reactive dye.
Use/Production. (G) Dye. Prod. range: Confidential.

P 94–571
Importer. Confidential.
Chemical. (G) Mixed sodium/ ammonium salt of a substituted sulfonic acid.
Use/Import. (G) Base stock component for formulation lubricant. Import range: Confidential.

P 94–572
Importer. Confidential.

Chemical. (G) Diethylene glycol diester of mixed fatty acids.
Use/Import. (G) Dye. Import range: Confidential.

P 94–573

Manufacturer. H. B. Fuller Company.
Chemical. (G) Triethylamine salt of a polyester polyurethane pollymer.
Use/Production. (S) Coating binder. Prod.range: Confidential.

P 94–574

Manufacturer. H. B. Fuller Company.
Chemical. (G) Triethylaminbe salt of a polyester polyurethane polymer.
Use/Production. (S) Coating binder. Prod. range: Confidential.Prod.range: Confidential.

P 94–575

Manufacturer. H. B. Fuller.
Chemical. (G) Triethylamine salt of a polyester, polyurethane polymer.
Use/Production. (S) Coating binder. Prod. range: Confidential.

P 94–576

Manufacturer. H. B. Fuller Company.
Chemical. (G) Triethylamine salt of a polyester, polyurethane polymer.
Use/Production. (S) Coating binder. Prod. range: Confidential.

P 94–577

Manufacturer. Shell Oil Company.
Chemical. (S) Sodium isethionate of C_{14} alkenyl succinate anhydride.
Use/Production. (S) Surfactant-hard surface cleaner and lanundry product, formulation. Prod. range: Confidential.

P 94–578

Manufacturer. Shell Oil Company.
Chemical. (S) Sodium isethionate of C_{16}, alkenyl succinate anhydride.
Use/Production. (S) Surfactant-hard surface cleaner and lanundry product, formulation. Prod. range: Confidential.

P 94–579

Importer. Artek Incorporated.
Chemical. (S) Bismut naphthenate.
Use/Import. (S) Extreme pressure EP additive lubricanting oils and greases. Import range: 3,000–16,000.

P 94–580

Manufacturer. Technology Sciences Group, Inc.
Chemical. (G) Substituted copper phthalocyanine.
Use/Production. (G) Dye component. Prod. range: Confidential.

P 94–581

Manufacturer. Confidential.
Chemical. (G) Epoxy amine adduct salt.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 94–582

Importer. Confidential.
Chemical. (G) Substituted benzamide.
Use/Import. (G) Chemical intermediate. Import range: Confidential.

P 94–583

Manufacturer. 3M Company.
Chemical. (G) Modified methyl methacrylate/ethyl acrylate copolymer.
Use/Production. (G) Binder resin. Prod. range: Confidential.

P 94–584

Manufacturer. 3M Company.
Chemical. (G) Benzene, 1,1'-methylene bis(4-isocyanato-prepolymer.
Use/Production. (S) Chemical intermediate. Prod.range: Confidential.

P 94–585

Manufacturer. 3M Company.
Chemical. (G) Benzene, 1,1'-methylene bis(4-isocyanato-prepolymer.
Use/Production. (S) Chemical intermediate. Prod.range: Confidential.

P 94–586

Manufacturer. 3M Company.
Chemical. (G) Polyester urethane.
Use/Production. (G) Coating resin. Prod. range: Confidential.

P 94–587

Manufacturer. 3M Company.
Chemical. (G) Polyester polyurethane.
Use/Production. (G) Coating resin. Prod.range: Confidential.

P 94–588

Import. Confidential.
Chemical. (S) Substituted aromatic compound.
Use/Import. (G) Chemical intermediate. Import range: Confidential.

P 94–589

Importer. Confidential.
Chemical. (G) Pyrazolotriazole derivative.
Use/Import. (G) Chemical intermediate. Import range: Confidential.

P 94–590

Manufacturer. Confidential.
Chemical. (G) Neopentyl diesters with mixed fatty acids.
Use/Production. (G) Synthesis base stock for open, non-dispersive use. Prod.range: Confidential.

P 94–591

Manufacturer. Confidential.
Chemical. (G) Benzenealkanal, 4-alkyl-alpha, alpha-dialkyl, oxime.
Use/Production. (S) Site-limited, intermediate. Prod. range: Confidential.

P 94–592

Manufacturer. Texaco Chemical Company.
Chemical. (G) Glycol-metal complex.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 94–593

Manufacturer. Texaco Chemical Company.
Chemical. (G) Glycol-metal complex residue.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 94–594

Importer. Ciba-Geigy Corporation.
Chemical. (S) Phenol, 2-(4,6-diphenyl-1,3,5-triazin-2-yl-5-(hexyloxy)-.
Use/Import. (G) Light stabalizer/UV absorber for polymers, primarily for polycarbonate resins and polyester films. Import range: Confidential.

P 94–595

Importer. Hoechst Celanese Corporation.
Chemical. (G) Substituted heterocycle.
Use/Import. (G) Component of coatings, inks, and adhesives.Import range: Confidential.

P 94–596

Manufacturer. Confidential.
Chemical. (G) Pyrazolotriazole derivative.
Use/Production. (G) Chemical intermediate. Prod. range: 13,500 kg/yr.

P 94–597

Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (S) Isocytyl acrylate; octadecyl acrylate; acrylic acid acryloyl bisphenzophenone; azobisisobutronitile.
Use/Production. (G) Adhesive. Prod. range: Confidential.

P 94–598

Manufacturer. Estron Chemicals, Inc.
Chemical. (G) Reaction product of an aliphatic diisocyanate and imidazole.
Use/Production. (S) Curing agent for epoxy-type industrial coatings. Prod. range: Confidential.

P 94–599

Manufacturer. Confidential.
Chemical. (G) Polyol ester.
Use/Production. (G) Component of coatings, inks, and adhesives. Prod.range: Confidential.

P 94–600

Manufacturer. Confidential.
Chemical. (G) Cyclohexane, 1,1'-methylene bis(4-isocyanato-, reaction

products with 2-propenoic acid, monoester with alkanediol.

Use/Production. (G) Component of coatings, inks, and adhesives. Prod.range: Confidential.

P 94–601

Manufacturer. Confidential.

Chemical. (G) 2-Propenioc acid, 2-hydroxyethyl ester, polymer with 2-oxepanone and alkyl diisocyanate.

Use/Production. (G) Component of coatings, inks, and adhesives. Prod. range: Confidential.

P 94–602

Manufacturer. Confidential.

Chemical. (G) Metallized azo red pigment.

Use/Production. (S) As an orangic pigment in inks, coatings plastics. Prod. range: 50,000–95,000 kg/yr.

P 94–603

Importer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Oligomeric fluorocarbon.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

P 94–604

Importer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Oligomeric fluorocarbon.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

P 94–605

Importer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Oligomeric fluorocarbon.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

P 94–606

Importer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Oligomeric fluorocarbon.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

P 94–607

Importer. Confidential.

Chemical. (G) Caprolactone, fatty acid, imine condensate.

Use/Import. (G) Dispersant. Import range: Confidential.

P 94–608

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. (S) Ultra-low VOC baked coatings for metal objects such as cabinets, appliances, electronic equipment. Prod. range: Confidential.

P 94–609

Manufacturer. U. S. Polymers, Inc.

Chemical. (G) Reaction product of; petroleum by product, diethylene glycol poly functional aliphatic alcohols, tall-oil fatty acids, pentaerythritol.

Use/Production. (S) As an industrial fast air drying primer, baking enamel crosslinked with urea melamine resins. Prod. range: 200,000–300,000 kg/yr.

P 94–610

Manufacturer. Stepan Company.

Chemical. (S) Amine salt.

Use/Production. (G) Calalyst. Prod. range: 20,000–35,000 kg/yr.

P 94–611

Manufacturer. Confidential.

Chemical. (G) Acrylate functional polyurethane resin.

Use/Production. (G) Industrial coating for open, non-dispersive use. Prod. range: Confidential.

P 94–612

Manufacturer. INX international Ink, Company.

Chemical. (S) Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1, 3,3,-trimethyl-, polymer with 5-amino 1,3,3-trimthylcyclohexanemethaneamine, trimethylenediamine, alkanediol, hexanedioic acid, dimethylalkanediol and polypropyleneglycol.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 94–613

Manufacturer. Confidential.

Chemical. (G) Boric acid/ alkanolamine adduct.

Use/Production. (G) Additive for water-based fluids. Prod. range: Confidential.

P 94–614

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid/ alkanolamine adduct.

Use/Production. (G) Additive for water-based fluids. Prod. range: Confidential.

P 94–615

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid/ alkanolamine adduct.

Use/Production. (G) Additive for water-based fluids. Prod. range: Confidential.

P 94–616

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid/ alkanolamine adduct.

Use/Production. (G) Additive for water-based fluids. Prod. range: Confidential.

P 94–617

Manufacturer. Confidential.

Chemical. (G) Aluminum salt of a saturated polyester.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 94–618

Manufacturer. Confidential.

Chemical. (G) Polymeric colorant.

Use/Production. (G) Colorant. Prod. range: Confidential.

P 94–619

Manufacturer. Confidential.

Chemical. (G) Polymeric colorant.

Use/Production. (G) Colorant. Prod. range: Confidential.

P 94–620

Manufacturer. Confidential.

Chemical. (G) Polymeric colorant.

Use/Production. (G) Colorant. Prod range: Confidential.

P 94–621

Manufacturer. Confidential.

Chemical. (G) Polymeric colorant.

Use/Production. (G) Colorant. Prod. range: Confidential.

P 94–622

Importer. Ciba-Geigy Corporation.

Chemical. (G) Azo metal complex dye.

Use/Import. (G) Textile dye. Import range: Confidential.

P 94–623

Manufacturer. Confidential.

Chemical. (G) NCO terminated urethane.

Use/Production. (G) Adhesive for open non-dispersive use on varying substrates. Prod. range: Confidential.

P 94–624

Importer. AKZO Resins.

Chemical. (G) Acrylic coplymer.

Use/Import. (G) Resin used to manufacture industrial coatings. Import range: Confidential.

P 94–625

Importer. AKZO Resins.

Chemical. (G) Alkylic copolymer.

Use/Import. (S) Resin used to manufacture industrial coatings. Import range: Confidential.

P 94–626

Importer. Ciba-Geigy Corporation.

Chemical. (S) 2-Propenoic acid, 1,2,2,6,6-pentamethyl-4-piperidinyl ester.

Use/Import. (S) Reactable light stabilizer for polymers, especially or acrylic polymers. Import range: Confidential.

P 94–627

Manufacturer. Fidelity Chemical Products Corporation.

Chemical. (G) Methanesulfonic acid, iron (2+) salt.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 94–628

Manufacturer. Hercules Incorporation.
Chemical. (G) Metal resinate.
Use/Production. (G) Industrial use oprn non-dispersive use in printing inks. Prod. range: Confidential.

P 94–629

Manufacturer. Hercules Incorporation.
Chemical. (G) Metal resinate.
Use/Production. (G) Industrial use open, non-dispersive use in printing inks. Prod. range: Confidentual.

P 94–630

Manufacturer. Hercules Incorporation.
Chemical. (G) Metal resinate.
Use/Production. (G) Industrial use open non-dispersive use in printing inks. Prod. range: Confidential.

P 94–631

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic polymer.
Use/Production. (G) Industrial coating binder component. Prod. range: Confidential.

P 94–632

Importer. Dragoco, Inc.
Chemical. (S) Cyclohexaneacetaldehyde, 4-(1-methylethyl)-.
Use/Import. (S) Household and cosmetic products soaps, fabric softeners, detergents, and alcoholic perfumery. Import range: 500 ky/yr.

P 94–633

Manufacturer. Huls America, Inc.
Chemical. (S) 2-Butanethiol, 4-methoxy-2-methyl-.
Use/Production. (S) Fragrance mixture: the PMN is used in fragrance mixtures it gives desired odor to finished products. Prod. range: 100–500 kg/yr.

P 94–634

Importer. Dragoco, Inc.
Chemical. (S) 2-Cyclohexane-1-one, 4-(2-butylidene)- 3,5,5-trimethyl.
Use/Import. (S) Alcoholic perfumery - such as colognes. household products: detergrnt soap, room fresheners. Import range: 100 kg/yr.

P 94–635

Importer. Dragoco, Inc.
Chemical. (S) 3-(Cis-3-hexoxyloxy)-propanenitril.
Use/Import. (S) Fragrance mixture the PMN product is used in fragrance mixtures, It gives desired odor to finished. Import range: 500–1,000 kg/yr.

P 94–636

Importer. Henkel Corporation.
Chemical. (G) Polyurethane hot melt adhesive.
Use/Import. (S) Hotmelt adhesive. Import range: 20,000–100,000 kg/yr.

P 94–637

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Acrylic resin.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 94–638

Importer. Confidential.
Chemical. (G) *P*-Substituted acetoacetanilide.
Use/Import. (S) Chemical intermediate for organic pigment manufacture. Import range: Confidential.

P 94–639

Importer. Confidential.
Chemical. (G) Salts of carboxylated styrene acrylic polymer.
Use/Import. (G) Coatings additive. Import range: Confidential.

P 94–640

Manufacturer. Confidential.
Chemical. (G) Isocyanate-functional prepolymer.
Use/Production. (G) Chemical intermediate having destructive use. Prod. range: Confidential.

P 94–641

Importer. Confidential.
Chemical. (G) Amine-functional polyurethane polyol.
Use/Import. (G) Component of coating with open use. Import range: Confidential.

P 94–642

Importer. Dragoco, Inc.
Chemical. (G) Dibasic acids/glycol polyester, alcohol - capped.
Use/Import. (S) Fragrance mixture:The PMN product is used in fragrance mixtures it gives desired odor to finished. Import range: 500–1,000 kg/kr.

P 94–643

Manufacturer. Huls America Inc.
Chemical. (G) Dibasic acid/glycol polyester, alcohol-capped.
Use/Production. (S) General purpose plasticizer for fleible polyvinyl chloride compositiona. Prod. range: Confidential.

P 94–644

Importer. Hoechst Celanese Corporation.
Chemical. (G) Substituted aromatic amine.
Use/Import. (S) Site-limited intermediate for further synthesis. Import range: 10,000–50,000 kg.yr.

P 94–645

Manufacturer. Confidential.
Chemical. (G) Poly(ester-urethane-urea).
Use/Production. (G) Printing ink resin. Prod. range: Confidential.

P 94–646

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester polyol.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 94–647

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester polyol.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 94–648

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–649

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–650

Manufacturer. H. B. fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–651

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–652

Manufacturer. H. B. Fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–653

Manufacturer. F. B. Fuller Company.
Chemical. (G) Polyester isocyanate prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential

P 94–654

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Alkyl salt of a substituted xanthene.

Use/Production. (G) Dye for printing material open, nondispersive use. Prod. range: Confidential.

P 94–655

Importer. AKZO Resins.
Chemical. (G) Aqueous acrylate resin dispersion.
Use/Import. (S) Resin used to manufacture printing inks. Import range: Confidential.

P 94–656

Manufacturer. Nalco Chemical Company.
Chemical. (G) Fatty acid, amine alcohol salt.
Use/Production. (S) Emulsifier for metal working fluids. Prod. range: Confidential.

P 94–657

Importer. Confidential.
Chemical. (G) Oil free polyester.
Use/Import. (S) Aluminum, automotive and appliance trim, lighting sheet, steel metal building panels and roofing coating. Import range: Confidential.

P 94–658

Manufacturer. The Dow Chemical.
Chemical. (G) Alkylamine.
Use/Production. (G) Gas treating solvent. Prod. range: Confidential.

P 94–659

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 94–660

Manufacture. Glass Industries.
Chemical. (G) 4,4'-(1-hydroxyphenol)-1-phenylethane.
Use/Production. (G) Monomer for polyarylate. Import range: 500–45,000 kg/yr.

P 94–661

Importer. Enthone-OMI Inc.
Chemical. (S) Poly(oxy-1,2-alkanediyl), L, W-dislkoxy.
Use/Import. (G) Material for use in electronics manufacturing degree of containment: dispersive use. Import range: 250–2,000 kg/yr.

P 94–662

Importer. NOF Americ Corporation.
Chemical. (S) Methyl methacrylate ethylene-ethyl acrylate copolymer.
Use/Import. (S) Impact modifier for engineerting plastics. Import range: Confidential.

P 94–663

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 94–664

Importer. Confidential.
Chemical. (G) Reaction product of an aliphatic diisocyanate, alkyl hydroxy acrylate, and an alkyl polyol.
Use/Import. (G) Oligomer for UV-curable coatings. Import range: Conidential.

P 94–665

Manufacturer. Confidential.
Chemical. (G) Ethoxylated alkynol.
Use/Production. (G) Surfactants to provide substrate wetting in water borne coatings, graphics arts products and adhesives. Prod. range: Confidential.

P 94–666

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic polymer.
Use/Production. (G) Industrial coating binder component. Prod. range: Confidential.

P 94–667

Importer. Confidential.
Chemical. (G) Oxirane, polymer with 2-propenoic acid and alkanetriol.
Use/Import. (G) Polymer component for specialty industrial inks and coatings. Import range: Confidential.

P 94–668

Manufacturer. Confidential.
Chemical. (G) Modified rosin ester, sodium salt.
Use/Production. (S) Resin for printing ink. Prod. range: Confidential.

P 94–669

Manufacturer. Confidential.
Chemical. (S) The esterification product of trimethyol propane diol, trimethyol propane, methyl propane diol, diethylene glycol, dimethylol propionic acid, adipic acid, phthalic anhydride, and dimer acid.
Use/Production. (S) Saturated polyester is used in a pigmented protective coating (paint). Prod. range: 180,000–227,000 kg/yr.

P 94–670

Importer. Wacker Silicone Corporation.
Chemical. (G) Aminofunctional polydimethylsiloxane.
Use/Import. (S) Adhesion promoter and crosslinking agent for silicon sealants. Import range: Confidential.

P 94–671

Importer. Wacker Silicones Corporation.
Chemical. (G) Aminoalkyl-alkoxysilane.
Use/Import. (S) Adhesion promoter and crosslinking agent for silicone RTV sealants. Import range: Confidential.

P 94–672

Importer. Huls America, Inc.
Chemical. (G) Castor oil, ethoxylated, dioleate.
Use/Import. (S) Emulsion concentrates for metal working fluids. Import range: 10,000–30,000 kg/yr.

P 94–673

Manufacturer. Confidential.
Chemical. (G) Aminopolycarboxylic acid-, sodium salt.
Use/Production. (G) Component in a commercial cleaner. Prod. range: Confidential.

P 94–674

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 94–675

Manufacturer. MacDERMID Inc.
Chemical. (S) Ethylene diamine, epichlorohydrine, maleic anhydride, cobalt chloride.
Use/Production. (S) Cheelator of cobalt in zinc-cobalt plating bath. Prod. range: 500–1,000 kg/yr.

P 94–676

Manufacturer. Confidential.
Chemical. (G) Amino aromatic halobenzamide.
Use/Production. (G) Chemical intermediate. Prod. range: 4,500 kg/yr.

P 94–677

Manufacturer. Confidential.
Chemical. (G) Nitroaromatic halobenzamide.
Use/Production. (G) Chemical intermediate. Prod. range: 5,000 kg/yr.

P 94–678

Importer. EMS-American Grilon, Inc.
Chemical. (S) Copolymer of terephthalic acid; adipic acid; 1,4-butanediol; 1,6-hexanediol.
Use/Import. (G) Adhesive webs and files in textile laminates. Import range: Con.

P 94–679

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic polymer.
Use/Production. (G) Industrial coating binder component. Prod. range: confidential.

P 94–680

Manufacturer. Lilly Industries, Inc.

Chemical. (G) Animated epoxy polymer.

Use/Production. (G) Cathodic electrocoat vehicle. Prod. range: Confidential.

P 94–681

Importer. Zeon Chemicals USA, Inc.

Chemical. (S) Tetrabutylphosphium benzotriazalate.

Use/Import. (G) This substance is used as one of yellow component of color sheet casette. Import range: Confidential.

P 94–682

Importer. Confidential.

Chemical. (G) Hydroxyalkylquinolin dioxoindan dialkylcarboxamide.

Use/Import. (G) This substance is used as one of yellow component of color sheet casette. Import range: Confidential.

P 94–683

Manufacturer. Confidential.

Chemical. (G) Hydrolyzed organosilane ester.

Use/Production. (G) Surface treatment. Prod. range: Confidential.

P 94–684

Manufacturer. Confidential.

Chemical. (G) Amphotene acrylic polymer.

Use/Production. (G) Industrial influent water treatment coagulate, open,non-dispersibve. Prod. range: Confidential.

P 94–685

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated oxirane prepolymer.

Use/Production. (G) Urethane prepolymer. Prod. range: Confidential.

P 94–686

Manufacturer. Confidential.

Chemical. (G) Isocyanate terminated oxirane prepolymer.

Use/Production. (G) Urethane prepolymer. Prod. range: Confidential.

P 94–687

Manufacturer. Confidential.

Chemical. (G) Polyester urethane polymer.

Use/Production. (G) Adhesive for flexible substrates. Prod. range: Confidetial.

P 94–688

Manufacturer. Confidential.

Chemical. (G) Aliphatic diol polyester.

Use/Production. (G) Aliphatic polyester intermediate. Prod. range: Confidential.

P 94–689

Manufacturer. Confidential.

Chemical. (G) Modified polyester polyol.

Use/Production. (G) Highly dispersed material. Prod. range: 20,000–30,000 kg/yr.

P 94–690

Manufacturer. Confidential.

Chemical. (G) Modified polyester polyol.

Use/Production. (G) Highly dispersed material. Prod. range: 20,000–30,000 kg/yr.

P 94–691

Manufacturer. Confidential.

Chemical. (G) Epoxy amine adduct.

Use/Production. (G) Flexibilizer for epoxy resins. Prod. range: Confidential.

P 94–692

Manufacturer. Confidential.

Chemical. (G) Polycarbonate resin.

Use/Production. (G) Organic semi conductor. Prod. range: Confidential.

P 94–693

Importer. Confidential.

Chemical. (S) 9,9-Disubstituted-2-substituted fluoren derivative.

Use/Import. (G) Organic semiconductor. Import range: Confidential.

P 94–694

Importer. Confidential.

Chemical. (S) 9,9-Disubstituted-2-substituted fluoren derivative.

Use/Import. (G) Organic semi conductor. Import range: Confidential.

P 94–695

Manufacturer. Confidential.

Chemical. (G) Modified oxirane, methyloxirane polymer.

Use/Production. (G) Raw material used in the manufacture of silicone personal care products. Prod. range: Confidential.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: June 6, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[[FR Doc. 94–15814 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F02

[OPPTS–51827A; FRL–4870–9]

Certain Chemicals; Premanufacture Notices Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice correction.

SUMMARY: EPA is correcting the content of the following Premanufature Notices which appeared incorrectly in FR Doc. 94–6955, in the **Federal Register** of March 24, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, 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: EPA is correcting the content of the following Premanufature Notices which appeared incorrectly in FR Doc. 94–6955, in the **Federal Register** of March 24, 1994 (59 FR 13956).

P 93–1431

Manufacturer. IBC Advanced Technologies, Inc.

Chemical. (G) Molecular recongnition material (organic liquid modified silica gel).

Use/Production. (G) Removal of materials from dilute acqueous solutions. Prod. range: Confidental

P 93–1441

Manufacturer. Hercules Incorporated.

Chemical. (G) Modified hydrocarbon resin.

Use/Production. (G) Industrial use, open, nondispersive use in printing inks. Prod. range: Confidential.

P 93–1470

Manufacturer. Shell Oil Company.

Chemical. (G) Mixed acid esters alcohols.

Use/Production. (G) Reactor feed material. Prod. range: Confidential.

P 93–1438

Manufacturer. Confidential.

Chemical. (G) Epoxy ester.

Use/Production. (S) Site-limited intermediate for water-reducible epoxy ester copolymer. Prod. range: Confidential.

P 93–1554

Importer. Confidential.

Chemical. (G) Polymer based on acrylic acid methacrylic acid.

Use/Import. (S) Retanning agent for chrome tanned leather. Import range: Confidential.

P 93–1555

Importer. Claude Dip Tank Industries, Inc.

Chemical. (G) MV 100.

Use/Import. (S) Heated dip tanks or closed hot water washing systems for removal of hydrocardons from most surfaces. Import range: Confidential

P 93–1556

Importer. Confidential.

Chemical. (G) Sodium salt of substituted triphenodioxazine acid.

Use/Import. (G) Dye. Import range: Conifidential.

P 93–1557

Importer. Confidential.

Chemical. (G) Mixed ammonium/sodium salt of substituted copper phthalocyanine.

Use/Import. (G) Dye. Import range: Condifidential.

Toxicity Data. Acute oral: LD50 2,000 mg/kg (rat). Acute dermal: LD50 2,000 mg/kg (rat). Eye irritation: Moderate (rabbit). Skin irritation: Slight (rabbit).

P 93–1558

Importer. Confidential.

Chemical. (G) Fluorinated aromantic oxime.

Use/Production. (G) Chemical intermediate/destructive use. Prod. range: Confidential.

P 93–1559

Manufacturer. Confidential.

Chemical. (G) Tertiary amine salts.

Use/Production. (S) Catalyst for polyurethane foam. Prod. range: Confidential.

P 93–1560

Manufacturer. Confidential.

Chemical. (G) Tertiary amine salts.

Use/Production. (S) Catalyst for polyurethane foam. Prod. range: Confidential.

P 93–1561

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkyl nitrile.

Use/Production. (S) Intermediate is consumed in its entirety in subsequent reactions. Prod. range: Confidential.

P 93–1562

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkyl nitrile.

Use/Production. (S) Intermediate is consumed in its entirety in subsequent reactions. Prod. range: Confidential.

P 93–1563

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkyl amine.

Use/Production. (S) Monomer. Prod. range: Confidential.

P 93–1564

Manufacturer. H. B. Fuller Company.

Chemical. (G) Alkyl amine.

Use/Production. (S) Monomer. Prod. range: Confidential.

P 93–1565

Manufacturer. Confidential.

Chemical. (G) Tannin 3,4(Bis-oxy-2-hydroxypropyl trimethyl ammonium chloride) methyl tannin.

Use/Production. (S) Waste water coagulant, paint spray booth detackifier/coagulant. Prod. range: 150,000–300,000 kg/mg.

P 93–1566

Importer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) 1,3-Benzendimethanamine; dimer acid.

Use/Import. (S) Epoxy curing for coatings. Import range: 5,000–15,000 kg/yr.

P 93–1567

Importer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) 1,3-Benzendimethanamine; 2,2-(1-Methylethylidene) bis (4,1-phenyleneoxymethylene)); bis (oxirane).

Use/Import. (S) Epoxy curing for coatings. Import range: 5,000–15,000 kg/yr.

P 93–1568

Importer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) 1,3-Benzendimethanamine; versatic acid; glycidylester.

Use/Import. (S) Epoxy curing for coatings. Import range: 5,000–15,000 kg/yr.

P 93–1569

Manufacturer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) *N,N*-Bis (3-aminomethylbenzyl)-2-hydroxypropane-1,3-diamine dimer acid.

Use/Production. (S) Epoxy curing for coatings. Prod. range: 5,000–15,000 kg/yr.

P 93–1570

Manufacturer. Angus Chemical Company.

Chemical. (G) Alkyl hydroxylamine.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93–1571

Manufacturer. Confidental.

Chemical. (G) Methacrylic copolymer.

Use/Production. (G) Additive for xerography.Prod. range: Confidential.

P 93–1572

Importer. Confidential.

Chemical. (G) Polyester/Styrene-acrylic grafted resin.

Use/Import. (G) Resin for photo-copy or non-disperse use. Import. range: Confidential.

P 93–1573

Importer. DSM Resins U.S.Inc.

Chemical. (G) Bisphenol A Based polyster resin.

Use/Import. (G) Protection for glass strand used in fiberglass reinforcements. Import. range: Confidential.

P 93–1574

Importer. E.I. Du Pont De Nemours & Company.

Chemical. (G) Copolymer of acrylic acids, acrylates and azo compounds.

Use/Import. (G) Open, non-dispersive.Import range: Confidential.

P 93–1575

Manufacturer. The P.D. George Company.

Chemical. (S) Ethylene glycol; diethylene glycol; phenolic resin solution; terephthalic acid; isophthalic acid; cyanuric acid; trimellitic anhydride.

Use/Production. (G) Mangnet wire enamel.Prod. range: 240,000 kg/yr.

P 93–1576

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Hexahydro-1,3-isobenzofurandione, hexahydromethl-1,3-isobenzofurandione and tetrahydro-5-methyl-1,3-isobenzofurandione diesters.

Use/Production. (S) Curing agent for epoxides for use in sinks and countertops. Prod. range: Confidential.

P 93–1577

Importer. Mitsubishi Gas Chemical America, Inc.

Chemical. (S) 1,3 Benzene dimethanamine formaldehyde, phenol.

Use/Import. (S) Epoxy curing agent for coatings. Import range: 10,000–15,000 kg/yr.

P 93–1578

Importer. Confidential.

Chemical. (G) Polyester styrene-acrylic grafted resin.

Use/Import. (G) Resin for photocopy or open non-disperse use. Import range: Confidential.

P 93–1579

Importer. Confidential.

Chemical. (G) Fluorinated hydrocarbon.

Use/Import. (G) Chemical intermediate. Import range. Confidential.

P 93–1580

Manufacturer. H. B. Fuller Company

Chemical. (G) Polyamide.

Use/Production. (S) Adhesive.Prod.range: Confidential.

P 93–1581

Manufacturer. H. B. Fuller Company.

Chemical. (G) Polyamide.

Use/Production. (S) Adhesive. Prod. range: Confidential.

P 93–1582

Impoorter. Confidential.

Chemical.(G) Azo cobalt complex dyestuff.

Use/Import (G) Open, non-dispersive. Import range: Confidential.

P 93–1583

Importer. Air Products and Chemicals, Inc.

Chemical. (G) Epoxy resin adduct.

Use/Import (G) Coating curative. Import range: Confidential.

P 93–1584

Manufacturer. Confidental.

Chemical. (G) Glycol terephthalates polyol esters.

Use/Production. (S) Component for polyurethane or polyisocyanurate insulating materials. Prod. range: Confidential.

P 93–1585

Manufacturer. Confidential.

Chemical. (G) Acrylate oligomer.

Use/Production. (S) Paper coatings; metal coatings; adhesives; inks. Prod. range: Confidential.

P 93–1601

Manufacturer. Confidential.

Chemical. (G) Methacrylate copolymer.

Use/Production. (S) Vehicle for pigment. Prod. range: Confidential.

P 93–1604

Importer. Ausimont USA Incorporated.

Chemical. (G) Poly-[oxy (fluorinated methyl)-fluorinated methylene], poly (oxy fluorinated ethylene) polymer.

Use/Import. (S) High performance fluid for electronics, gage dampening fluid, and dielectric replacement. Import range: Confidential.

P 93–1622

Importer. The Dow Chemical Company.

Chemical. (G) Halogenated nitrile.

Use/Import. (G) Process raw material. Import range: Confidential.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: June 6, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–15812 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59339; FRL–4871–7]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 94–14, May 20, 1994.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–59339)" and the specific TME number should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460 (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, 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: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information (NCIC), NEM–B607 at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

T 94–14

Close of Review Period. June 3, 1994.

Importer. Applied Business Management Company.

Chemical. (G) C. I. Sulfur Blue 15.

Use/Import. (S) Textile dye. Import range: Confidential.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: June 6, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–15809 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5005–4]

Science Advisory Board Clean Air Scientific Advisory Committee Review of a Draft Revised Air Quality Criteria for Ozone and Related Photochemical Oxidants: Correction

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will conduct a meeting on July 20 and 21, 1994. The Committee will examine the four-volume draft document *Revised Air Quality Criteria for Ozone and Related Photochemical Oxidants* (EPA/600/AP–93/004 a,b,c,d). The purpose of the meeting is to assess the scientific and technical adequacy of the document to serve as a basis for the Agency's proposed National Ambient Air Quality Standards for ozone. The original **Federal Register** Notice was published in Volume 59, Number 106 on pages 28857–28858. It originally stated that the meeting would be held at the Guest Quarters Suites Hotel, 2515 Meridian Parkway, Durham, NC 27713, this has since been changed to the North Raleigh Hilton & Convention Center, 3415 Wake Forest Road, Raleigh, NC 27609–7330. The phone number is 919/872–2323. The sessions will begin on July 20 at 8:30 a.m. and end no later than 5:00 p.m. on July 21.

The meeting is open to the public, although seating is limited. Any member of the public wishing further information concerning the meeting should contact Mr. Randall C. Bond, Designated Federal Official, Clean Air Scientific Advisory Committee at 202/260–8414. Those individuals requiring a copy of the Agenda should contact Ms. Janice Cuevas at the same number or by way of INTERNET at JONES.Janice@EPAMAIL.EPA.GOV. Members of the public wishing to make comments at the sessions should provide those comments to Mr. Bond no later than July 6, 1994. His address is U.S. Environmental Protection Agency,

Science Advisory Board (1400), 401 M Street, SW, Washington, DC 20460. Comments will be limited to five minutes and the Clean Air Scientific Advisory Committee and Science Advisory Board staff expect that such items will not be repetitive of previously submitted material.

On Monday, January 30, 1994, EPA announced in the **Federal Register** (59 FR 4278) the availability for public comment of the subject external review draft EPA document (EPA/600/AP–93/004 a,b,c,d) to be reviewed at the upcoming July 20–21 CASAC Public Meeting. To obtain copies of the draft document, interested parties should contact the ORD Publications Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone 513/569–7562; FAX 513/569–7566; and request the external review draft of "Air Quality Criteria for Ozone and Related Photochemical Oxidants". Please provide your name, mailing address, and the EPA document number, EPA/600/AP–93/004a–d.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found in The Annual Report of the Staff Director which is available by contacting Lori Anne Gross at 202/260–8414 or by way of INTERNET at GROSS.Lori@EPAMAIL.EPA.GOV.

Dated: June 15, 1994.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 94–15985 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–M

[5005–3]

Science Advisory Board

Notification of Public Advisory Committee Meeting; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Ecological Processes and Effects Committee (EPEC) and its Marsh Management Subcommittee will meet on July 19–21, 1994, at the Ramada Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, VA 22314, telephone (703) 683–6000. On July 19 and 20, the meeting will begin at 8:30 a.m. and end no later than 5:00 p.m. On July 21, the meeting will begin at 8:00 a.m. and end no later than 3:30 p.m. All days of the meeting will be open to the public. Due to limited space, seating will be on a first-come basis.

Agenda Topics

(1) On July 19, the Committee will review the Landscape Ecology Component of the Agency's Environmental Monitoring and Assessment Program (EMAP). As part of the Charge to the Committee, the Agency's Office of Research and Development has requested that the Committee evaluate the goals and objectives of EMAP-Landscapes, the value of the approach for ecological risk assessment, and the proposed research and development projects. Single copies of the review materials provided to the Committee may be obtained from Dr. Bruce Jones, EPA Environmental Monitoring Systems Laboratory, P.O. Box 93478, Las Vegas, Nevada 89193–3478, telephone (702) 798–2671, FAX (702) 798–2208, or Internet address odckbj@vegas1.las.epa.gov.

(2) On July 20, the Committee will review the draft Integrated Ecosystem Research Strategy prepared by the Agency's Office of Research and Development. The strategy is intended to provide an integrated picture of research proposed to support environmental monitoring and assessment, ecological risk assessment, development of ecological criteria, etc. Single copies of the draft research strategy can be obtained by contacting Mike Slimak, Office of Environmental Processes and Effects Research, US EPA, 401 M Street, SW (8401), Washington, D.C. 20460, telephone (202) 260–5950.

(3) On July 21, the Marsh Management Subcommittee of EPEC will begin a review of the science underlying marsh management, defined as the use of water control structures, berms, dikes etc. to modify the hydrology of marsh systems. At the request of the Agency's Office of Water, the Subcommittee has been established to evaluate the ecological implications of marsh management practices in various types of marsh ecosystems. EPA has formed a Marsh Management Steering Committee, consisting of federal agencies with responsibilities for marsh management, to refine a set of technical questions to be addressed by the Subcommittee. On July 21, the Subcommittee will hear presentations from the federal agencies on the Steering Committee regarding relevant federal policies and technical issues of concern. Further Subcommittee meetings on this topic will be scheduled at that time.

Single copies of the briefing materials provided to the Marsh Management Subcommittee may be obtained by calling the EPA Wetlands Hot Line at 1–800–832–7828.

Copies of these documents are NOT available from the Science Advisory Board.

Additional Information

Single copies of background and review materials provided to the Committee or Subcommittee are available from the contacts listed above, and are NOT available from the Science Advisory Board. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Mary Winston, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via the INTERNET at: WINSTON.MARY@EPAMAIL.EPA.GOV.

Anyone wishing to make an oral presentation at the meeting on any of the agenda topics listed above must notify Stephanie Sanzone, Designated Federal Officer for EPEC, by 4:00 p.m. on July 8, 1994 at telephone (202) 260–6557, FAX (202) 260–7118, or via the INTERNET at SANZONE.STEPHANIE@EPAMAIL.EPA.GOV. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. Oral comments will be limited to five minutes per individual and should not be repetitive of previously submitted written statements. Anyone wishing to submit written comments must forward at least 35 copies to Ms. Sanzone no later than the time of the presentation for distribution to the Committee or Subcommittee and the interested public.

Dated: June 22, 1994.

Edward S. Bender,

Acting Staff Director, Science Advisory Board.

[FR Doc. 94–15984 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00384; FRL–4897–3]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2–day meeting, beginning on Monday, July 11, 1994, and ending on Tuesday, July 12, 1994. This notice announces the location and times for the meeting and sets forth

tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG will meet on Monday, July 11, 1994, from 8:30 a.m. to 5:00 p.m., and Tuesday, July 12, 1994, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at: The DoubleTree Hotel, National Airport - Crystal City, 300 Army-Navy Drive, Arlington, VA., 22202, 703–892–4100.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1109, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–305–7164.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG includes the following:

1. Reports from the SFIREG Working Committees.
2. Regional SFIREG Reports.
3. Discussion of Old and New Issue Papers.
4. Update on Acetachlor Registration Issues.
5. Status of State Management Plans and Rule.
6. FY '95 Cooperative Agreement Guidance and Funding Update.
7. Discussion of Part 165 Phase 2 Regulations.
8. 24(c) Issues and Comments from Working Committees.
9. Update on Worker Protection and Training Materials.
10. Discussion of Pesticide Use Reduction Initiative.
11. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: June 24, 1994.

Allen S. Abramson,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 94–15923 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30365; FRL–4869–6]

Acetochlor Registration Partnership; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Acetochlor Registration Partnership, to conditionally register the pesticide products Acetochlor Technical and Acetochlor EC containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–305–6800).

SUPPLEMENTARY INFORMATION: EPA received applications from Acetochlor Registration Partnership (c/o ICI Americas and Zeneca Agricultural Products) P.O. Box 751, Wilmington, DE 19897, to conditionally register the herbicide products Acetochlor Technical and Acetochlor EC (EPA Registration Numbers 66478–1 and 66478–2) containing the active ingredients acetochlor, 2-chloro-*N*-(2-ethyl-6-methylphenyl)acetamide and acetochlor 2-chloro-2'-methyl-6'-ethyl-*N*-ethoxymethylacetanilide at 92 and 81.15 percent respectively, active ingredients not included in any previously registered products. Both products contain a different formulation of the chemical acetochlor. However, since the notice of receipt of applications did not publish in the **Federal Register**, as required by section 3(c)(4) of FIFRA, as amended, interested parties may submit written comments within 30 days from the date of publication of this notice.

The applications were approved on March 11, 1994, as Acetochlor Technical for formulation of herbicide products only (EPA Reg. No. 66478–1) and for restricted use of Acetochlor EC for use on (corn) field, silage, and pop (EPA Reg. No. 66478–2).

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of acetochlor, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of acetochlor during the period of conditional registration is not expected to cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on acetochlor.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 17, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–15930 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30368; FRL–4873–6]

E. I. DuPont de Nemours and Company; Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by August 1, 1994.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30368] and the registration/file number, attention Product Manager (PM) 25, to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment 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 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. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: PM 25, Robert Taylor, Rm. 241, CM #2, (703–305–6800).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 352–LLL. Applicant: E. I. DuPont de Nemours and Company, Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80028, Wilmington, DE 19898. Product name: E-9636 Technical Herbicide. Active ingredient: Rimsulfuron *N*-((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide at 95 percent. Proposed classification/Use:None. For formulation use only. (PM 25)

2. File Symbol: 352–LLA. Applicant: E. I. DuPont de Nemours and Co. Product name: E-9636 DF Herbicide. Active ingredient: Rimsulfuron *N*((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide at 25 percent. Proposed classification/Use:None. For weed control in field corn and potatoes. (PM 25)

3. File Symbol: 352–LLT. Applicant: E. I. DuPont de Nemours and Co. Product name: 79406 Herbicide. Active ingredients: Nicosulfuron 2-(((((4,6-dimethoxypyrimidin-2yl)aminocarbonyl)) aminosulfonyl))-*N,N*-dimethyl-3-pyridinecarboxamide and rimsulfuron *N*((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide both at 12.5 percent. Proposed classification/Use:None. For weed control in field corn. (PM 25)

4. File Symbol: 352–LAT. Applicant: E. I. DuPont de Nemours and Co. Product name: Matrix Herbicide. Active ingredients: Rimsulfuron *N*((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide at 6.8 percent and metribuzin [4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one] at 54.6 percent. Proposed classification/Use:None. For weed control on potatoes. (PM 25)

5. File Symbol: 352–LTN. Applicant: E. I. DuPont de Nemours and Co. Product name: DPX-E9636 Herbicide. Active ingredient: Rimsulfuron *N*-((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide at 75 percent. Proposed classification/Use:None. For use on field corn to control weeds. (PM 25)

6. File Symbol: 352–LTR. Applicant: E. I. DuPont de Nemours and Co. Product name: DPX-KV141 Herbicide. Active ingredients: Rimsulfuron *N*-((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide at 50 percent and thifensulfuron methyl methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate at 25 percent. Proposed classification/Use:None. For weed control in field corn. (PM 25)

7. File Symbol: 352–LTE. Applicant: E. I. DuPont de Nemours and Co. Product name: 79406 Herbicide. Active ingredients: Rimsulfuron *N*-((4,6-dimethoxypyrimidin-2yl) aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide and nicosulfuron 2-(((((4,6-dimethoxypyrimidin-2yl)aminocarbonyl)) aminosulfonyl))-*N,N*-dimethyl-3-pyridinecarboxamide both at 37.5 percent. Proposed classification/Use:None. For weed control in field corn. (PM 25)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 22, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 94–15929 Filed 6–29–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Mass Media Regulatory Fees

June 20, 1994.

The Federal Communications Commission issues this Public Notice in order to provide information concerning the payment of regulatory fees in 1994. If you are a licensee in any of the mass media services, you should carefully review this Public Notice.

Who Must Pay Regulatory Fees In 1994

Most licensees and other entities regulated by the Commission must pay regulatory fees in 1994. This Public Notice concerns the following Mass Media licensees: commercial AM & FM radio stations, commercial television stations. Low Power Television and television translator and booster licensees, broadcast auxiliary and international (short wave) broadcast station licensees. Non-commercial educational licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency broadcast service (EBS) licenses for auxiliary service facilities are also exempt as are Instructional Television Fixed Service (ITFS) licensees. Also, no regulatory fees are required in Fiscal Year 1994 for FM translators and FM boosters.

Why the Commission Must Collect New Fees

The new requirement to collect annual regulatory fees was contained in Public Law 103–66, "The Omnibus Budget Reconciliation Act of 1993". These new regulatory fees, which are likely to change each fiscal year, will be used to offset costs associated with the Commission's enforcement, public service, international and policy and rulemaking activities. The new fees are in addition to any application processing fees associated with obtaining a license or other authorization from the Commission.

When Fees Will Be Due

Fee payment dates vary by service. Payments must be *received* by the Commission by the dates shown below in order to avoid a 25% late penalty. When paying multiple fees, the consolidated fee payment is due on the date the latest individual fee payment would be due.

AM Radio (including associated broadcast auxiliary fees): September 2, 1994

FM Radio (including associated broadcast auxiliary fees): August 10, 1994

Television (including associated broadcast auxiliary fees, low power television, TV translators & boosters): July 29, 1994 (except, if authorized, a second installment payment which must be received by August 26, 1994)

International (HF) Broadcast Station fees: September 2, 1994

FCC Form 159

Regulatory fee payments *must* be accompanied by FCC Form 159 ("FCC Remittance Advice"). A copy of this form, with specific instructions, is attached to this Public Notice. Please see "Special Instructions for Completing FCC Forms 159 & 159–C" for detailed information on how to correctly complete these Forms.

Where To Send Regulatory Fee Payments

All regulatory fee payments must be sent to the following address: Federal Communications Commission, Regulatory Fees, P.O. Box 358835, Pittsburgh, PA 15251–5835.

Method of Payment

Regulatory fee payments may be made by check, money order or by credit card (Visa or Mastercard only). When paying by credit card, please make sure you sign the appropriate block of Form 159. Payments may also be made electronically provided prior approval has been obtained from the Commission. Contact Thomas M. Holleran at (202) 418–1925 for prior approval.

Note: We encourage arrangements to consolidate regulatory fee payments for different entities into a single payment instrument by a single payee. We recognize the benefits to be gained by all the parties involved. Notwithstanding the scheduled payment due dates specified in this Public Notice, consolidation of 100 or more regulatory fees due from different entities by a single payee will be due on *September 2, 1994*. Entities participating in such consolidated payment arrangements that are eligible, and choose, to pay by installment, should pay one-half of the regulatory fee eligible for installment payment by September 2, 1994. The second installment payment will then be due *September 30, 1994*. Multiple fee payments may be made with one check, money order, credit card or electronic payment. Payors who will be making a single payment for a significant number of entities and wish to submit automated data submissions in lieu of a large number of FCC Forms 159–C ("Advice Continuation Sheets") should contact Thomas M. Holleran at (202) 418–1925 at least four weeks prior to the payment due date.

Installment Payments

Only commercial television station licensees are permitted to make installment payments and then only if their total regulatory fee *exceeds $12,000*. Please note that fee payments for other than television station licenses cannot be counted toward the $12,000 installment threshold. Nor can licensees or permittees of any LPTV, TV translators & boosters, broadcast auxiliaries service stations or holders of construction permits pay their fees by installment. Eligible licensees choosing to make installment payments must pay one-half of their total fee by *July 29, 1994*. The second installment payment is due no later than *August 26, 1994*. Entities participating in consolidated payment arrangements that are eligible, and elect, to pay by installment should note the different due dates for their installment payments (see "Method of Payment" above).

Compliance

Licensees are solely responsible for accurately accounting for all licenses and for paying proper regulatory fees. Any omission or payment deficiency can result in a 25% monetary penalty, dismissal of pending actions, and/or revocation of any authorization. Additionally, the Commission intends to invoke its authority under the Debt Collection Act against any licensee failing to meet its regulatory fee payment obligations.

Waivers, Reductions, and Deferments of Regulatory Fees

The Commission will consider requests for waivers, reductions or deferments of regulatory fees, in extraordinary and compelling circumstances only, upon a showing that such action overrides the public interest in reimbursing the Commission for its regulatory costs. Timely submission of the appropriate regulatory fee must accompany requests for waivers or reductions. This will ensure efficient collection in situations where a waiver or reduction is not warranted and will allow the requester to avoid a 25% late-payment penalty if its request is denied. The regulatory fee would be refunded later if the request is granted. Only in exceptional or compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in the reduction of service to a community or other financial hardship to the licensee) will the Commission accept a petition to

defer payment along with a waiver or reduction request.

Additional Information

The Commission has prepared a number of informative Fee Filing Guides for information on *application* fees for cable services, and for information on *application* and *regulatory* fees for the common carrier, mass media, engineering and technology, field operations or private radio services. These Guides are available from the Commission's Public Service Division, from its various field office locations and can be downloaded from the Internet (ftp@fcc.gov). For additional information, please call the Fees Hotline at (2) 632–FEES, or write to: Federal Communications Commission, ATTN: Public Service Division, 1919 M Street NW., Washington, DC 20554.

Filing Procedures for AM Radio Stations

Who Must Pay: Licensees of Class A, Class B, Class C & Class D AM radio stations and holders of construction permits for new stations in the AM service whose license or permit was granted on or before October 1, 1993. AM radio station licensees who also hold auxiliary broadcast service licenses operated in conjunction with the main AM station (*e.g.*, remote pickup stations, aural broadcast STLs, intercity relay stations and low power auxiliary stations) will also be assessed a regulatory fee for each of these stations. Governments and nonprofit (exempt under Section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Requirement: Fees are assessed for AM radio station licensees based upon class of station as shown. Determination of class is based upon the station's most recent granted license on or before October 1, 1993.

AM regulatory fee category	Regulatory fee	Payment type code
Class A Station License	$900	MLAN
Class B Station License	500	MNAN
Class C Station License	200	MRAN
Class D Station License	250	MPAN
Broadcast Auxiliary Station License	25	MUBN
Construction Permit for New AM Station	100	MTAN

Note that an AM station licensee will be assessed $25 for each auxiliary license it holds. Holders of construction permits (CPs) for new AM stations for which a license to cover the CP had not been granted as of October 1, 1993, will be assessed a $100 fee for each permit held, regardless of station class.

Filing Procedures for Commercial FM Radio Stations

Who Must Pay: Licensees of commercial FM radio stations and holders of construction permits for new stations in the FM service whose license or permit was granted on or before October 1, 1993. FM radio station licensees who also hold auxiliary broadcast service licenses operated in conjunction with the main FM station (*e.g.*, remote pickup stations, aural broadcast STLs, intercity relay stations and low power auxiliary stations) will also be assessed a regulatory fee for each of these stations. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Requirement: Fees are assessed for commercial FM radio station licensees based upon class of station as shown below. Determination of class is based upon the station's most recent license granted on or before October 1, 1993:

AM regulatory fee category	Regulatory fee	Payment type code
Class C, C1, C2 or B FM License	$900	MLFN
Class A, B1 or C3 FM License	600	MMFN
Broadcast Auxiliary License	25	MUBN
Construction Permit for New FM Station	500	MNFN

Note that commercial FM station licensees will be assessed $25 for each auxiliary license it holds. Holders of construction permits (CPs) for new FM stations for which a license to cover the CP had not been granted as of October 1, 1993, will be assessed a $500 fee for each permit held, regardless of station class.

Filing Procedures for Commercial VHF/UHF TV Stations

Who Must Pay: Licensees of commercial VHF and commercial UHF television stations and holders of construction permits for new stations whose license or permit was granted on or before October 1, 1993. Commercial television station licensees who also hold auxiliary broadcast service licenses operated in conjunction with the main TV station (*e.g.*, remote pickup stations, intercity relay stations) will also be assessed a regulatory fee for each of these stations. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its

nonprofit status, or a certification of governmental authority.

Fee Requirement: Fees are assessed commercial television stations licensees based upon the size of the Arbitron ADI market in which it is listed in the 1994 Edition of the TV & Cable Factbook No. 62 as published by Warren Publishing. Fees will be assessed as follows:

Commercial VHF stations	Regulatory fee	Payment type code
Markets 1–10	$18,000	MAVN
Markets 11–25	16,000	MBVN
Markets 26–50	12,000	MEVN
Markets 51–100	8,000	MGVN
Remaining Markets	5,000	MIVN
Broadcast Auxillary Station	25	MUBN
Construction Permits	4,000	MJVN

Commercial UHF stations	Regulatory fee	Payment type code
Markets 1–10	$14,400	MCUN
Markets 11–25	12,800	MDUN
Markets 26–50	9,600	MFUN
Markets 51–100	6,400	MHUN
Remaining Markets	4,000	MJUN
Auxiliary Station	25	MUBN
Construction Permits	3,200	MKUN

Note that commercial television station licensees will be assessed $25 for each auxiliary license it holds. Holders of construction permits (CPs) for television stations for which a license to cover the CP had not been granted as of October 1, 1993, will be assessed $4,000 (VHF) or $3,200 (UHF) for each permit held.

Filing Procedures for LPTV, TV Translators & TV Boosters

Who Must Pay: Holders of Low Power Television, TV translator and booster licenses whose license was granted before October 1, 1993. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority. Also exempted from this fee are non-commercial educational FM and full service television broadcast station licensees that hold low power television, TV translator or TV booster licenses issued on or before October 1, 1993, provided those stations operate on a noncommercial educational basis. Finally, licensees of low power television, TV translator or TV booster stations whose licenses were issued on or before October 1, 1993, and which have obtained a fee refund because of a NTIA facilities grant for their station or a fee waiver because of demonstrated compliance with the eligibility and service requirements of § 73.621 of the Commissions Rules, are similarly exempt from payment of this regulatory fee. Licensees claiming an exemption based on one of these latter criteria should not submit payment, but may be asked to document their exempt status.

Fee Requirement: Fees are assessed on a per licenses basis as follows:

Type of license	Regulatory fee	Payment type code
Low Power Television Station/TV Translator/TV Booster	$135	MSTN

Filing Procedures for International High Frequency Broadcast Stations

Who Must Pay: Licensees of international (HF) broadcast stations whose license was granted on or before October 1, 1993. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Requirement: Fees are assessed on a per license basis as follows:

Type of license	Regulatory fee	Payment type code
International (HF) Broadcast Stations	$200	MRIN

Special Instructions for Completing FCC Forms 159 & 159–C

FCC Form 159 ("FCC Remittance Advice") and, as necessary, FCC Form 159–C ("Advice Continuation Sheet") must accompany all regulatory fee payments. Form 159 allows payors to report information on one or two payment items (*e.g.*, multiple FM or TV station licenses). Use Form 159–C to report additional payments.

An FCC Form 159 and 159–C have been attached to this Public Notice for you to complete and remit with your

payment. You may make additional copies of the forms as required. In addition to the instructions for Form 159 (which are on the reverse side of the Form), the following information applies specifically to mass media fee payors.

Block (12)—"FCC Call Sign/other ID"

All Mass Media payors must enter in this block the call sign of the station(s) for which the regulatory fee is being paid.

Block (14)—"Payment Type Code"

Enter the appropriate payment type code as listed below:

VHF Television Stations

MAVN: Use this code when paying a regulatory fee for a commercial VHF television station in Arbitron markets 1–10 ($18,000).

MAV1: Use this code when paying the first installment payment for a regulatory fee for a commercial VHF television station in Arbitron markets 1–10 ($9,000).

MAV2: Use this code when paying the second installment payment for a regulatory fee for a commercial VHF television station in Arbitron markets 1–10 ($9,000).

MBVN: Use this code when paying a regulatory fee for a commercial VHF television station in Arbitron markets 11–25 ($16,000).

MBV1: Use this code when paying the first installment payment for a regulatory fee for a commercial VHF television station in Arbitron markets 11–25 ($8,000).

MBV2: Use this code when paying the second installment payment for a regulatory fee for a commercial VHF television station in Arbitron markets 11–25 ($8,000).

MEVN: Use this code when paying a regulatory fee for a commercial VHF television station in Arbitron markets 26–50 ($12,000).

MGVN: Use this code when paying a regulatory fee for a commercial VHF television station in Arbitron markets 51–100 ($8,000).

MIVN: Use this code when paying a regulatory fee for a commercial VHF television station in all other Arbitron markets ($5,000).

MJVN: Use this code when paying a regulatory fee for a construction permit for a commercial VHF television station ($4,000).

UHF Television Stations

MCUN: Use this code when paying a regulatory fee for a commercial UHF television station in Arbitron markets 1–10 ($14,400).

MCU1: Use this code when paying the first installment payment for a regulatory fee for a commercial UHF television station in Arbitron markets 1–10 ($7,200).

MCU2: Use this code when paying the second installment payment for a regulatory fee for a commercial UHF television station in Arbitron markets 1–10 ($7,200).

MDUN: Use this code when paying a regulatory fee for a commercial UHF television station in Arbitron markets 11–25 ($12,800).

MDU1: Use this code when paying the first installment payment for a regulatory fee for a commercial UHF television station in Arbitron markets 11–25 ($6,400).

MDU2: Use this code when paying the second installment payment for a regulatory fee for a commercial UHF television station in Arbitron markets 11–25 ($6,400).

MFUN: Use this code when paying a regulatory fee for a commercial UHF television station in Arbitron markets 26–50 ($9,600).

MHUN: Use this code when paying a regulatory fee for a commercial UHF television station in Arbitron markets 51–100 ($6,400).

MJUN: Use this code when paying a regulatory fee for a commercial UHF television station in all other Arbitron markets ($4,000).

MKUN: Use this code when paying a regulatory fee for a construction permit for a commercial UHF television station ($3,200).

AM Radio Stations

MLAN: Use this code when paying a regulatory fee for a Class A AM Radio station ($900).

MNAN: Use this code when paying a regulatory fee for a Class B AM Radio station ($500).

MRAN: Use this code when paying a regulatory fee for a Class C AM Radio station ($200).

MPAN: Use this code when paying a regulatory fee for a Class D AM Radio station ($250).

MTAN: Use this code when paying a regulatory fee for a construction permit for an AM Radio station ($100).

FM Radio Stations

MLFN: Use this code when paying a regulatory fee for a Class C, C1, C2 or B FM Radio station ($900).

MMFN: Use this code when paying a regulatory fee for a Class A, B1 or C3 FM Radio station ($600).

MNFN: Use this code when paying a regulatory fee for a construction for an FM Radio station ($500).

Low Power Television Station, TV Translator, Booster

MSTN: Use this code when paying a regulatory fee for Low Power Television station, a television translator or television booster ($135).

Broadcast Auxiliary Station

MUBN: Use this code when paying a regulatory fee for a broadcast auxiliary station ($25).

International (HF) Broadcast Station

MRIN: Use this code when paying a regulatory fee for an international (HF) broadcast station ($200).

Block (15)—"Quantity"

All mass media fee payors must enter "1" in this block.

Block (16)—"Amount Due"

Enter the dollar amount associated with the corresponding Payment Type Code entered in Block (14).

Block (17)—"FCC Code 1"

- If you are paying an AM or FM regulatory fee, enter the authorized frequency shown on your license or permit.
- If you are paying a television or Low Power Television station regulatory fee, enter the applicable channel number.
- If you are paying a TV translator, TV booster, broadcast auxiliary or an international broadcast station regulatory fee, leave this section blank.

Block (18)—"FCC Code 2"

- If you are paying an AM, FM, TV or Low Power Television regulatory fee, enter the name of the state and community (in that order) of licenses for the station for which the regulatory fee is being paid. Please note that this block is for state and community of license, not mailing address. Please use the appropriate two letter post office abbreviation for the state.
- If you are paying a broadcast auxiliary or international broadcast station regulatory fee, leave this section blank.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15875 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

Common Carrier Regulatory Fees

June 20, 1994.

The Federal Communications Commission issues this Public Notice in order to provide information concerning

the payment of regulatory fees in 1994. If you hold authorizations in any of the common carrier services, excluding space stations and earth stations, you should carefully review this Public Notice. A separate Public Notice for space station and earth station licensees is available.

Who Must Pay Regulatory Fees in 1994

Most licensees and other entities regulated by the Commission must pay regulatory fees in 1994. This Public Notice concerns only the following Common Carrier regulatees: interexchange carriers, local exchange carriers, competitive access providers, cellular and public mobile (part 22) licensees, domestic public fixed radio (part 21) licensees, international public fixed radio (part 23) licensees and providers of international bearer circuits.

Why the Commission Must Collect New Fees

The new requirement to collect annual regulatory fees was contained in Public Law 103–66, "The Omnibus Budget Reconciliation Act of 1993." These new regulatory fees, which are likely to change each fiscal year, will be used to offset costs associated with the Commission's enforcement, public service, international and policy and rulemaking activities. The new fees are in addition to any application processing fees associated with obtaining a license or other authorization from the Commission.

When Fees Will Be Due

Fee payment due dates vary by category within the common carrier services. Payments must be *received* by the Commission by the dates shown below in order to avoid a 25% late penalty. When paying for fees in more than one category below, the consolidated fee payment is due on the latest date the individual fee payment would be due.

REGULATORY FEE DUE DATES AND PAYMENT AMOUNTS BY CATEGORY

Common carrier category	Due date	Regulatory fee payment (dollars)
Domestic public fixed radio licensees (part 21)	Aug. 5, 1994	55 per call sign.
International public fixed radio licensees (part 23)	Aug. 5, 1994	110 per call sign.
Interexchange carriers	Aug. 17, 1994	0.06 per presubscribed access line.
Local exchange carriers	Aug. 17, 1994	0.06 per access line.
Competitive access providers	Aug. 17, 1994	0.06 per subscriber.
International bearer circuit providers	Aug. 17, 1994	2.20 per active 64 KB circuit or equivalent.
Cellular radio licensees (part 22)	Aug. 26, 1994	0.06 per subscriber.
Public mobile radio licensees (part 22)	Aug. 26, 1994	0.06 per subscriber.

FCC Form 159

Regulatory fee payments *must* be accompanied by FCC Form 159 ("FCC Remittance Advice"). A copy of this form, with specific instructions, is attached to this Public Notice. Please see, "Special Instructions for Completing FCC Forms 159 & 159–C" for detailed information on how to correctly complete these Forms.

Where To Send Regulatory Fee Payments

All regulatory fee payments must be sent to the following address: Federal Communications Commission, Regulatory Fees, P.O. Box 358835, Pittsburgh, PA 15251–5835.

Method of Payment

Regulatory fee payments may be made by check or money order. Payments may also be made by credit card (Visa or Mastercard only). When paying by credit card, please make sure you sign the appropriate block of Form 159. Payments may also be made electronically provided prior approval has been obtained from the Commission. Contact Thomas M. Holleran at (202) 418–1925 for prior approval.

In its Report and Order the Commission noted that "NECA has proposed to process regulatory fees on behalf of its pooling exchange carriers and to submit their consolidated fees to our lockbox bank in a single instrument of payment." The Commission has no objection to NECA's submission of the fee on behalf of its pooling exchange carriers or others. However, we remind entities subject to the payment of a regulatory fee that the regulatee, not an agent, such as NECA, is responsible for ensuring that the payment is made and that it is subject to penalty for failure to submit the entire fee due in a timely manner. LEC's will be expected to pay their fees based on the number of access lines as determined by NECA. In case of a dispute between a carrier and NECA concerning the carrier's line count as of December 31, 1993, NECA will certify its calculation of the carrier's line count and the basis for its calculation.

We encourage arrangements to consolidate a number of regulatory fee payments for different entities into a single payment instrument made by a single payee. We recognize the benefits to be gained by all the parties involved. Notwithstanding the published schedule of payment due dates, consolidation of 100 or more regulatory fees due from different entities by a single payee will be due on *September 2, 1994*. Entities participating in such consolidated payment arrangements that are eligible, and choose, to pay by installment, should pay one-half of the regulatory fee eligible for installment payment by September 2, 1994. The second installment payment will then be due *September 30, 1994*.

Note: Multiple fee payments may be made with one payment instrument. Payors who will be making a single payment for a significant number of entities and wish to submit automated data submissions in lieu of a large number of FCC Forms 159–C ("Advice

Continuation Sheets") should contact Thomas M. Holleran at (202) 418–1925 at least four weeks prior to the payment due date.

Installment Payments

Interexchange carriers are permitted to make installment payments if their total regulatory fee *exceeds $500,000.* Local exchange carriers are permitted to make installment payments if their total regulatory fee *exceeds $700,000.*[1] Fee payments for other than interexchange or local exchange carriers access lines cannot be counted toward the respective installment threshold. Nor can competitive access providers, providers of international bearer circuits and licensees of any public fixed or mobile service pay their fees by installment. Eligible carriers choosing to make installment payments must pay one-half of their total fee by *August 17, 1994.* The second installment payment is due no later than *September 14, 1994.* Entities participating in consolidated payment arrangements that are eligible, and elect, to pay by installment should note the different due dates for their installment payments (see "Method of Payment" above).

Compliance

Licensees are solely responsible for accurately accounting for all licenses and for paying proper regulatory fees. Any omission or payment deficiency can result in a 25% monetary penalty, dismissal of pending actions, and/or revocation of any authorization. Additionally, the Commission intends to invoke its authority under the Debt Collection Act against any licensee failing to meet its regulatory fee payment obligations.

Waivers, Reductions, and Deferments of Regulatory Fees

The Commission will consider requests for waivers, reductions or deferments of regulatory fees, in extraordinary and compelling circumstances only, upon a showing that such action overrides the public interest in reimbursing the Commission for its regulatory costs. Timely submission of the appropriate regulatory fee must accompany requests for waivers or reductions. This will ensure efficient collection in situations where a waiver or reduction is not warranted and will allow the requestor to avoid a 25% late-payment penalty if its request is denied. The regulatory fee would be refunded later if the request is granted. Only in exceptional or compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in the reduction of service to a community or other financial hardship to the licensee), will the Commission accept a petition to defer payment along with a waiver or reduction request.

Additional Information

For information on *application* fees for common carrier services, or for information on *application* and *regulatory* fees for mass media, cable television, engineering and technology, field operations or private radio services, the Commission has prepared a number of informative Fee Filing Guides. These Guides are available from the Commission's Public Service Division, from its various field office locations and can be downloaded from the Internet (ftp@fcc.gov). For additional information, please contact the Public Service Division's Fees Hotline at (202) 632–FEES (3337), or write to: Federal Communications Commission, ATTN: Public Service Division, 1919 M Street, NW., Washington, DC, 20554.

Filing Procedures for Carriers & Mobile Service Providers

Who Must Pay: Interexchange carriers (long distance telephone companies), local exchange carriers (local telephone operating companies),[2] competitive access providers (companies other than the traditional local telephone companies that provide interstate access services to long distance carriers and other companies), cellular providers (common carriers providing cellular radio service to the public) and mobile service licensees (common carriers authorized, under part 22 of our Rules, to offer land-based or air-to-ground mobile telephone or paging services to the public).[3] Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) carriers and licensees are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

FEE REQUIREMENT

Common carrier category	Regulatory fee (dollars)	Payment type code
Interexchange Carriers.	0.06 per presubscribed access line.	CDIN
Local Exchange Carriers.	0.06 per access line.	CDXN
Competitive Access Providers.	0.06 per subscriber.	CDPN
Cellular Radio Licensees.	0.06 per subscriber.	CDCN
Public Mobile Service Licensees (Part 22).	[4][5]0.06 per subscriber.	CDMN

[4] For purposes of calculating regulatory fees, we define a subscriber to a mobile service as an individual or entity authorized by the mobile service provider to operate under its blanket license in exchange for monetary consideration.

[5] Licensees in the Air-Ground Radiotelephone Service should treat the operator of the aircraft in which its service is installed as the subscriber to the service and compute their regulatory fee based upon the *number of transceivers* leased by the aircraft operator.

Access lines for Local Exchange carriers should be based upon the number of working loops as described in § 36.611 of our Rules, governing the submission of Information to the National Exchange Carrier Association (NECA). Presubscribed lines for Interexchange carriers should be based upon the number of presubscribed lines as described in § 69.116 of our Rules. Carriers and licensees whose fee payments are based upon a subscriber, line or circuit count should use the number of subscribers, lines or circuits as of December 31, 1993. Public mobile radio licensees with more than 99 locations that have been given multiple call signs for the same license should list only one call sign on Form 159 and provide a separate listing of all other related call signs. See "Special Instructions for Completing FCC Form 159 and 159–C" for correct Payment Type Codes to use when making installment payments.

Filing Procedures for Licensees of International Bearer Circuits

Who Must Pay: Facilities-based common carriers as of December 31, 1993, activating international bearer circuits in any transmission facility for the provision of service to an end user or resale carrier. Private submarine cable operators also are to pay fees for international bearer circuits sold on an indefeasible right of use (IRU) basis or leased in their private submarine cables to any customer of the private cable

[1] A holding company may combine the fee payments of its operating companies to reach this installment-payment threshold.

[2] We will permit the holding company of local exchange carriers to aggregate fee payments due by its operating companies and submit a single payment to cover the fee requirements of its subsidiaries.

[3] In addition to cellular telephone service, these services include those using radio to provide telephone services at fixed locations, such as Basic Exchange Telecommunications Radio Services, Rural Radio and Offshore Radio.

operator. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) carriers and licensees are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Calculation: $2.20 per active 64 KB circuit or equivalent. Equivalent circuits include the 64 KB circuit equivalent or larger bit stream circuits (*e.g.*, the 64 KB equivalent of a 2.048 MB circuit is 30) and analog circuits such as 3 and 4 KHz circuits used for international services. The number of equivalent 64 KB circuits for analog television channels is shown in the following table:

Analog television channel size	No. of equivalent 64 KB circuits
36 MHz	630
24 MHz	288
18 MHz	240

Use fee code "CICN" on FCC Form 159 when making payment for international bearer circuits.

Filing Procedures for Public Fixed Radio Licensees

Who Must Pay

Domestic Public Fixed Radio Licensees: Licensees authorized as of October 1, 1993, to use microwave frequencies for video and data distribution communications within the United States. These services, authorized under part 21 of our Rules, include the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, Multipoint Distribution Service (single-channel and multichannel) and Digital Electronic Message Service.

International Public Fixed Radio Licensees: Licensees authorized as common carriers as of October 1, 1993, to provide radio communications between the United States and a foreign point via microwave, HF or troposcatter systems (other than satellite earth stations). This does not include service between the U.S. and Mexico and the U.S. and Canada using frequencies above 72 MHz.

Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) carriers and licensees are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Requirement

Public fixed radio category	Regulatory fee (dollars)	Fee code
Domestic	55 per call sign.	CCDN
International	110 per call sign.	CFRN

Special Instructions for Completing FCC Forms 159 and 159–C

FCC Form 159 ("FCC Remittance Advice") and, as necessary, FCC Form 159–C ("Advice Continuation Sheet") must accompany all regulatory fee payments Form 159 allows payors to report information on one or two payment items (*e.g.*, subscribers, lines circuits, call signs, or a combination of any two). Use Form 159–C to report additional payments.

An FCC Form 159 and a 159–C have been attached to this Public Notice for you to complete and remit with your payment. You may make additional copies of the forms as required. In addition to the instructions for Form 159 (which are on the reverse side of the Form), the following information applies specifically to common carrier regulatees:

Block (12)—"FCC Call Sign/Other ID"

- Interexchange, local exchange and competitive access providers should enter their *NECA company identification number.*
- Cellular, public mobile[6] and public fixed radio licensees should enter their *call sign.*
- Providers of international bearer circuits should leave this block blank.

Block (14)—"Payment Type Codes"

Carriers

CDIN: Use this code when *making full payment* for an interexchange carrier regulatory fee ($0.06 per presubscribed access line).

CDI1: Use this code when making your *first* installment payment for an interexchange carrier regulatory fee.

CDI2: To be used ONLY for the *second* installment payment for an interexchange carrier regulatory fee.

CDXN: Use this code when *making full payment* for a local exchange carrier regulatory fee ($0.06 per access line).

CDX1: Use this code when making your *first* installment payment for a local exchange carrier regulatory fee.

CDX2: To be used ONLY for the *second* installment payment for a local exchange carrier regulatory fee.

CDPN: Use this code when making payment for a competitive access provider regulatory fee ($0.06 per subscriber).

International Bearer Circuits

CICN: Use this code when making a regulatory fee payment for a 64 KB or equivalent international bearer circuit ($2.20 per active 64 KB circuit or equivalent).

Public Mobile Licensees

CDCN: Use this code when making a regulatory fee payment for a cellular radio license ($0.06 per subscriber).

CDMN: Use this code when making a regulatory fee payment for a public mobile radio license ($0.06 per subscriber).

Public Fixed Radio Licensees

CCDN: Use this code when making a regulatory fee payment for a *domestic* public fixed radio license ($55 per call sign).

CFRN: Use this code when making a regulatory fee payment for an *international* public fixed radio license ($110 per call sign).

Block (15)—"Quantity"

Carriers

- Interexchange carriers should enter the number of *presubscribed* access lines.
- Local exchange carriers should enter the number of access lines.
- Competitive access providers should enter the number of subscribers.

International Bearer Circuits

- Entities paying for international bearer circuits should enter the number of 64 KB or equivalent circuits.

Public Mobile Licensees

- Cellular radio licensees should enter the number of subscribers for a particular call sign.
- Public mobile radio licensees should enter the total number of subscribers.

Public Fixed Radio Licensees

- All public fixed radio licensees should enter "1".

Block (16)—"Amount Due"

- For interexchange carrier regulatory fees

* * *

* * * which *are not* being paid by installment (payment type code CDIN), multiply the amount in Block 15 ("Quantity)" by $0.06.

* * * which *are* being paid by installment (payment type codes CDI1 or CDI2), multiply the amount in Block 15 ("Quantity") by $0.06 and then divide that result by 2.

- For local exchange carrier regulatory fees

* * *

* * * which *are not* being paid by installment (payment type code CDXN), multiply the amount in Block 15 ("Quantity") by $0.06.

* * * which *are* being paid be installment (payment type codes CDX1 or CDX2), multiply the amount in Block 15 ("Quantity") by $0.06 and then divide that result by 2.

- For cellular radio licensees and competitive access providers (payment type

[6] Public mobile radio licensees with more than 99 locations that have been given multiple call signs for the same license should list only one call sign on Form 159 and provide a separate listing of all other related call signs.

codes CDCN and CDPN respectively), multiply the amount from Block 15 ("Quantity") by $0.06. If the amount from Block 15 ("Quantity) is less than 100, enter $6.00—this is the minimum regulatory fee.

- For international bearer circuit payors (payment type code CICN), multiply the amount from Block 15 ("Quantity") by $2.20.
- For public mobile radio licensees (payment type code CDMN), multiply the amount from Block 15 ("Quantity") by $0.06.
- For *domestic* public fixed radio licensees (payment type code CCDN), enter $55.00.
- For *international* public fixed radio licensees (payment type code CFRN), enter $110.00.

Block (17)—"FCC Code 1"

- Leave this block blank.

Block (18)—"FCC Code 2"

- For international bearer circuit payors, enter the *company name.*

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 94–15873 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

Space and Earth Station Regulatory Fees

June 20, 1994.

The Federal Communications Commission issues this Public Notice in order to provide information concerning the payment of regulatory fees in 1994. If you are a space station and/or earth station licensee in the common carrier services, you should carefully review this Public Notice.

Who Must Pay Regulatory Fees in 1994

Most licensees and other entities regulated by the Commission must pay regulatory fees in 1994. This Public Notice concerns space station and earth station licensees in the common carrier services only.

Why the Commission Must Collect New Fees

The new requirement to collect annual regulatory fees was contained in Public Law 103–66, "The Omnibus Budget Reconciliation Act of 1993". These new regulatory fees, which are likely to change each fiscal year, will be used to offset costs associated with the Commission's enforcement, public service, international and policy and rulemaking activities. The new fees are in addition to any application processing fees associated with obtaining a license or other authorization from the Commission.

When Fees Will Be Due

All Space Station and Earth Station licensees must remit their regulatory fees to the Commission by *August 19, 1994,* in order to avoid a 25% late penalty:

FCC Form 159

Regulatory fee payments *must* be accompanied by FCC Form 159 ("FCC Remittance Advice"). A copy of this form, with specific instructions is attached to this Public Notice. Please see, "Special Instructions for Completing FCC Forms 159 & 159–C" for detailed information on how to correctly complete these Forms.

Where To Send Regulatory Fee Payments

All regulatory fee payments must be sent to the following address: Federal Communications Commission, Regulatory Fees, P.O. Box 358835, Pittsburgh, PA 15251–5835.

Method of Payment

Regulatory fee payments may be made by check or money order. Payments may also be made by credit card (Visa or Mastercard only). When paying by credit card, please make sure you sign the appropriate block of Form 159. Payments may also be made electronically provided prior approval has been obtained from the Commission. Contact Thomas M. Holleran at (202) 418–1925 for prior approval.

Note: We encourage arrangements to consolidate a number of regulatory fee payments for different entities into a single payment instrument made by a single payee. We recognize the benefits to be gained by all the parties involved. Notwithstanding the published schedule of payment due dates, consolidation of 100 or more regulatory fees due from different entities by a single payee will be due on *September 2, 1994.* Entities participating in such consolidated payment arrangements that are eligible, and choose, to pay by installment, should pay one-half of the regulatory fee eligible for installment payment by September 2, 1994. The second installment payment will then be due *September 30, 1994.* Multiple fee payments may be made with one payment instrument. Payors who will be making a single payment for a significant number of entities and wish to submit automated data submissions in lieu of a large number of FCC Forms 159–C ("Advice Continuation Sheets") should contact Thomas M. Holleran at (202) 418–1925 at least four weeks prior to the payment due date.

Installment Payments

Installment payments are permitted for *space station* licensees only. Eligible entities choosing to make installment payments must pay one-half of their space station fee by *August 19, 1994.* Regulatory fees for earth stations cannot be paid by installment. The second installment payment for *space stations* is due no later than *September 16, 1994.* Entities participating in consolidated payment arrangements that are eligible, and elect, to pay by installment should note the different due dates for their installment payments (see "Method of Payment" above).

Compliance

Licensees are solely responsible for accurately accounting for all licenses and for paying the proper regulatory fees. Any omission or payment deficiency can result in a 25% monetary penalty, dismissal of pending actions, and/or revocation of any authorization. Additionally, the Commission will invoke its authority under the Debt Collection Act against any licensee failing to meet its regulatory fee payment obligations.

Waivers, Reductions And Deferments of Regulatory Fees

The Commission will consider requests for waivers, reductions or deferments of regulatory fees, in extraordinary and compelling circumstances only, upon a showing that such action overrides the public interest in reimbursing the Commission for its regulatory costs. Timely submission of the appropriate regulatory fee must accompany requests for waivers or reductions. This will ensure efficient collection in situations where a waiver or reduction is not warranted and will allow the requestor to avoid a 25% late-payment penalty if its request is denied. The regulatory fee would be refunded later if the request is granted. Only in exceptional or compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in the reduction of service to a community or other financial hardship to the regulatee or licensee), will the Commission accept a petition to defer payment along with a waiver or reduction request. All requests for deferments must be filed before *August 19, 1994,* in order to avoid the 25% late-payment penalty.

Additional Information

For information on *application* fees for the common carrier services, or for information on *application* and *regulatory* fees for cable television, mass media, engineering and technology, field operations or private radio services, the Commission has prepared a number of informative Fee Filing Guides. These Guides are available from the Commission's Public Service Division, from field office locations and can be downloaded from the Internet (ftp@fcc.gov). For additional

information, please contact the Public Service Division's Fees Hotline at (202) 632–FEES (3337), or write to: Federal Communications Commission, ATTN: Public Service Division, 1919 M Street, NW., Washington, DC, 20554.

Filing Procedures for Space Stations

Who Must Pay: Entities authorized as of October 1, 1993, to operate space stations in geostationary orbit [1] or low-earth orbit [2] in accordance with § 25.120(d) of the Commission's rules. Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) entities are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of governmental authority.

Fee Requirement: Fees are assessed for space station licensees as follows:

Type of space station	Regulatory fee (dollars)	Payment type code
Operational Space Stations In Geostationary Orbit.	$65,000 per operational station.	CSGN
Low-Earth Orbit Satellites.	$90,000 per operational system.	CSLN

Space station fee payments may be made in two installments (see "Installment Payments"). See "Special Instructions for Completing FCC Form 159 and 159–C" for correct Payment Type Codes to use when making installment payments.

[1] Domestic and international satellites, positioned in orbit to remain approximately fixed relative to the earth, authorized to provide communications between satellites and earth stations on a common carrier or private carrier basis in accordance with § 25.120(d). See 47 CFR § 25.120(d). Entities authorized to operate these space stations in accordance with § 25.120(d), will be assessed an annual regulatory fee of $65,000 for each operational station in geostationary orbit on October 1, 1993.

[2] Domestic and international non-geostationary satellites, positioned in e low-earth orbit ("LEO"), authorized to transmit to satellites and fixed or mobile earth stations, including the new non-voice non-geostationary mobile satellite service. For purposes of assessing regulatory fees in FY 1994, a LEO operator is required to submit its annual regulatory fee payment if it *commences* operating its first satellite on or before October 1, 1993, pursuant to § 25.120(d), even though all the space stations specified in its application or instrument of authorization have not become operational. See 47 CFR § 25.120(d).

Filing Procedures for Earth Stations

Who Must Pay

VSAT and Equivalent C-Band Antennas: Earth station systems comprising very small aperture terminals make up authorized networks operating in the 12 and 14 GHz bands that provide a variety of communications services to other stations in the network. Each system, authorized pursuant to blanket licensing procedures in part 25 of the Rules, consists of a network of technically-identical small fixed-satellite earth stations which often includes a larger hub station. This category also includes earth stations operating 4/6 GHz frequency bands using networks of technically identical antennas that are 2 meters or less in diameter. For FY 1994, entities holding these types of authorizations as of *October 1, 1993,* will be assessed a regulatory fee of $0.06 per antenna per call sign. Licensees with less than 100 antennas per call sign will be subject to a minimum $6.00 fee per call sign.

Mobile Satellite Earth Stations: Under part 25 of the Rules, mobile satellite service providers operate under blanket licenses for mobile antennas (transceivers), which are small than one meter and provide voice or data communications, including position location information, for mobile platforms such as cars, buses or trucks. For FY 1994, entities holding these types of authorizations as of *October 1, 1993,* will be assessed a fee of $0.06 per antenna per call sign. Entities with less than 100 antennas per call sign will be subject to a minimum $6.00 fee per call sign.

Each Station Antennas Less Than 9 Meters: Persons authorized or registered under part 25 to operate fixed-satellite earth station antennas that are less than 9 meters in diameter providing telephone, television, data and other forms of communications. This category includes antennas used to transmit and receive, transmit only or receive only. Also included in this category are telemetry, tracking and control (TT&C) earth stations. For FY 1994, holders of these types of authorizations as of *October 1, 1993,* will be assessed a fee of $0.06 per antenna per call sign. Licensees with less than 100 antennas per call sign will be subject to a minimum $6.00 per call sign.

Earth Station Antennas 9 Meters or Greater: This category covers fixed-satellite earth station antennas authorized under part 25 that are equal to or greater than 9 meters in diameter. These earth stations are operated by private carriers and common carriers to provide telephone, television, data, and other forms of communication. Included in this category are telemetry, tracking and control (TT&C) earth stations equal to or greater than 9 meters in diameter. For FY 1994, persons or entities authorized to operate transmit/receive *or* transmit-only antennas as of *October 1, 1993,* will be assessed a regulatory fee of $85.00 per meter. Persons or entities authorized to operate *receive-only* antennas as of *October 1, 1993,* will be assessed a regulatory fee of $55.00 per meter. All measurements will be to the tenth of a meter.

Governments and nonprofit (exempt under section 501 of the Internal Revenue Code) carriers and licensees are exempt from paying regulatory fees and should not submit payment, but may be asked to submit a current IRS Determination Letter documenting its nonprofit status, or a certification of government authority.

Note: When an earth station's license limits its operational authority to a particular satellite system which is not yet operational, the regulatory fee payment for the *earth station* will not be used until the first satellite of the related system becomes operational pursuant to 25.120(d) of our rules.

Fee Requirement: Fees are assessed for earth station licensees as follows:

Type of Earth station	Regulatory fee	Payment type code
VSAT and Equivalent C-Bands.	$0.06 per antenna per call sign ($6.00 minimum per call sign).	CAVN
Mobile Satellite Earth Stations.	$0.06 per antenna sign ($6.00 minimum per call sign).	CARN
Earth Station Antennas Less Than 9 Meters.	$0.06 per antenna per call sign ($6.00 minimum per call sign.	CAAN
Earth Station Antennas 9 Meters or Greater:	.....	
Transmit/Receive or Transmit Only.	$85.00 per meter.	CSTN
Receive Only	$55.00 per meter.	CCRN

Special Instructions For Completing FCC forms 159 & 159–C

FCC Form 159 ("FCC Remittance Advice") and, as necessary, FCC Form 159–C ("Advice Continuation Sheet") must accompany all regulatory fee payments. Form 159 allows payors to report information on one or two payment items (*e.g.*, satellites, LEO systems, antennas, or a combination of any two). Use Form 159–C to report additional payments.

An FCC Form 159 and a 159–C have been attached to this Public Notice for you to complete and remit with your payment. You may make additional copies of the forms as required. In addition to the instructions for Form 159 (which are on the reverse side of the Form), the following information applies specifically to space and earth stations:

Block (12)—"FCC Call Sign/Other ID"

- Geostationary space station licensees should leave this block blank.
- Low-earth orbit (LEO) satellite system licensees should enter the *name of their system.*
- Earth station licensees should enter their *call sign.*

Block (14)—"Payment Type Codes"

SPACE STATIONS

CSGN: Use this code when *making full payment* (*i.e.*, $65,200) for a geostationary satellite space station regulatory fee.

CSG1: Use this code when making your *first* installment payment (*i.e.*, $32,500) for a geostationary satellite space station regulatory fee.

CSG2: To be used ONLY for the *second* installment payment (*i.e.*, $32,500) for geostationary satellite space station regulatory fee.

CSLN: Use this code when *making full payment* (*i.e.*, $90,000) for a low-earth orbit (LEO) satellite system regulatory fee.

CSL1: Use this code when making your *first* installment payment (*i.e.*, $45,000) for a LEO satellite system regulatory fee.

CSL2: To be used ONLY for the *second* installment payment (*i.e.*, $45,000) for a LEO satellite system fee.

EARTH STATIONS

CAVN: Use this code when making a regulatory fee payment for a VSAT or equivalent C-band earth station ($0.06 per antenna per call sign).

CARN: Use this code when making a regulatory fee payment for a mobile satellite earth station ($0.06 per antenna per call sign).

CAAN: Use this code when making a regulatory fee payment for fixed-satellite earth station antennas less than 9 meters in diameter ($0.06 per antenna per call sign).

CSTN: Use this code when making a regulatory fee payment for fixed-satellite transmit/receive *or* transmit only earth station antennas greater than 9 meters in diameter ($85 per meter).

CCRN: Use this code when making a regulatory fee payment for fixed-satellite *receive only* earth station antennas greater than 9 meters in diameter ($55 per meter).

Block (15)—"Quality"

- Space station licensees (*i.e.*, geostationary satellites or low-earth orbiting satellite systems) should enter "1" in this block.
- Fixed-satellite earth station licensees with antennas 9 meters or greater in diameter should enter the size of the antenna's diameter to the nearest *tenth of a meter.*
- All other earth licensees (*e.g.*, VSATs, mobile satellites and fixed-satellite antennas less than 9 meters in diameter) should enter the number of *authorized* antennas per call sign.

Block (16)—"Amount Due"

- For geostationary satellite space station regulatory fees * * *

* * * which *are not* being by installment (payment type code CSGN), enter $65,000.

* * * which *are* being paid by installment (payment type codes CSG1 or CSG2), enter $32,500.

- For low-earth orbit (LEO) satellite system regulatory fees * * *

* * * which *are not* being paid by installment (payment type code CSLN), enter $90,000.

* * * which *are* being paid by installment (payment type codes CSL1 or CSL2), enter $45,000.

- For VSATs, mobile satellite, and fixed-satellite earth station licensees with antennas less than 9 meters in diameter (payment type codes CAVN, CARN and CAAN respectively), multiply the amount from Block 15 ("Quantity") by $0.06. If the amount from Block 15 ("Quantity") is less than 100, enter $6.00—this is the minimum regulatory fee per call sign.
- For fixed-satellite earth station licensees with antennas greater than 9 meters in diameter which * * *

* * * transmit/receive *or* transmit only (payment type code CSTN), multiply Block 15 ("Quantity") by $85.00.

* * * *receive only* (payment type code CCRN), multiply block 15 ("Quantity") by $55.00.

Block (17)—"FCC Code 1"

- VSATs, mobile satellite, and fixed-satellite earth station licensees with antennas less than 9 meters in diameter (payment type codes CAVN, CARN or CAAN) provide the *number of installed antennas* per call sign.
- Space station licensees and licensees of earth station antennas greater than 9 meters should leave this block blank.

Block (18)—"FCC Code 2"

- For geosynchronous space station satellites *ONLY*, enter the *satellite name.*

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15874 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2020]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 27, 1994.

Petitions for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full texts of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. We are waiving the requirements of Sections 1.429(f) and (g) of the Commission's Rules, 47 CFR 1.429(f), (g), and instead we are providing expedited filing dates for oppositions and replies, to increase certainty for competitive bidding participants by compiling the record prior to the date of the auctions. Accordingly, opposition to these petitions must be filed July 11, 1994. See Section 1.4(b)(1) of the Commission's Rules, 47 CFR 1.4(b)(1). Replies to an opposition must be filed within 7 days after the time for filing oppositions has expired. We believe that these filing dates will provide a reasonable opportunity for filing and meaningful consideration of the oppositions and replies.

Subject: Implementation of Section 309(j) of the Communications Act—Competitive Bidding (PP Docket No. 93–253)

Number of Petitions Filed: 9

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15952 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

[DA 94–636]

Direct Packet Data Service Between the United States and Cuba

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission has authorized Sprint Communications Company L.P. to provide direct packet data service between the United States and Cuba in accordance with the provisions of the Cuban Democracy Act. This will allow Sprint to help meet the large demand for direct telecommunications services between the United States and Cuba. Under the guidelines established by the Department of State, Sprint is to submit reports indicating the numbers of

circuits activated by facility, on or before June 30, and December 31 of each year, and on the one-year anniversary of this notification in the Federal Register

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Troy F. Tanner, Attorney, Common Carrier Bureau, (202) 632–7265.

SUPPLEMENTARY INFORMATION:

Sprint Communications Company L.P.

[File No. I–T–C–94–238]

Application for authority to lease and operate facilities for the provision of direct packet data service between the United States and Cuba

Order and Authorization

Adopted: June 6, 1994; Released: June 22, 1994

By the Chief, International Facilities Division:

1. The Commission has under consideration the above-captioned application filed by Sprint Communications Company L.P. ("Sprint") requesting authority pursuant to Section 214 of the Communications Act of 1934, as amended, to establish channels of communication between the United States and Cuba for the provision of direct packet data service. The application was placed on the Commission's public notice and no comments were received.

2. Sprint proposes to provide international packet data service between the U.S. and Cuba via the INTELSAT satellite located at 335° E.L. using appropriately licensed existing earth station facilities. Specifically, Sprint requests authority to lease from Comsat and operate one 2-Mbps digital satellite circuit between the Orion international Standard A earth station located at Shenandoah, Virginia and the theoretical midpoint of the INTELSAT AOR satellite connecting with matching facilities provided by INTERTEL S.A. ("INTERTEL") of Cuba. Sprint proposes to connect its operating center in New York, New York, to the Orion earth station using Sprint's own facilities. Sprint states that it has already entered into an operating agreement with INTERTEL for the establishment of direct packet data service between the United States and Cuba. Under the terms of its agreement, INTERTEL and Sprint have agreed to a 50/50 split of a $5.50 per kilosegment and $5.50 per hour accounting rate for packet data traffic. Sprint states this rate is consistent with U.S. policy guidelines.[1] Sprint states that it will initiate service within one year.

3. Sprint states that the public interest would be served by a grant of its application because it will result in the rapid introduction of new lines of telecommunications between the United States and Cuba. Sprint states that an immediate and large demand exists for direct telecommunications services between the United States and Cuba, and Sprint's proposed service will help meet that demand within the regulatory framework established by the Cuban Democracy Act.

4. In a letter dated July 22, 1993, the U.S. Department of State informed the Commission of the Executive Branch's general policy guidelines for implementation of the telecommunications provisions of the Cuban Democracy Act, which provides that "telecommunication services between the United States and Cuba shall be permitted."[2] Among the policy guidelines are the following requirements: (1) the proposals must have the potential to be operational within a year; (2) settlements must not be more favorable to Cuba than the current 50/50 split of the $1.20 per minute accounting rate; (3) proposals must be limited to equipment and services necessary to deliver a signal to Cuba; (4) proposals must utilize modes of communications already in place between the U.S. and Cuba; and (5) carriers shall report the number of circuits activated by facility on June 30 and December 31 of each year and on the one-year anniversary of the notification by the FCC in the Federal Register.

5. Upon consideration of Sprint's application, we find that a grant of its application will serve the public interest subject to the conditions set forth below. Sprint's application is consistent with the Executive Branch's general guidelines set forth in the Department of State's letter. Sprint states that it will initiate service within one year, and expects to initiate service shortly after all requisite regulatory approvals have been obtained. Sprint's proposed use of INTELSAT facilities and appropriately licensed existing earth station facilities satisfies the requirements that facilities already be in existence and be limited to equipment and services necessary to deliver a signal to Cuba.

6. With respect to Sprint's proposed 50/50 split of a $5.50 per kilosegment and $5.50 per hour accounting rate for packet data traffic between the United States and Cuba, the Department of State in a follow-up letter dated May 23, 1994, stated it has no objection to our approval so long as we determine that this proposed rate does not exceed the 50/50 split of the $1.20 accounting rate required under the guidelines.[3] We find that the proposed accounting rate is within the Department of State's guidelines because both the approximately 27.5¢ per minute accounting rate for a typical dial packet data transmission, and the approximately 46¢ per minute accounting rate for a typical dedicated packet data transmission [4] is well below the $1.20 per minute accounting rate approved for voice services.

7. Accordingly, *It Is Ordered* that application File No. I–T–C–94–238 IS GRANTED and Sprint Communications Company, L.P. is authorized to:

a. lease from Comsat and operate one 2-Mbps digital satellite circuit between the Orion international Standard A earth station located at Shenandoah, Virginia and the INTELSAT AOR satellite located at 335° E.L. connecting with matching facilities furnished by Sprint's correspondent in Cuba, INTERTEL S.A. (the international division of EMTELCUBA);

b. lease from Orion and operate necessary earth segment facilities at Orion's earth station at Shenandoah, Virginia;

c. operate necessary connecting facilities between its operating center in New York and Orion's earth station at Shenandoah, Virginia; and

d. use the above facilities for the provision of direct packet data service between the U.S. and Cuba subject to the conditions set forth herein.

8. *It Is Further Ordered* that the service authorized herein must be implemented within one year from the date of release of this order.

9. *It Is Further Ordered* that Sprint and INTERTEL shall split 50/50 the $5.50 per hour and $5.50 per

[1] Sprint explains that packet data traffic is measured based on a unit known as a "kilosegment." Sprint states that on a typical dial packet data transmission, two kilosegments are transferred per hour. On a typical dedicated packet date transmission, four kilosegments are transferred per hour. Therefore, for a typical dial packet data transmission, the total accounting rate would be approximately $16.50 per hour (27.5¢ per minute), including $5.50 for the hour of time and $11.00 for the two kilosegments of transmitted packet data. For a typical dedicated packet data transmission, the total accounting rate would be approximately $27.50 per hour (46¢ per minute), including $5.50 for the hour of time and $22.00 for the four kilosegments of transmitted packet data.

[2] Letter dated July 22, 1993, from Richard C. Beaird, Acting U.S. Coordinator and Director, Bureau of International Communications and Information Policy, U.S. Department of State to FCC Chairman James H. Quello.

[3] Letter dated May 23, 1994, from Richard C. Beaird, Senior Deputy U.S. Coordinator, Bureau of International Communications and Information Policy, U.S. Department of State, to FCC Chairman Reed Hundt.

[4] *See supra* note 1.

kilosegment accounting rate for this service.

10. *It Is Further Ordered* that the applicant shall submit reports on or before June 30, and December 31 of each year, and on the one-year anniversary of the notification of the grant of this application in the Federal Register indicating the numbers of circuits activated by facility.

11. *It Is Further Ordered* that this authorization is subject to the applicant's obtaining all necessary licenses and authorizations from the Departments of Treasury and Commerce.

12. *It Is Further Ordered* that this order is subject to revocation without a hearing in the event the Department of State or the Federal Communications Commission determines that the continuation of communications between the U.S. and Cuba is no longer in the national interest.

13. *It Is Further Ordered* that, pursuant to Section 203 of the Communications Act, 47 U.S.C. § 203, and Part 61 of the Commission's Rules, 47 CFR Part 61, Sprint shall file and have in effect a tariff for the service authorized in this order before offering services to the public.

14. *It Is Further Ordered* that Sprint shall file copies of any operating agreements entered into by itself or its parent/affiliates with its correspondents within 30 days of their execution, and shall otherwise comply with the filing requirements contained in § 43.51 of the Commission's Rules, 47 CFR 43.51.

15. *It Is Further Ordered* that Sprint shall file annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 CFR 43.61.

16. *It Is Further Ordered* that Sprint shall file a Section 214 application for any additional circuits it proposes to establish between the U.S. and Cuba.

17. Acceptance of this authorization shall be deemed acceptance of the conditions set forth herein.

18. This authorization is issued pursuant to Section 0.291 of the Commission's Rules and is effective upon release. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Commission's Rules may be filed within 30 days of public notice of this order (see § 1.4(b)(2)).

Federal Communications Commission.

George S. Li,

Chief, International Facilities Division, Common Carrier Bureau.

[FR Doc. 94–15878 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

Federal Communications Commission

OMB Control No.: 3060–0480.

Title: Application for Earth Station Authorization or Modification of Station License.

Forms: FCC 493.

Expiration Date: 05/31/97.

Estimated Annual Burden: 60,000 total hours; 24 hours per response.

Description: FCC Form 493 is used to request Commission authorization for new or modified radio station facilities under 47 CFR Part 25. The form is used for a number of satellite services governed by Part 25 covering several classes of stations. FCC Form 493 is used to apply for a license to construct and/or operate a transmit/receive earth station, a transmit-only earth station; to register a domestic receive-only earth station; to license an international receive only earth station; or to modify a granted license or registration. The form is used by the Commission staff to determine the applicant's eligibility to operate earth station facilities and to receive requested modifications to earth station facilities. The form is being revised to display the 05/31/97 expiration date, to incorporate the fee data processing elements, and to incorporate the certification required by 47 CFR 1.2002 implementing section 5301 of the Anti-Drug Abuse Act of 1988. The current September 1991 edition of the form may be used through December 1994.

OMB Control No.: 3060–0478.

Title: Informational Tariffs.

Expiration Date: 03/31/97.

Estimated Annual Burden: 16,500 total hours; 50 hours per response.

Description: The Telephone Operator Consumer Services Improvement Act of 1990, 47 U.S.C. 226, requires operator service providers to file and maintain informational tariffs. These tariffs must contain the carrier's name and business address and the effective date of the informational tariff on each page of the informational tariff, in addition to other requirements. The informational tariffs will be maintained for public inspection. The Commission, at the direction of Congress, will also use the informational tariffs in assessing the compliance of the rates charged by operator service providers with the requirements of the Communications Act.

OMB Control No.: 3060–0164.

Title: Developmental Operations—§ 25.300.

Expiration Date: 05/31/97.

Estimated Annual Burden: 960 total hours; 24 hours per response.

Description: Applicants seeking authority for developmental licenses must submit information pursuant to 47 CFR 25.300. The information is used by Commission staff, other licensees of the spectrum and the public to assure that Part 25 developmental licensees are operating in accordance with the authorizations and the rules.

OMB Control No.: 3060–0591

Title: Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626.5/2438.5–2500 MHz Frequency Bands.

Expiration Date: 02/28/97.

Estimated Annual Burden: 8710 total hours; 212 avg. hours per response.

Description: OMB approved the information collections contained in the Notice of Proposed Rulemaking released in CC Docket No. 92–166, which solicited public comment on the Commission's proposal for rules and policies to govern the licensing and provision of service by voice and data mobile satellite service (MSS) systems in the 1610–1625.5/2483.5–2500 MHZ band. The information will be used by the FCC staff to determine whether an applicant is qualified to hold a license, whether it is implementing its system as required, and whether an in-orbit system is operating efficiently.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15879 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

June 23, 1994.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite

140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on these information collections should contact Timothy Fain, Office of Management and Budget, Room 3221 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0188.

Title: Section 73.3550, Requests for new or modified call sign assignments.

Action: Revision of a currently approved collection.

Respondents: State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 2,600 responses; .667 hours average burden per response; 1,734 hours total annual burden.

Needs and Uses: Section 73.3550 requires that a licensee, permittee, assignee or transferee of a broadcast station file a letter with the Commission when requesting a new or modified call sign. On 5/19/94, the Commission adopted a First Report and Order (R&O) in MM Docket No. 93–114, Review of the Commission's Rules Governing the Low Power Television Service. In this First R&O the Commission has, among other things, amended § 73.3550 to permit any low power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued a five-character LPTV call sign. In addition to the letter request, a LPTV must submit a certification under § 74.783 which was submitted to OMB separately. We estimate that we will receive 800 requests for a four-letter call sign in FY 1995. The data are used by FCC staff to ensure that the call requested is not already in use by another station and that the proper "K" or "W" designation is used in accordance with the station location (east or west of the Mississippi River).

OMB Number: 3060–0414.

Title: Terrain Shielding Policy.

Action: Revision of a currently approved collection.

Respondents: State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 150 responses; 10 hours average burden per response; 1,500 hours total annual burden.

Needs and Uses: On 5/19/94, the Commission adopted a First Report and Order (R&O) in MM Docket No. 93–114, Review of the Commission's Rules Governing the Low Power Television Service. In the First R&O the Commission has, among other things, broadened the circumstances in which terrain shielding waivers can be used in this authorization of LPTV service. This action will cause an additional 50 terrain shielding waivers to be filed with the Commission. The terrain shielding policy would require respondents to submit either a detailed terrain study, or to submit letters of assent from all potentially affected parties and graphic depiction of the terrain. The data is used by FCC staff to determine if adequate interference protection can be provided by terrain shielding and if a waiver of §§ 74.705 and 74.707 of the Rules is warranted.

OMB Number: None.

Title: Section 74.783, Station identification.

Action: New collection.

Respondents: State or local governments, businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 950 responses; .166 hours average burden per response; 158 hours total annual burden.

Needs and Uses: Section 74.783(b) requires television translator stations, whose station identification is made by the television station whose signals are being rebroadcast by the translator, to furnish current information with regard to the translator's call letters and location, and the name, address and telephone number of the licensee to be contacted in the event of malfunction of the translator. The certification requirement will effectively enable Commission staff to award four-letter call signs to those permittees most likely to be constructed and operated. The furnishing of current information is used by the primary station licensee and/or FCC staff in field investigations to contact the translator licensee in the event of malfunction of the translator.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15825 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

[Report No. I–6991; File Nos. I–T–C–93–031, I–T–C–93–050, I–T–C–93–054]

Pleading Cycle Extended for Comments on AT&T's Petition for Reconsideration of Commission Order Authorizing Three International Resale Carriers Proposing To Provide "Call-Back" Services

June 22, 1994.

The Commission recently granted the above-referenced Section 214 applications of VIA USA, Ltd., Telegroup, Inc., and Discount Call International Co. to resell international switched services of other carriers using a "call-back" configuration. (*VIA USA, Ltd et al.*, FCC 94–86, released May 11, 1994). This service allows a customer in a foreign country to use foreign facilities to dial a telephone number in the United States and receive dial tone at a switch at the reseller's U.S. location, which the customer can then use to place a call via an outbound switched service of a U.S. carrier. The through calls are billed at U.S.-tariffed rates

AT&T petitioned to deny these applications alleging that this service constitutes an unreasonable practice under Section 201 of the Communications Act ("the Act") and may constitute wire fraud. The Commission denied AT&T's petition. On June 10, 1994, AT&T filed a petition for reconsideration asking the Commission to find that uncompleted call signalling is an unreasonable practice under Section 201(b) of the Act, is contrary to the public interest for purposes of Section 214 of the Act, violates Section 202(a) of the Act, and violates the federal wire fraud statute, 18 U.S.C. 1343.

In order to develop a complete record on the issues raised by AT&T's petition, the Commission on its own motion is extending the time for the filing of comments. Interested parties may file comments by July 22, 1994, and reply comments by August 8, 1994 with the Secretary, FCC, 1919 M Street NW., Washington, DC 20554. A copy should also be sent to Troy F. Tanner, Common Carrier Bureau, FCC, Room 534, 1919 M Street, NW., Washington, DC 20554.

For further information, contact Troy F. Tanner, International Facilities Division of the Common Carrier Bureau, at (202) 632–7265.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–15880 Filed 6–29–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 94–13]

Worldlink Logistics, Inc. v. Hyundai Merchant Marine Co., Ltd.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Worldlink Logistics, Inc. ("Complainant") against Hyundai Merchant Marine Co., Ltd. ("Respondent") was served June 27, 1994. Complainant alleges that Respondent violated sections 8(c) and 10(b)(12) of the Shipping Act of 1984, 46 U.S.C. app. sections 1707(c) and 1709(b)(12), by failing and refusing to make available the essential terms of a service contract to Respondent, a similarly situated shipper, on the same basis as made available to the original contract shipper, and by refusing to negotiate a service contract with Respondent, an American NVOCC,, on terms similar to those given to Korean NVOCC's similarly situated to Respondent.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by June 27, 1995, and the final decision of the Commission shall be issued by October 25, 1995.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–15947 Filed 6–29–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Alliance Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than July 25, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Alliance Bancorp, Inc., Marietta, Georgia; to acquire 80 percent of Interim Alliance Corporation, Smyrna, Georgia, and thereby engage in consumer finance activities pursuant to § 225.25(b)(1)(i); and acting as an agent or broker for insurance directly related to extensions of credit by Company pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Castle BancGroup, Inc., DeKalb, Illinois; to acquire Northern Illinois Finance Company, DeKalb, Illinois, and thereby engage in operating a consumer finance company pursuant to § 225.25(b)(1); and acting as agent or broker for insurance directly related to an extension of credit by Northern Illinois Finance Company pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15870 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

How-Win Development Company; Notice of Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 21, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. How-Win Development Company, Cresco, Iowa; to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15871 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

John E. Lawson, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 21, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. John E. Lawson, Mt. Sterling, Kentucky; to acquire an additional 3.4 percent of the voting shares of Mount Sterling National Holding Company, Mount Sterling, Kentucky, for a total of 11.9 percent, and thereby indirectly acquire Mount Sterling National Bank, Mount Sterling, Kentucky.

B. Federal Reserve Bank of Kansas City (Stephen E. McBride, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Joe Neill, Welch, Oklahoma; to acquire an additional 5.38 percent of the voting shares of Welch Bancshares, Inc., Welch, Oklahoma, for a total of 36.06 percent, and thereby indirectly acquire The Welch State Bank, Welch, Oklahoma.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15872 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

Osakis Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 20, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Osakis Bancshares, Inc., Osakis, Minnesota, to engage *de novo* in directly making loans for its own account pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15866 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

Max G. Rossiter; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 20, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Max G. Rossiter, Hartington, Nebraska, to acquire an additional 15.05 percent, for a total of 36.26 percent of the voting shares of Cedar Bancorp, Inc., Hartington, Nebraska.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15867 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

Unity Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 25, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Unity Bancorp, Inc., Annandale, New Jersey, to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank, Annandale, New Jersey.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. CB&T Holding Corporation, New Orleans, Louisiana, to become a bank holding company by acquiring 100 percent of the voting shares of City Bank & Trust, New Orleans, Louisiana.

2. Southeastern Banking Corporation, Darien, Georgia, to acquire 100 percent of the voting shares of United Citizens Bank of Alachua County, Alachua, Florida.

3. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Florida, Inc., Jacksonville, Florida, to acquire 100 percent of the voting shares of Citrus National Bank, Crystal River, Florida, and SouthTrust Interim National Bank, Crystal River, Florida.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Bay Bancorporation, Green Bay, Wisconsin, to become a bank holding company by acquiring 100 percent of the voting shares of Bay Bank, Green Bay, Wisconsin, a *de novo* bank.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Security Capital Corporation, Batesville, Mississippi, to acquire 100 percent of the voting shares of Bank of Sardis, Sardis, Mississippi.

E. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fairport Bancshares, Inc., Fairport, Missouri, to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Fairport, Fairport, Missouri.

F. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Central Texas Bankshare Holdings, Inc., Columbus, Texas, to acquire 17.7 percent of the voting shares of Hill Bancshares Holdings, Inc., Weimar, Texas, and thereby indirectly acquire Hill Bank & Trust Co., Weimar, Texas.

G. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Superior Holdings, Inc., Scottsdale, Arizona, to become a bank holding company by acquiring 100 percent of the voting shares of DeAnza Holding Corporation, Sunnyvale, California, and thereby indirectly acquire DeAnza Bank, Sunnyvale, California.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15868 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

Village Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 25, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Village Bancorp, Inc., Ridgefield, Connecticut; to acquire 100 percent of the voting shares of Liberty National Bank, Danbury, Connecticut.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First of America Bank Corporation, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of First Park Ridge Corporation, Chicago, Illinois, and thereby indirectly acquire Bank of Buffalo Grove, Buffalo Grove, Illinois; First State Bank & Trust Company of Park Ridge, Park Ridge, Illinois; and First State Bank of Gurnee, Gurnee, Illinois. In connection with this application, First of America Acquisition Company, Park Ridge, Illinois, has applied to become a bank holding company by acquiring 100 percent of the voting shares of First Park Ridge Corporation, Chicago, Illinois, and thereby indirectly acquire Bank of Buffalo Grove, Buffalo Grove, Illinois; First State Bank & Trust Company of Park Ridge, Park Ridge, Illinois; and First State Bank of Gurnee, Gurnee, Illinois.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to acquire 100 percent of the voting shares of Indiana State Bank of Terre Haute, Terre Haute, Indiana.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Big Sky Holding Company, Stanford, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Basin State Bank, Stanford, Montana.

Board of Governors of the Federal Reserve System, June 24, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15869 Filed 6–29–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94G–0082]

Nabisco, Inc; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Nabisco, Inc., has filed a petition (GRASP 4G0404) proposing to affirm that short- and long-chain fatty acid triacylglycerols are generally recognized as safe (GRAS) as direct human food ingredients. Nabisco, Inc., has proposed the common or usual name SALATRIM for this class of substances. SALATRIM is an acronym formed from the term "short- and long-chain acid triacylglycerol molecules."

DATES: Written comments by August 29, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Owen Fields, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409 (21 U.S.C. 321(s) and 348)) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that Nabisco, Inc., 200 DeForest Ave., East Hanover, NJ 07936, has filed a petition (GRASP 4G0404) proposing that short- and long-chain fatty acid triacylglycerols be affirmed as GRAS for use as direct human food ingredients. Nabisco, Inc., has proposed the common or usual name SALATRIM for this class of substances. SALATRIM is an acronym formed from the term "short- and long-chain acid triacylglycerol molecules."

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in § 170.30 (21 CFR 170.30) and § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before August 29, 1994, review the petition and/or file comments with the Dockets Management Branch (address above). Two copies of any comments should be filed and should be identified with the docket number found in brackets in the heading of this document. Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. In addition, consistent with the regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency encourages public participation by review of and comment on the environmental assessment submitted with the petition that is the subject of this notice. A copy of the petition (including the environmental assessment) and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–15831 Filed 6–29–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93G–0359]

Teepak, Inc.; Petition for Affirmation of GRAS Status; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening to August 1, 1994, the comment period for interested persons on the petition filed by Teepak, Inc., (GRASP 3G0397) entitled "GRAS Affirmation Petition for Collagen Fiber." FDA is taking this action in response to a request to allow additional time for public comment.

DATES: Written comments by August 1, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 3, 1993 (58 FR 63996), FDA published a notice of filing stating that Teepak, Inc., had filed a petition (GRASP 3G0397) proposing that collagen fiber be affirmed as generally recognized as safe (GRAS) as an ingredient in human food. Interested persons were given until February 1, 1994, to comment on this notice of filing.

FDA received a request, dated January 24, 1994, to extend the comment period for public response. The comment stated that an extension was needed because there was a delay in receiving a copy of the petition through the Freedom of Information process. After careful consideration, the agency has concluded that it is in the public interest to allow additional time for interested persons to submit comments. However, because the initial comment period ended on February 1, 1994, the agency is reopening the comment period. The agency is now requesting all comments by August 1, 1994.

Interested persons may, on or before August 1, 1994, submit to the Dockets Management Branch (address above) written comments regarding this petition. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 24, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–15830 Filed 6–29–94; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in

open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Joint Meeting of the Gastrointestinal Drugs and the Nonprescription Drugs Advisory Committees

Date, time, and place. July 27, 1994, 9 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 1:30 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD–180), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 419–259–6211, or Lee L. Zwanziger or Valerie M. Mealy, 301–443–4695.

General function of the committees. The Gastrointestinal Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in gastrointestinal diseases. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. Those desiring to make formal presentations should notify the contact person before July 20, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committees will jointly discuss new drug application (NDA) 20–238, Tagamet (cimetidine), SmithKline Beecham, for treatment of episodic heartburn as an over-the-counter product.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 24, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–15964 Filed 6–29–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–04–4210–01–262F]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made to the Bureau Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone number 202–395–7340.

Title: Revised Statute 2477 Rights-of-Way.

OMB Approval Number: 1004–XXX.

Abstract: The respondents will supply information as to their name and affiliation and a general description of the highway on which the claim is based. Information about the highway should include the local name and number, beginning and ending points and a history of the construction, use and maintenance. The information will enable the Department to formally recognize the valid R.S. 2477 rights-of-way. The Department's recognition of valid R.S. 2477 rights-of-way will improve manageability of the right-of-way for both holder and the land manager.

Bureau Form Number: Not Applicable.

Frequency: One time per claim.

Description of Respondents: Claimants for public highway rights-of-way granted pursuant to R.S. 2477.

Estimated Completion Time: 24 hours per claim.

Annual Responses: 420 (total number responses).

Annual Burden Hours: 10,080 (total number of burden hours).

Bureau Clearance Officer (Alternate): Marsha Harley (202) 208–5014.

Dated: May 31, 1994.

Kemp Conn,

Deputy Assistant Director, Land and Renewable Resources.

[FR Doc. 94–15826 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–84–M

[UT–020–04–4410–02]

Utah; Management Framework Plans

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability of Proposed Plan Amendment and Environmental Assessment/FONSI on Oil and Gas Leasing for the Randolph and Park City Management Framework Plans, Bear River Resource Area, Utah.

SUMMARY: The Bureau of Land Management completed a Proposed Plan Amendment/EA/FONSI on May 26, 1994. All public land and subsurface oil and gas estate in Cache, Davis, Morgan, Rich, Summit, Wasatch, and Weber Counties have been analyzed. The proposed recategorization for oil and gas leasing is as follows:

Category 1—Open to leasing, 102,139 acres.

Category 2—Open to leasing with special stipulations, 330,723 acres.

Category 3—Open to leasing with no surface occupancy, 530 acres.

Category 4—Closed to leasing, 0 acres.

The proposed amendment to the Randolph and Park City Management Framework Plans (MFPs) would incorporate these revised decisions on management of oil and gas resources. The final Environmental Assessment revealed no significant impacts from the proposed action. The Bureau's preferred alternative is Alternative 1—Proposed Action. A Notice of Intent proposing to amend the MFPs was published in the **Federal Register** on April 24, 1990.

A 30-day protest period for the planning amendment will commence with publication of this notice of availability.

FOR FURTHER INFORMATION CONTACT: Leon Berggren, Bear River Resource Area Manager, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, (801) 977–4300. Copies of the Environmental Assessment and Proposed Amendment are available for review at the Salt Lake District Office.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protest must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must be received by the Director (WO–760) of the Bureau of Land Management, 18th and C Street NW., Washington, DC 20240, within 30 days after the date of publication of this notice of availability for the proposed planning amendment.

Dated: June 21, 1994.

G. William Lamb,

Acting State Director.

[FR Doc. 94–15827 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–059–4210–03; CACA 31570]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Shasta County, California, have been examined and found suitable for classification for lease or conveyance to the Northern California Radio Control Unlimited Flyers (NCRCUF) under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). NCRCUF proposes to use the lands for a radio controlled aircraft flying field. This notice amends the Notice of Realty Action published January 22, 1993, Vol. 58 No. 13—which segregated the subject public land from settlement, location and entry under the public land laws—to allow the proposed action.

Mount Diablo Meridian

T. 30 N., R. 3 W.

Sec. 26: E½NW¼SE¼

Containing 20 acres, more or less

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current Bureau of Land Management (BLM) land-use planning and would be in the public interest.

The lease/patent, when issues, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. Detailed information concerning this action is available for review at the office of the BLM, Redding Resource Area, 355 Hemsted Drive, Redding, California.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Resource Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, CA 96002.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a radio-controlled aircraft flying field. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a radio-controlled aircraft flying field.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Mark T. Morse,

Area Manager.

[FR Doc. 94–15900 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–40–M

[CO–050–4210–05]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public Lands in Boulder County, CO.

SUMMARY: The following described land has been examined and found suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the appraised fair market value:

Parcel and legal subdivision	Acreage	Type of sale*
Sixth Principal Meridian, Colorado		
T. 1 N., R. 71 W., Section 5:		
COC–53789 Lots 79, 82, 83, 84 85	0.21	D
COC–56772 Lot 76	23.42	MC
COC–56773 Lot 77	0.98	MC
COC–56774 Lot 78	0.74	MC
COC–56775 Lot 80 and a contiguous portion of canceled TR A of MS 17602, Hidden Treasure Lode	3.83±	MC
T. 1 N., R. 71 W., Section 8:		
COC–56805 Lot 116 and a contiguous portion of canceled TR A of MS 17602, Hidden Treasure Lode	4.10±	MC
T. 1 N., R. 71 W., Section 6:		
COC–51329 Those portions of the former Broadway Lode mining claim bounded by lots 91, 92, 93, 94 and 95, exclusive of MS 632, LaPlata Lode, and MS 7563, Sunny Belle Lode.	4.60±	D
T. 1 N., R. 72 W., Section 7:		
COC–56792 Lot 8	29.13±	D

*D=Direct MC=Modified Competitive to adjacent landowners

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, until the land is sold or 2 years from publication of this notice, whichever occurs first.

The land in parcel COC–53789 will be offered by direct sale to George Petersen. The land in parcel COC–51329 will be offered by direct sale to Sue Schauffler. The land in parcel COC–56792 will be offered by direct sale to Edward Martinek. The land in the remaining parcels will be offered by modified competitive sale to adjacent landowners only. Both oral and written bids will be accepted. Minerals will be included where appropriate. Detailed information concerning this sale, including dates, price, patent reservations, sale procedures, bid deposits etc. will be available upon request. Sale procedures must be requested by qualified bidders.

Any parcels not purchased on the initial day of sale will be offered competitively to the public through sealed bids on the next scheduled sale day.

DATES: Interested parties may submit comments to the District Manager at the above address until August 5, 1994.

ADDRESSES: Bureau of Land Management, Canon City District, P.O. Box 2200, Canon City, Colorado 81215–2200.

FOR FURTHER INFORMATION CONTACT: Jan Fackrell, Realty Specialist, (719) 275–0631.

SUPPLEMENTARY INFORMATION: Any adverse comments will be evaluated by the State Director, and he may vacate, modify, or continue this realty action.

Dated: June 22, 1994.

Donnie R. Sparks,

District Manager.

[FR Doc. 94–15901 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–JB–M

[OR–050–4210–04:GP4–196]

Oregon; Notice of Realty Action, OR–49621

June 20, 1994.

AGENCY: Bureau of Land Management, Interior, Prineville District.

ACTION: Exchange of Public and Private Lands in Crook County, OR.

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 16 S., R. 21 E.,
Section 26: NW¼;
Section 34: All.
T. 17 S., R. 21 E.,
Section 2: Lots 1 thru 4, S½N½.
T. 16 S., R. 22 E.,
Section 26:NE¼NE¼;
Section 30: SE¼SW¼, S½SE¼;
Section 32: NE¼, N½SE¼, SE¼SE¼.
T. 17 S., R. 22 E.,
Section 2: NW¼;
Section 6: Lots 1, 3 and 4, SE¼NE¼.

Comprising approximately 1,880 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from the Gutierrez Cattle Company:

T. 15 S., R. 22 E.,
Section 21: W½NW¼;
Section 29: E½;
Section 31: SE¼.
T. 16 S., R. 21 E.,
Section 23: NW¼.

Comprising approximately 720 acres of private land.

The purpose of this exchange is to acquire the non-Federal lands which have high public values for recreation, fisheries and acquires inholdings in a wilderness study area. The public interest will be served by completing this exchange.

The values of the lands to be exchanged will be approximately equal as determined by Fair Market Value.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

The oil and gas estate will be reserved to the United States. There will be a reservation for ditches and canals. All other valid and existing rights, including but not limited to any right-of-way, easement or lease of record.

Publication of this notice segregates the public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, for a period of two years from the date of first publication.

Further information concerning the exchange, including the EA, is available for review at the Prineville District Office.

For a period of 45 days from the date of first publication, interested parties may submit comments to Jim Hancock, Prineville District Manager, Bureau of Land Management, PO Box 550, Prineville, Oregon 97754.

James L. Hancock,

District Manager.

[FR Doc. 94–15902 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–33–M

[CO–070–04–4333–02]

Intent To Amend the Grand Junction Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend the Grand Junction Resource Area Resource Management Plan, 1987.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976, the Bureau of Land Management, Grand Junction Resource Area, is proposing to amend the Grand Junction Resource Management Plan, approved in January 1987. The amendment will consider changes that would enhance and build upon existing management in the Ruby Canyon Plan area. The effects of these changes will be analyzed in an environmental assessment (EA). The amendment is being developed in concert with the Ruby Canyon Ecosystem Management Plan, and will consider a proposed Area of Critical Environmental Concern (ACEC) designation for the McDonald Creek Cultural Resource Area, and mineral withdrawals at specific locations to protect cultural, paleontological, and recreational resources.

SUPPLEMENTARY INFORMATION: The affected area includes approximately 117,000 acres of public land in western Mesa County between the Colorado National Monument and the Utah state line. Additional amendment items may be identified through the public involvement process. The proposed amendment and EA will be prepared by an interdisciplinary team which will include persons with expertise in outdoor recreation, archaeology, paleontology, wildlife biology, fire ecology, range conservation, realty, and geology.

Public involvement opportunities will include open public workshops to develop portions of the plan. Persons wishing to participate in this process should contact the Bureau of Land Management, Grand Junction Resource Area. Public meeting dates, time, and location will be announced through local media.

FOR FURTHER INFORMATION CONTACT:

David Lehmann, Lands and Recreation Staff Chief, Grand Junction Resource Area, 2815 H Road, Grand Junction, Colorado 81506; (303) 244–3021.

Dated: June 22, 1994.

Richard Arcand,

Acting District Manager.

[FR Doc. 94–15899 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–JB–M

[UT–040–03–4210–05, UTU–71137]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Utah; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In notice document UTU–71137 beginning on page 29817 in the issue of Thursday, June 9, 1994, the lands to be conveyed to Boulder Town under the Recreation and Public Purposes Amendment Act of 1988 (Pub. L. 100–648) are incorrectly described as T. 33 S., R. 4 E., Sec. 3, Lot 6, containing 9.27 acres. The correct description is T. 34 S., R 4 E., Sec. 3, Lot 6, containing 9.27 acres.

DATES: As a result of and subject to this correction, comments will be accepted on the original proposal on or before August 15, 1994. Comments may be sent to the District Manager, Cedar City District Office, 176 D.L. Sargent Drive, Cedar City, Utah 84720.

Any adverse comments will be reviewed by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this notice will become the final determination of the Department of the Interior on August 29, 1994.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Escalante Resource Area office by contacting Gregg Christensen, P.O. Box 225, Escalante, Utah 84726 or telephone (801) 826–4291.

Dated: June 23, 1994.

Gordon R. Staker,

District Manager.

[FR Doc. 94–15903 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–930–4210–06; AZA–23060]

Proposed Withdrawal and Opportunity for Public Meeting, Arizona; Correction

In notice document 94–13582 issued Friday, June 3, 1994, page 28890, column 2, the following correction is required.

In the legal description under T. 12 S., R. 9 E., sec. 31, second line, lot 4 should be changed to read lot 5. The corrected copy should read "* * * those portions of lots 5 and 8 lying * * *"

June 21, 1994.

Herman L. Kast,

Deputy State Director, Land and Renewable Resources.

[FR Doc. 94–15905 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–32–M

Minerals Management Service (MMS)

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collections of information may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395–7340, with copies to Angela Cummings, Office of Policy and Management Improvement, Mail Stop 4013, Minerals Management Service, 1849 C Street, NW., Washington, D.C. 20240.

Title: MMS' Generic Customer Satisfaction Surveys.

Abstract: Annually, thousands of individuals, Indian Allottees and Tribes, State and local government officials, industry, environmental groups, etc. have contact with the Minerals Management Service by mail, telephone or in person. The collections will obtain information for determining the level of satisfaction with the services provided by MMS to these individuals and organizations and to identify any areas where improvements in providing service could be made.

Bureau Form Number: None.

Frequency: On occasion, Annually.

Description of Respondents: Individuals, Indian Allottees and Tribes, State and local governments, businesses and other for-profit organizations, Federal agencies or employees, non-profit institutions, small businesses and organizations.

Estimated Completion Time: .30 hour.

Annual Responses: 17,000.

Annual Burden Hours: 8,500.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: June 16, 1994.

Lucy R. Querques,

Associate Director for Policy and Management Improvement.

[FR Doc. 94–15906 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: The Minerals Management Service (MMS) is continuing the evaluation of the safety and environmental management program (SEMP) concept. The SEMP is a safety management system that is intended to reduce the risk and occurrence of accidents and pollution events on offshore oil and gas drilling and production facilities. The MMS believes that development and implementation of SEMP, by individual companies operating Outer Continental Shelf (OSC) drilling and production facilities, promotes safety and environmental protection in the OCS. The MMS encourages all OCS lessees and operators to voluntarily adopt and implement the SEMP concept. The MMS will monitor the implementation of this voluntary program over the next 2 years to determine whether rulemaking is needed to meet the goals of the SEMP concept.

DATES: Comments may be submitted at any time.

ADDRESSES: Interested parties may send comments regarding the SEMP concept and this notice to the Chief, Inspection, Compliance and Training Division; Minerals Management Service; Mail Stop 4800; 381 Elden Street; Herndon, Virginia 22070–4817.

FOR FURTHER INFORMATION CONTACT: Bill Cook, Chief, Inspection and Enforcement Branch; Mail Stop 4800; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817, telephone (703) 787–1591.

SUPPLEMENTARY INFORMATION: The MMS inspection program is mandated by the OCS Lands Act (43 U.S.C. 1348) to conduct annual onsite inspections at all OCS facilities, as well as periodic unannounced inspections, to ensure compliance with environmental and safety regulations. In 1989, MMS requested that the Marine Board study the inspection program to develop and assess alternative inspection strategies and recommend alternative inspection procedures which will improve operational safety and the effectiveness of the inspection process. One of the Marine Board report findings was that although the inspection program adhered to the OCS Lands Act inspection requirements, OCS operator compliance with regulations did not equal safety. The Marine Board recommended that MMS develop programs to motivate operators to incorporate safety directly into OCS drilling and production operations.

In the same year, an MMS internal task force also assessed the OCS inspection and enforcement program. The MMS directed the task force to develop measures to (1) enhance the inspection program operations and (2) increase the safety of OCS operations. The task force found that the inspection program was presently effective but may not meet future inspection demands without incorporating innovative alternative inspection strategies. One recommended strategy was to require OCS operators to develop and implement an MMS-approved SEMP to stimulate safety consciousness.

July 1991 Federal Register Notice

On July 2, 1991, MMS published a *Federal Register* Notice (56 FR 30400) that announced its investigation of alternative strategies to promote safety and environmental protection in the OCS. The notice discussed the SEMP concept and outlined key points of a SEMP plan that a lessee/operator should adopt to ensure safety and environmental protection while conducting operations in the OCS, including:

—Management Policy—short policy statement by appropriate management official;
—Organizational Structure—description of responsibilities, authorities, and communications for actions implementing SEMP;
—Policies and Procedures—responsibilities of officials, employees, and contractors necessary to ensure safety and environmental protection;
—Training Program—program to describe and demonstrate safe practice, also a process for ensuring that all personnel, including contractors, are adequately trained;
—Inspection, Testing, and Maintenance Program—program to ensure inspections and tests are performed and equipment is maintained to ensure safe and proper operation;
—Corrective Action—process to correct non-conformance of a SEMP element;
—Accident Prevention and Investigation Program—procedures to address accidents, operational upsets, and near misses, including a system to review, analyze, and correct practices;
—Internal Review—process to systematically review and assess the SEMP effectiveness;
—Procurement—policies and procedures to address procurement; and
—Documentation—all policies, procedures, and internal programs to be documented.

The notice also solicited information on the SEMP concept and the efforts necessary to implement a SEMP-like program. The MMS received comments from offshore operators, trade organizations, government entities, consultants, an engineering society, and an environmental organization. Generally, the commenters supported MMS's efforts to enhance safety and environmental protection in the OCS. Some were concerned that SEMP would cross jurisdictional lines and create regulatory conflict and confusion. Many commenters urged MMS to defer publishing SEMP regulations and allow the American Petroleum Institute (API) to develop a voluntary standard that addresses safety and environmental protection.

In November 1991 and January 1992, as a part of the SEMP information gathering process, MMS invited a cross section of operators to give presentations on their safety policies and safety management programs. Those discussions were useful for gaining a better understanding of the overall development of industry safety programs for both large and small operators. Most company presenters were encouraged by the SEMP initiative. Several suggested that MMS wait until the API completed its recommended practice before making a SEMP decision. Some encouraged MMS to set goals for safety rather than promulgate regulations, while others suggested that MMS coordinate SEMP efforts with all other OCS-related agencies to streamline the regulatory environment.

The MMS participated on the API subcommittee that developed "Recommended Practices for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities" (API RP 75), published in May 1993. We believe API RP 75 provides a good foundation for promoting safety and environmental protection in the offshore oil and gas industry. The document generally captures our perception of what SEMP should contain.

The API and Offshore Operators Committee (OOC) conducted three API

RP 75 workshops in 1993, one in New Orleans and two in Houston. The purpose of the workshops was to provide attendees (especially small- and medium-sized independent operators) a better understanding of the purpose of API RP 75 and guidance for its implementation. The MMS participated in all three workshops. Approximately 600 persons attended the three workshops.

The MMS Intentions and Monitoring Plan

The MMS urges all operators to voluntarily implement the principles of SEMP through API RP 75. In addition, MMS will cooperate with the API/OOC SEMP committee (the Committee) in the continuing development of the SEMP concept and will monitor industry's progress towards the implementation of SEMP, while assessing its success.

The Committee, with assistance from MMS, will develop a survey for distribution during 1994 to determine the status of industry's implementation of API RP 75. The Committee may also sponsor a retreat for all OCS operators to consider survey results and report on the progress (and any problems) concerning the implementation of API RP 75. Annually, the Committee will distribute followup surveys to assess the progress of SEMP implementation.

For its part, MMS will postpone rulemaking for the general application of SEMP for OCS facilities. During the next 2 years, MMS will monitor the progress of API RP 75 application by (1) soliciting informal information on the implementation of API RP 75 directly from operators, (2) making general inquiries at offshore facilities to monitor API RP 75 development, and (3) evaluating the results of the Committee's survey. The MMS will also gather data on the need for SEMP on OCS facilities and develop strategies for measuring SEMP application and benefits.

The MMS will examine the progress and success of industry-wide voluntary adoption of API RP 75. From these assessments, MMS will, at the end of 2 years, decide whether to continue to monitor industry progress or to proceed with rulemaking.

Future Options for SEMP

At the completion of the 2-year monitoring program, MMS will determine if voluntary implementation of API RP 75 accomplishes the goals of SEMP. Options for proceeding from that point include: (1) Continuing to encourage voluntary implementation of the program, or (2) establishing a structured regulatory program for all operations. Other options may also be available, such as (1) only requiring SEMP for specific areas, or (2) requiring SEMP where inspections or safety records reveal less-than-acceptable performance. The MMS will identify other options as well and select one or more options based on monitoring results, industry's safety record, and other factors.

The MMS could also decide to continue monitoring the progress of the voluntary implementation of SEMP. The MMS would monitor industry's approach to safety management and accident rates, while inspectors check for application of SEMP on platforms and facilities.

If voluntary adoption of API RP 75 is deemed unsuccessful, MMS may require all operators to formally develop and implement SEMP. The MMS could incorporate API RP 75 into the regulations, or it could promulgate new SEMP requirements, possibly similar to the Occupational Safety and Health Administration's 29 CFR 1910 regulations. The MMS would alter its inspection program accordingly to ensure operators implement SEMP.

The MMS may determine that SEMP is also suited for specialized applications, such as in deep water or the arctic where operational demands are greater. Under this option, a specific SEMP plan would cover all operational activities at a site, including activities not covered by current regulations. For example, a site-specific SEMP plan would address contingency planning, risk analysis, and departures from the regulations, as well as routine operations. This would compel an operator to explain how it would ensure the safety of operations at a specific site. The MMS is currently evaluating the application of the SEMP concept to deep-water development.

Another option MMS may examine requires operators with less-than-acceptable performance to develop and implement SEMP plans. The MMS could evaluate operators based on inspection records and accident data. This regulatory approach focuses on operators needing improvement and does not place additional requirements on operators that consistently operate in a safe manner.

Discussion of these regulatory options should not be considered an indication that MMS is backing away from its commitment to the SEMP concept or faith in API RP 75. The MMS strongly supports voluntary implementation of API RP 75 by all lessees and operators.

Comments

We welcome your comments on MMS's SEMP concept, API RP 75, OCS safety and environmental protection issues in general, implementation strategies, and related matters. Send comments to MMS, Attention: Chief, Inspection, Compliance, and Training Division; Mail Stop 4800; 381 Elden Street; Herndon, Virginia 22070–4817.

Dated: June 16, 1994.

Tom Fry,

Director, Minerals Management Service.

[FR Doc. 94–15945 Filed 6–29–94; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–362 and 731–TA–707–710 (Preliminary)]

Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe From Argentina, Brazil, Germany, and Italy

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations and a preliminary countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of a preliminary countervailing duty investigation No. 701–TA–362 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) and of the institution of preliminary antidumping investigations Nos. 731–TA–707, 708, 709, and 710 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe that are alleged to be subsidized by the Government of Italy and by reason of imports from Argentina, Brazil, Germany, and Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe that are alleged to be sold in the United States at less than fair value. Such imports are provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States. The Commission must complete preliminary

antidumping investigations in 45 days, or in this case by August 8, 1994.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N, 8, 1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 23, 1994, on behalf of the Gulf States Tube Division of Quanex Corp., Rosenberg, TX.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on July 14, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202–205–3180) not later than July 11, 1994, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 19, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: June 28, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16035 Filed 6–29–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Judith Groves, Interstate Commerce Commission, Section of Environmental Analysis, room 3219, Washington, DC 20423, (202) 927–6203 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

AB–167 (SUB–NO. 1128X) CONSOLIDATED RAIL CORPORATION—ABANDONMENT—IN COOK COUNTY, ILLINOIS. EA available 6/24/94. Comments on the following assessment are due 30 days after the date of availability:

AB–NO. 167 (SUB–NO. 1136X), CONSOLIDATED RAIL CORPORATION—ABANDONMENT—IN CHESTER COUNTY, PA. EA available 6/21/94.

NO. AB–392X, ARKANSAS MIDLAND RAILROAD COMPANY, INC.—ABANDONMENT—BETWEEN GALLOWAY AND CARLISLE, ARKANSAS IN PULASKI, LONOKE AND PRAIRIE COUNTIES, ARKANSAS. EA available 6/21/94.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–15979 Filed 6–29–94; 8:45 am]

BILLING CODE 7035–01–P

Release of Waybill Data

The Commission has received a request from CSX Transportation for permission to receive selected reports from the Commission's 1987 through 1991 ICC Waybill Samples.

A copy of the request (WB441—6/16/94) may be obtained from the ICC Office of Economics and Environmental Analysis.

The Waybill Sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections with the Director of the Commission's Office of Economics and Environmental Analysis within 14 calendar days of the date of this notice. The rules for release of waybill data [Ex Parte 385 (Sub-No. 2)] are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–15978 Filed 6–29–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on May 9, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and American Telephone and Telegraph Company ("AT&T"); Rockwell International Corporation ("Rockwell"); Southwestern Bell Technology Resources, Inc. ("TRI"); Tektronix, Inc. ("Tektronix"); and Washington University in St. Louis ("WUSTL") simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; AT&T, Breinigsville, PA; Rockwell, Newbury Park, CA; TRI, St. Louis, MO; Tektronix, Beaverton, OR; and WUSTL, St. Louis, MO. Bellcore, AT&T, Rockwell, TRI, Tektronix, and WUSTL entered into Articles of Collaboration effective as of April 7, 1994, establishing a consortium to engage in a collaborative research effort of limited duration in order to gain further knowledge and understanding in the area of SONET/ATM self-healing ring technology and to better understand the applications of such technology for telecommunications networks, particularly exchange and exchange access service networks.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15912 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Geffen Records, Inc.

Notice is hereby given that, on May 17, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Geffen Records, Inc. ("Geffen") has filed written notifications on behalf of Geffen and Jasmine Multimedia Publishing, L.P. simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Geffen, Los Angeles, CA; and Jasmine Multimedia Publishing, L.P., Van Nuys, CA.

The nature and objectives of the joint venture are to develop, manufacture, distribute and market CD–ROM games in which a moving picture is displayed in a scrambled fashion and the player attempts to unscramble the picture while it is moving.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15913 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corporation

Notice is hereby given that, on May 3, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: (1) Eastman Chemical Company, Kingsport, TN, has agreed to become an associate member in MCC's Information Systems Division; and (2) Ceridian Corporation, Minneapolis, MN, has agreed to become a participant in MCC's Experimental System Laboratory in the Information Systems Division.

On December 21, 1984, MCC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on February 4, 1994. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on April 11, 1994 (59 FR 17118).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15914 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on June 1, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 93–04 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing: (1) The identities of the parties to Project No. 93–04 and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and the general area of planned activity are: Amoco Oil Company, Naperville, IL; Atlantic Richfield Company, Plano, TX; Chevron Research and Technology Company, Richmond, CA; Exxon Production Research Company, Houston, TX; Mobil Research and Development Corporation, Paulsboro, NJ; Phillips Petroleum Company, Bartlesville, OK; Texaco, Inc., Bellair, TX; and Union Oil Company of California, Brea, CA.

The nature of the research program performed in accordance with PERF Project 93–04 is to measure the rate and extent of bioremediation of petroleum hydrocarbons. The objective of this project is to assess the effectiveness of a suite of analytical techniques for measuring the rate and extent of bioremediation of petroleum hydrocarbons in soil.

Information about participating in Project 93–04 may be obtained in contacting Donald H. Mohr, Chevron

Research and Technology Company, Richmond, CA.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15915 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on May 17, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Refratechnik GmbH, Gottinger, Germany has become an Associate Member of the PCA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985, 50 FR 5015.

The last notification was filed with the Department on March 22, 1994. Notice in the **Federal Register** was published pursuant to Section 6(b) of the Act on April 20, 1994, 59 FR 18830.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15916 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—The SQL Access Group, Inc.

Notice if hereby given that, on April 6, 1993, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), The SQL Access Group, Inc. ("the Group") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

SAS Institute, Inc., Cary, NC, has become a member of the Group. The following parties are no longer members of the Group: Software AG, and Unify Corporation.

On March 1, 1990, the Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on April 5, 1990 (55 FR 12750).

The last notification was filed with the Department on July 6, 1992. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 1992 (57 FR 34150).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15917 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research and Production Act of 1993—Taligent, Inc.

Notice is hereby given that, on May 13, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Taligent, Inc. ("Taligent") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Taligent, Cupertino, CA; Apple Computer, Inc. ("Apple"), Cupertino, CA; IBM Corporation ("IBM"), Armonk, NY; and Hewlett-Packard Company ("Hewlett-Packard"), Palo Alto, CA. Taligent was found in 1992 by Apple and IBM. On February 16, 1994, Hewlett-Packard purchased fifteen percent of the shares in Taligent.

Taligent is developing and intends to produce computer operating system software environments, including tools and development systems, based on object-oriented technology. Taligent, along with its investors, will license, market and support its software products worldwide. All, or the significant majority, of Taligent's operating system software will be produced within the United States.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–15918 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

[Civil Action No. 92–2854 (GHR), D.D.C.]

United States v. Airline Tariff Publishing Company, et al.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below a comment received on the proposed Final Judgment in *United States* v. *Airline Tariff Publishing Company, et al.*, Civil Action No. 92–2854 (SSH), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3235 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Constance K. Robinson,

Director of Operations.

United States' Response To Public Comments

United States of America, Plaintiff, v. *Airline Toriff Publishing Company, et al., Defendants.*

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(d) (the 'APPA" or "Tunney Act"), the United States responds to public comments on the proposed Final Judgement submitted for entry in this civil antitrust proceeding.

This action began on December 21, 1992, when the United States filed a Complaint charging eight major domestic airlines [1] and the Airline Tariff Publishing Company ("ATP") with violations of the antitrust laws. The first count of the Complaint alleges that each of the airline defendants engaged in various combinations and conspiracies with other of the airline defendants and co-conspirators, consisting of

[1] American Airlines, Inc., Alaska Airlines, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and USAir, Inc.

agreements to fix prices by increasing fares, eliminating discounted fares, and setting fare restrictions. The Complaint alleges that these agreements were reached using the computerized fare dissemination services of ATP to exchange proposals, negotiate fare changes, and trade fare increases in one or more markets for fare increases in other markets (or to other fare types). As a result of these agreements, consumers paid higher fares for airline tickets.

The second count of the Complaint alleges that the airline defendants, ATP, and co-conspirators engaged in a combination and conspiracy consisting of an agreement to create, maintain, operate, and participate in the ATP fare dissemination system in a manner that unnecessarily facilitates the ability of the airline defendants and their co-conspirators to coordinate changes to their fares. As a result of this agreement, consumers have paid higher prices for airline tickets.

The Complaint seeks an injunction barring the defendants from entering into agreements with one another with respect to fares, and from disseminating the information concerning proposed changes to fares that has enabled them to increase prices collusively and illegally.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement ("CIS"), and a stipulation signed by two of the defendants, United and USAir, for entry of a proposed Final Judgement. After reviewing the proposed Final Judgment pursuant to the Tunney Act, the Court concluded that the Judgment was in the public interest within the meaning of the Tunney Act, and it became final with respect to United and USAir on November 1, 1993.

On March 17, 1994, the United States, ATP, Alaska, American, Continental, Delta, Northwest, and TWA filed with the Court a Stipulation consenting to the entry of a new proposed Final Judgment with respect to the remaining defendants. This proposed Final Judgment is substantially identical to the Final Judgment entered against United and USAir with the following exceptions. Section V(B) clarifies that the proposed Final Judgment does not prohibit an airline defendant from selling management services to another airline. Section V(C) permits the airline defendants to disseminate last ticket dates through ATP in some specified circumstances where the United/USAir decree prohibits the use of last ticket dates. The record keeping provisions in Section VI(E) have been changed to reflect the changes to Section V(C). Finally, Section IV(B) provides the relief the United States is seeking against defendant ATP.

As required by the Antitrust Procedures and Penalties Act, on March 25, 1994, American, Alaska, Delta, and ATP filed with this Court a description of written and oral communications on their behalf within the reporting requirements of section 15(g) of the APPA. Continental, Northwest and Trans World filed their notifications of written and oral communications with the Court on March 28, 1994. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposed decree were published in the Washington Post for seven days over a period beginning March 27, 1994. The proposed Final Judgment and CIS were published in the Federal Register on March 31, 1994. 59 FR 15225.

The 60-day period for public comments commenced on April 1, 1994 and expired on May 30, 1994. The United States received only one comment on the proposed Final Judgment, a letter from Michael London. As required by 15 U.S.C. 16(b), this comment is being filed with this response. (Exhibit A).

In his comments, Mr. London expressed concern that the proposed Final Judgment's prohibition on advance price announcements would deprive consumers of valuable information for making travel plans. Mr. London also expressed concern that the United States may have filed its lawsuit without sufficient evidence to substantiate its claims against the airlines. The United States sent Mr. London a letter individually responding to his inquiries regarding the proposed Final Judgment. The United State's correspondence with Mr. London is also being filed with this response. (Exhibit B).

The Department has carefully considered Mr. London's comments. Nothing in these comments has altered the United States' conclusion that the proposed Final Judgment is in the public interest.

The proposed Final Judgment provides all of the relief requested in the Complaint against American, Alaska, Continental, Delta, Northwest, Trans World, the ATP, without the substantial expense of a trial. The relief provided by the proposed decree will leave these airlines and ATP without the ability to resume the actions that constituted the antitrust violations. Entry of the proposed Final Judgment is in the public interest.

Respectfully submitted,

Dated: June 17, 1994.

Mary Jean Moltenbrey,

Attorney, Antitrust Division.

Exhibit A—Civil Action No. 92–2854 (SSH)

April 5, 1994.

Assistant Attorney General, Anne K. Bingaman,

United States Department of Justice, Washington, D.C.

Dear Ms. Bingaman: I am writing to you concerning an article that appeared in our local newspaper about a settlement of price fixing allegations.

There are 2 points about this matter that concern me as both an air traveller and as a citizen.

(1) I have found in the past, the prenotification of fare adjustments very useful in planning airline travel. My travel agent would scan the computer system for reduced fares to be effective at some future date. I could then plan travel for a date when that fare would be available.

This would enable me to save money instead of paying a higher current fare. Therefore, instead of injuring the public, this practice could result in savings over existing fares.

(2) The part that really concerns me and that seems unbelievable is the section of the article that states "The government believes that history would make proving guilt beyond a reasonable doubt difficult".

If this paraphrase of your department's statement is correct, it seems a terrible thing that our government would take action under these circumstances. I always thought that there were Constitutional safeguards that protected individuals and companies against arbitrary prosecution. If the Justice Department had these doubts, how dare they waste our tax money and impinge the reputation of companies on such an unsubstantiated charge.

I am a stockholder of one of the airline companies named as a party to the settlement. I believe that unfair and arbitrary actions of the Justice Department have injured the reputation of the company and therefore my investment. If I believe that the actions of the Justice Department constitute False Prosecution or the attempt at False Prosecution, what remedies are available to me?

Very Truly yours,

Michael London.

June 7, 1994.

Michael London,

P.O. Box 2106, McAllen, Texas 78505–2106.

Dear Mr. London: I am responding to your letter to Assistant Attorney General Anne Bingaman concerning the proposed consent decree between the Department of Justice, a number of major airlines and the Airline Tariff Publishing Company ("ATP"), a computerized fare exchange system. The proposed decree settles a civil antitrust suit in which the Department alleged that eight major airlines fixed prices and used the ATP system in a way that unnecessarily facilitated

coordination of airline fares. You express concern that the proposed decree's prohibitions on prenotification of fare adjustments will deprive consumers of information regarding future fare discounts. You also express concern that the Department may have filed the lawsuit against the airlines without substantial evidence to support its allegations.

In your letter, you state that pre-notification of fare changes enabled you to schedule travel for dates when fares would be reduced. The proposed decree will not prohibit the airlines from publishing different fares applicable for travel on different dates, provided the fares are currently available for sale. Thus, you will still be able to plan your travel for days of the week or months of the year when the airlines charge lower fares.

The decree will prohibit the airlines from disseminating fares that can only be purchased at a later date. In the past, the airlines used such fares to negotiate and agree upon fare increases or the elimination of discounts. Because these fares changed frequently during negotiations, and often never became available for sale, they were extremely unreliable and therefore not useful for consumers planning when to purchase their tickets.

You also suggest that the Department may have acted arbitrarily in its prosecution of the airlines because the government did not believe that it could prove guilt beyond a reasonable doubt. The Department filed this action because it had compelling evidence that the airlines used ATP to reach agreements to raise prices and eliminate discounts, in violation of the Sherman Act, raising prices in thousands of markets and for millions of travelers.

The government's decision whether to prosecute any particular violation of the Sherman Act civilly or criminally is one that depends on a number of factors. In this case, the government's primary goal was to obtain injunctive relief that would prevent the airlines from continuing their anticompetitive practices. We also recognized that the airlines' collusive pricing practices evolved from a system that developed when the airlines were heavily regulated and not subject to the antitrust laws; indeed, at one time the airlines were required to file fare changes in advance to allow regulators time to review and disapprove them. That history would have made it considerably more difficult to prove beyond a reasonable doubt that the airlines intended to reach price fixing agreements. For these and other reasons, the Department elected to bring a civil case seeking injunctive rather than punitive relief against the airlines. In a civil case, the government need only prove that the defendants violated the Sherman Act by a preponderance of the evidence. The government is confident that it could easily have met that burden at trial.

I hope that this letter responds to your concerns. Thank you for your interest in this matter and in the enforcement of the antitrust laws.

Sincerely,

Roger W. Fones,

Chief, Transportation, Energy and Agriculture Section.

Certificate of Service

I hereby certify that I have caused a copy of the foregoing United States' response to public comments to be served via first class mail upon the following counsel in this matter:

Mark Leddy, Michael J. Byrnes, Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, N.W., Washington, D.C. 20036

Jonathan B. Hill, Dow, Lohnes & Albertson, 1255 Twenty-third Street, N.W., Washington, D.C. 20037

For defendant Airline Tariff Publishing Company

James V. Dick, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, N.W., Washington, D.C. 20044

For defendant Alaska Airlines, Inc.

Michael Doyle, Alston & Bird, One Atlantic Center, 1201 West Peachtree Street, Atlanta, GA 30309–3960

Irving Scher, Weil Gotshal & Manges, 767 Fifth Avenue, New York, N.Y. 10153

Peter D. Isakoff, Weil, Gotshal & Manges, 1615 L Street, N.W., Suite 700, Washington, D.C. 20036

For defendant American Airlines, Inc.

Donald L. Flexner, Crowell & Moring, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004–2595

For defendants Continental Airlines, Inc., and Northwest Airlines, Inc.

James R. Weiss, Preston Gates Ellis & Rouvelas Meeds, 1735 New York Ave., N.W. Suite 500, Washington, D.C. 20006

Emmet J. Bondurant II, Bondurant, Mixson & Elmore, 1201 West Peachtree Street, N.W., 39th Floor, Atlanta, Georgia 30309

For defendant Delta Air Lines, Inc.

James E. Anklam, Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, D.C. 20005–3939

Thomas Demitrack, Jones, Day, Reavis & Pogue, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114

For defendant Trans World Airlines, Inc.

Dated: June 17, 1994.

Mary Jean Moltenbrey,

Antitrust Division, U.S. Department of Justice.

[FR Doc. 94–15910 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Textron Inc.*, Civil Action No. C3–94–260, was lodged on June 15, 1994 with the United States District Court for the Southern District of Ohio. The consent decree settles an action brought under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.*, ("CERCLA") for costs incurred by the United States in responding to a release or threat of release of hazardous substances at the Midwest United Industries, Inc. Site in Greenville, Darke County, Ohio (the "Site"). The United States alleges that Ex-Cell-O Corporation owned or operated the Site at the time hazardous substances were disposed of and is liable for costs incurred by the United States pursuant to Section 107(a)(2) of CERCLA. Textron Inc. is liable to the United States as the successor corporation to Ex-Cell-O Corporation. The Consent Decree requires Textron Inc. to reimburse the United States $33,578.00 for response costs incurred in connection with the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Textron Inc.*, DOJ Ref. #90–11–2–960.

The proposed consent decree may be examined at the office of the United States Attorney, 602 Federal Building, 200 West 2nd Street, Dayton, Ohio; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–15909 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. section 7413(g), notice is hereby given that on June 13, 1994, a proposed Joint Stipulation and Order of Dismissal (hereinafter "Settlement Agreement") in *United States* v. *Joseph Muri,* Civil Action No. 92–40199xx, was lodged with the United States District Court for the District of Massachusetts resolving the matters alleged in the United States' complaint filed on December 28, 1992. The proposed Settlement Agreement represents a complete settlement of the United States' claims for Defendant's violations of section 203(a)(3)(B) of the Act, 42 U.S.C. section 7522(a)(3)(B), by removing a catalytic converter from a motor vehicle and/or rendering it inoperative by removing the catalytic element from the catalytic converter.

Under the terms of the Settlement Agreement, the Defendant will pay a civil penalty of $1,400 to the United States. In addition, Defendant will be required to comply with section 203(a)(3)(A) of the Act, 42 U.S.C. section 7522(a)(3)(A). Upon timely and complete payment of the $1,400, the action will be dismissed with prejudice.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Joseph Muri,* D.J. Ref. 90–5–1–2–1754.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney for the District of Massachusetts, 1003 J.W. McCormack P.O. & Courthouse, Boston, MA 02109. Copies of the Settlement Agreement may also be examined at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.50 made payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–15908 Filed 6–29–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–00139]

Pacer Industries, Inc., Echlin Engine Systems, Washington, MO; Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on June 2, 1994 in response to a petition filed by three workers on behalf of workers at Pacer Industries, Inc., Echlin Engine Systems, Washington, Missouri. The firm produces fuel system related parts.

In a letter dated June 6, 1994, the petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 21st day of June, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–15973 Filed 6–29–94; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,631; Clarkrange Industries, Clarkrange, TN

TA–W–29,712; Miller Shingle, Granite Falls, WA

TA–W–29,504; Alsco Amerimark Building Products, Gnadenhutten, OH

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–29,559; Gary-Williams Energy Corp., Bluebell Gas Plant, Roosevelt, UT

U.S. imports of dry natural gas declined relative to domestic shipments in the twelve month period of March 1993 through February 1994 as compared to the same period a year earlier.

TA–W–29,739; Crosbie-Macomber Paleontological Laboratory, Inc., Metairie, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,711; Mark Automotive Manufacturing Co., Wixon, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,613; Tretolite Oilfield Chemicals, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,644; Brad Oil Tools, Inc., Hays, KS

The workers' firm does not produce an article as required for certification

under Section 222 of the Trade Act of 1974.

TA–W–29,871; Digital Equipment Corp., Maynard, MA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,851; Britt Trucking, Inc., Lamesa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,606; Ohio Coil Service, A Subsidiary of General Electric Co., Newcomerstown, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,698; UARCO, Inc., Paris, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,729; Elkem Metals Co., Marietta, OH

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–29,694; Fort Vancouver Plywood Co., Vancouver, WA

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification.

TA–W–29,680; Bus Industries of America, Oriskany, NY

The investigation revealed that criterion (1) and criterion (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–29,659; Progress Lighting, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after April 30, 1994.

TA–W–29,870; ITT Automotive, Selmer, TN

A certification was issued covering all workers separated on or after May 2, 1993.

TA–W–29,738; Bertha's Boy Too, Lock Haven, PA

A certification was issued covering all workers separated on or after March 28, 1993.

TA–W–29,790; Hunt Wesson, Inc., Rossford Plant, Perrysburg, OH

A certification was issued covering all workers separated on or after April 25, 1993.

TA–W–29,759, TA–W–29,758, TA–W–29,759, TA–W–29,760; The Greif Companies, Allentown/Lehigh Valley, PA, Shippensburg, PA, Verona, VA, New York, NY

A certification was issued covering all workers separated on or after April 5, 1993.

TA–W–29,831; Nu-Kote International, Inc., Bardstown, KY

A certification was issued covering all workers separated on or after April 11, 1993.

TA–W–29,731; Dahlkey, Inc., Tacoma, WA

A certification was issued covering all workers separated on or after March 31, 1993.

TA–W–29,732 & TA–W–29,732A; UNOCAL Corp., Exploration & Seismic Technology Div., Headquartered in Anaheim, CA & Other Locations in California

A certification was issued covering all workers separated on or after March 28, 1993.

TA–W–29,654; Rolls Royce Industries, Ferranti Packard Transformers, Inc., Dunkirk, NY

A certification was issued covering all workers separated on or after March 17, 1993.

TA–W–29,479; Alcatel Data Network, Mt. Laurel, NJ

A certification was issued covering all workers separated on or after April 12, 1993.

TA–W–29,542; Prince Gardner, Inc., Marked Tree, AR

A certification was issued covering all workers separated on or after February 17, 1993.

TA–W–29,751; Lady Lynne Lingerie, Inc., New York, NY

A certification was issued covering all workers separated on or after April 12, 1993.

TA–W–29,833; Hi Lo Manufacturing Col., Inc., Exeter, PA

A certification was issued covering all workers separated on or after April 21, 1993.

TA–W–29,351; Imperial Wallpaper, Inc., Plattsburgh, NY

A certification was issued covering all workers separated on or after December 9, 1992.

TA–W–29,837; Cove Industries, Wilburton, OK

TA–W–29,845; Bryan Industries, Tulsa, OK

A certification was issued covering all workers separated on or after April 22, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) that the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

NAFTA–TAA–000108; Classic Lady Fashion, Hialeah Gardens, FL

The investigation revealed that criteria (3) & criteria (4) were not met. A survey conducted with the

manufacturers for whom Classic Lady performed contract work revealed that the manufacturers did not utilize contractors in Mexico or Canada and did not import finished garments from Mexico or Canada.

NAFTA–TAA–00112; NEC America, Inc., Hillsboro, OR

The investigation revealed that criteria (3) & criteria (4) were not met. A survey conducted with major customers that decreased purchases of car mount cellular telephones, bag phones and transmission equipment from NEC America revealed that respondents did not import these product lines from Canada or Mexico during the relevant period.

NAFTA–TAA–00110; General Electric Co., Linton, IN

The investigation revealed that criteria (3) & criteria (4) were not met. There was no shift of production from the workers' firm to Mexico or Canada during the relevant period. The production of miscellaneous stamped steel parts and aluminum endshields (cast, trim & wheelabrate) increased at the subject plant in 1993 compared to 1992 and in the first quarters of 1994 compared to the same period of 1993.

NAFTA–TAA–00111; Elf Atochem North America, Inc., Industrial Chemicals Div., Tacoma, WA

The investigation revealed that criteria (3) & criteria (4) were not met. There was no shift in production from the workers' firm to Mexico or Canada. The investigation further revealed that customers did not import industrial chemicals from Canada or Mexico in 1992, 1993 or the January–May period of 1994.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00115; Canon Business Machines, Inc., Costa Mesa, CA

A certification was issued covering all workers engaged in employment related to the production of electronic word processors, typewriter ribbon cassettes, or correctable ribbons at Cannon Business Machines, Inc., Costa Mesa, CA separated on or after December 8, 1993.

NAFTA–TAA–00051; Valeo Climate Control Corp., Fort Worth, TX

A certification was issued covering all workers of Valeo Climate Control Corp., Fort Worth, TX separated on or after December 8, 1993.

NAFTA–TAA–00118; Laurel Street Art Club, Inc., Hebron, KY

A certification was issued covering all workers of Laurel Street Art Club, Inc., Hebron KY separated on or after December 8, 1993.

I hereby certify that the aforementioned determinations were issued during the month of June, 1994. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 22, 1994.

Violet L. Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–15972 Filed 6–29–94; 8:45 am]

BILLING CODE 4510–30–M

Arco Oil and Gas Company

TA–W–29,431 Atlantic Richfield Company, Dallas, Texas
TA–W–29,432 Arco Permian. Midland, Texas and Operating in the following states:
TA–W–29,432A Colorado
TA–W–29,432B Kansas
TA–W–29,432C Michigan
TA–W–29,432D New Mexico
TA–W–29,432E Oklahoma
TA–W–29,432F Texas
TA–W–29,432G Wyoming
TA–W–29,433 Atlantic Richfield Company, Houston, Texas and operating in the following states:
TA–W–29,433A Arkansas
TA–W–29,433B Alabama
TA–W–29,433C Louisiana
TA–W–29,433D Texas

Arco Western Energy

TA–W–29,434 Bakersfield, California
TA–W–29,434A California, except Bakersfield
TA–W–29,435 Arco Exploration and Production Technology, Plano, Texas

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 13, 1994. The notice was published in the **Federal Register** on May 11, 1994 (59 FR 24483).

At the request of the company the Department reviewed the certification for workers of the subject firm. New information from the company shows worker separations occurred in other locations for ARCO Permian; Atlantic Richfield Company and for ARCO Western Energy.

The intent of the Department's certification is to include all workers of ARCO Oil and Gas who were affected by increased imports of crude oil and natural gas.

The amended notice applicable to TA–W–29,431 through TA–W–29,435 is hereby issued as follows:

"All workers of ARCO Oil and Gas Company at the following locations: Atlantic Richfield Company, Dallas, Texas (TA–W–29,431); ARCO Permian, Midland, Texas (TA–W–29,432) and operating in the following States; Colorado, Kansas, Michigan, New Mexico, Oklahoma, Wyoming and Texas; Atlantic Richfield Company, Houston, Texas (TA–W–29,433) and operating in the following States: Arkansas, Alabama, Louisiana and Texas; ARCO Western Energy, Bakersfield, California (TA–W–29,434) and California except Bakersfield (TA–W–29,434A) and ARCO Exploration and Production Technology, Plano, Texas, (TA–W–29,435) who became totally or partially separated from employment on or after February 21, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C., this 20th day of June 1994.

James D. Van Erden,

Administrator, Office of Work-Based Learning.

[FR Doc. 94–15974 Filed 6–29–94; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00026]

Gandalf Systems Corporation, Cherry Hill, NJ; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA–Transitional Adjustment Assistance on March 25, 1994, applicable to workers engaged in employment related to the production of data communication systems products at Gandalf Systems Corporation in Cherry Hill, New Jersey. The Notice was published in the **Federal Register** on April 7, 1994 (Vol. 59, No. 67, page 16664).

The intent of the Department's certification is to include 14 workers in

field operations that are related to the company's production of data communication systems products.

The amended notice applicable to NAFTA–00026 is hereby issued as follows:

"All workers of Gandalf Systems Corporation engaged in employment related to the production of data communication systems products in Cherry Hill, New Jersey who became totally or partially separated from employment on or after December 8, 1993, and the field workers of Gandalf Systems Corporation who are listed below and who became totally or partially separated from employment on or after December 8, 1993, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Name	Social security no.
C. Foster-Brod	256–31–1218
S. Bethune	257–27–7979
P. Summers	074–38–0413
T. Felch	238–04–7887
R. Senna	047–66–7049
J. Koufman	481–72–0821
C. Wilson	462–72–1335
T. Gasior	352–42–9085
M. Thomas	218–44–8723
T. Montgomery	482–60–9911
J. Hembrough	025–36–2305
B. Nix	339–56–5676
S. Scott	445–68–0988
J. Davis	213–52–8759"

The foregoing determination does not apply to workers engaged in regional sales.

Signed at Washington, DC, this 23rd day of June, 1994.

James D. Van Erden,

Administrator, Office of Work-Based Learning.

[FR Doc. 94–15976 Filed 6–29–94; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix of this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 11, 1994.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 11, 1994.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, D.C. this 13th day of June, 1994.

Violet Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition no.	Articles produced
Southland Manufacturing (Workers)	Lepanto, AR	06/13/94	04/15/94	29,957	Ladies', Men's, & Children's Sportswear.
TMBR-Sharp Drilling, Inc (Workers)	Midland, TX	06/13/94	05/24/94	29,958	Oil and Gas.
Spartan Undies/Imerman, Inc (Workers)	Spartanburg, SC	06/13/94	06/01/94	29,959	Children's Slips and Sleepwear.
Schlegel Corp (ICWU)	Montpelier, IN	06/13/94	06/02/94	29,960	Weatherstripping for Vehicles.
Peabody Coal Co (UMWA)	Shawneetown, IL	06/13/94	05/30/94	29,961	Coal.
Occidental Chemical Corp (ABGWIU)	Burlington, NJ	06/13/94	05/05/94	29,962	Vinyl Sheeting & Plastics.
McCord Winn Textron (IAMAW)	Cookeville, TN	06/13/94	05/10/94	29,963	Windshield Reservoir Pumps, Etc.
Chief Drilling Co (Workers)	Ellis, KS	06/13/94	05/05/94	29,964	Oil Drilling.
Benicia Industries, Inc (IAM)	Benicia, CA	06/13/94	06/02/94	29,965	Process Imported Cars.
ARCO Alaska, Inc (Workers)	Anchorage, AK	06/13/94	05/31/94	29,966	Oil Production.
Allied Signal GCS (Workers)	Lakewood, CA	06/13/94	05/26/94	29,967	Avionics Equipment.
Tampella Power (Workers)	Williamsport, PA	06/13/94	05/25/94	29,968	Package Boilers.
Kollmorgen Inland Motor (Workers)	Radford, VA	06/13/94	04/04/94	29,969	Fractional Horsepower DC Motors.
New York Life Insurance (Co)	New York, NY	06/13/94	05/27/94	29,970	Claims Office.
First Inertia Switch (Workers)	Grand Blanc, MI	06/13/94	05/25/94	29,971	Vertical Accelerometer.
Clorox Corp (Workers)	Jersey City, NJ	06/13/94	06/02/94	29,972	Household Cleaning & Washing Compounds.
Avery Dennison—Soabar Systems Div (Workers).	Gastonia, NC	06/13/94	05/27/94	29,973	Tickets, and Labels.
VIC Manufacturing Co (Workers)	Minneapolis, MN	06/13/94	05/09/94	29,974	Dry Cleaning Machines.
Crawford Home Furnishings (Workers)	Richmond, VA	06/13/94	04/18/94	29,975	Home Furnishings.
No Nonsense Factory Outlet, Inc. (Workers).	Sevierville, TN	06/13/94	05/25/94	29,976	Outlet Store.
USA Classic, Inc (Workers)	Counce, TN	06/13/94	05/13/94	29,977	Men, Women & Children's Sportswear.

[FR Doc. 94–15975 Filed 6–29–94; 8:45 am]
BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[94–043]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by August 1, 1994. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0044), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: MidRange Feedback Survey.
OMB Number: 2700–0044.
Type of Request: Extension.
Frequency of Report: As required.
Type of Respondent: Individuals or households, state or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.
Number of Respondents: 10.
Responses Per Respondent: 1.
Annual Responses: 2.
Hours Per Response: 20.
Annual Burden Hours: 40.
Number of Recordkeepers: 0.
Annual Hours Per Recordkeeping: 0.
Annual Recordkeeping Burden Hours: 0.
Total Annual Burden Hours: 40.
Abstract-Need/Uses: Public Law 97–446 authorized duty-free entry of space materials into the U.S. if NASA certifies that the statutory requirements are met. Information from applicants requesting duty-free entry is necessary to determine whether NASA should certify and if the statutory requirements are met.

Eva L. Layne,
Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 94–15890 Filed 6–29–94; 8:45 am]
BILLING CODE 7510–01–M

[Notice 94–045]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by August 1, 1994. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0050), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie B. Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: Patent Waiver Report.
OMB Number: 2700–0050.
Type of Request: Extension.
Frequency of Report: Annually.
Type of Respondent: Businesses or other for-profit.
Number of Respondents: 95.
Responses Per Respondent: 1.
Annual Responses: 95.
Hours Per Request: 2.
Annual Burden Hours: 190.
Number of Recordkeepers. 1.
Annual Hours Per Recordkeeping: 15.
Annual Recordkeeping Burden Hours: 205.
Total Annual Burden Hours: 205.
Abstract-Need/Uses: The NASA Patent Waiver form which is completed by NASA contractors is designed to elicit information that is deemed necessary for the NASA Inventions and Contributions Board to evaluate the progress of development and commercialization for waived inventions. The NASA Patent Waiver Regulations require the waiver recipient to report on the utilization of waived inventions.

Dated: June 23, 1994.

Eva L. Layne,
Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 94–15892 Filed 6–29–94; 8:45 am]
BILLING CODE 7510–01–M

[94–044]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project

DATES: Comments are requested by August 1, 1994. If you anticipate commenting on a form but find that time to prepare will prevent you from

submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0048), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie B. Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: Patents.
OMB Number: 2700–0048.
Type of Request: Extension.
Frequency of Report: Annually.
Type of Respondent: Non-Profit.
Number of Respondents: 7,094.
Responses Per Respondent: 1.
Annual Responses: 7,094.
Hours Per Request: .5.
Annual Burden Hours: 3,547.
Number of Recordkeepers: 7,094.
Annual Hours Per Recordkeeping: 10.
Annual Recordkeeping Burden Hours: 70,940.
Total Annual Burden Hours: 74,487.
Abstract-Need/Uses: Patents, grants, records, and monitoring reports regarding patents are required to comply with statutes and the OMB and NASA implementing regulations.

Dated: June 23, 1994.

Eva L. Layne,

Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 94–15891 Filed 6–29–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel, Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of title 5, United States Code.

1. *Date:* July 12, 1994.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted to Humanities Projects in Media program during the July 8, 1994 deadline concerning the Request for Proposals on the National conversation.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 94–15893 Filed 6–29–94; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Committee of Visitors; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Biological Sciences; Committee of Visitors.
Date and Time: Monday, July 18 through Wednesday, July 20, 1994; 8:30 a.m. to 5 p.m.
Place: The National Science Foundation, room 380, 4201 Wilson Boulevard, Arlington, Virginia 22230.
Type of Meeting: Closed.
Contact Person: James H. Brown, Division Director for Molecular and Cellular Biosciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia. Telephone: (703) 306–1440.
Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.
Agenda: To provide oversight review of the Cell Biology Program in the Division of Molecular & Cellular Biosciences.
Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b (c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: June 27, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–15886 Filed 6–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Elementary, Secondary and Informal Education; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name of Committee: Special Emphasis Panel in Elementary, Secondary and Informal Education.
Date and time: July 21, 1994; 8:00 a.m. to 5:00 p.m.
Place: National Science Foundation, 4201 Wilson Blvd., 3rd Floor, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Rodolfo Tamez, Program Director, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1616.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 27, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–15884 Filed 6–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Date and Time: July 18, 1994; 7:30 p.m. to 9 p.m., July 19, 1994; 8:30 a.m. to 5 p.m., July 20, 1994; 8:30 a.m. to 5 p.m., July 21, 1994; 8:30 p.m. to 1 p.m.

Place: The Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Type of Meeting: Closed.

Contact Person: Dr. Herbert Levitan, Section Head, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Course and Curriculm Development (CCD) Program Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c)(4) and (6) of the Government in the Sunshine Act.

Dated: June 27, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–15887 Filed 6–29–94: 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education.

Date and Time: July 21, 1994; 8:30 a.m. to 5:00 p.m., July 22, 1994; 8:30 a.m. to 5:00 p.m.

Place: The Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Type of Meeting: Closed.

Contact Person: Dr. Herbert Levitan, Section Head, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Systemic Changes in the Chemistry Curriculum (CCD–CHEM) Program Panel Meeting.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 27, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–15885 Filed 6–29–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1004]

Vectra Technologies, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption to VECTRA Technologies, Inc. (VECTRA) (formerly Pacific Nuclear Fuel Services, Inc.) located in San Jose, California, to fabricate (but not use) a NUHOMS transfer cask. The transfer cask is a component of the Standardized NUHOMS System that is intended to be used by Toledo Edison Company to store spent fuel at its Davis-Besse Nuclear Power Station (DBNPS) (Docket No. 50–346, License No. NPF–3) located near Oak Harbor, Ohio. The exemption request does not include the principal storage components of the Standardized NUHOMS System (i.e., horizontal storage module and dry shielded canister).

The Standardized NUHOMS System is currently the subject of an NRC rulemaking which proposes to add the cask to the list of NRC-approved storage casks (59 FR 28496, June 2, 1994). A draft NRC Safety Evaluation Report (SER), issued May 4, 1994, provides a detailed description and technical evaluation of the Standardized NUHOMS System, including he transfer cask that is the subject of VECTRA'S exemption request.

Environmental Assessment

Identification of Proposed Action

The requested exemption, proposed by VECTRA letter dated March 4, 1994, concerns the requirements of 10 CFR 72.234(c), which states that "Fabrication of casks under the Certificate of Compliance must not start prior to receipt of the Certificate of Compliance for the cask model." Specifically, VECTRA proposes to fabricate one NUHOMS transfer cask prior to the Commission's issuance of a Certificate of Compliance for the Standardized NUHOMS System of which the transfer cask is a part. Therefore, the proposed action by NRC would grant VECTRA an exemption from 10 CFR 72.234(c) for the limited purpose of fabricating one transfer cask prior to VECTRA's receipt of a final Certificate of Compliance for the Standardized NUHOMS System.

The Need for the Proposed Action

VECTRA'S request for exemption indicates that the proposed exemption is needed to have necessary equipment available in time for use by DBNPS in mid-1995, and thus enable DBNPS to maintain complete full-core off-load capability in its spent fuel pool following the refueling outage scheduled for early 1996. VECTRA's request indicates that in order to meet this schedule, VECTRA must begin fabrication of a transfer cask promptly. However, the NRC administrative process for approval of the Certificate of Compliance, which includes completion of the pending rulemaking on the Standardized NUHOMS System, may not be completed before December 1994.

Procurement, fabrication, and construction activities for the transfer cask by VECTRA under the proposed exemption would be entirely at VECTRA's own risk. In this regard, VECTRA's exemption request states that changes to procedures or specifications that result from the remaining NRC certification activities can be accommodated into the components to be fabricated under the proposed exemption. Favorable NRC action on the exemption request shall not be construed as an NRC commitment to favorably consider VECTRA'S application for a certificate, or to approve VECTRA's proposed design for the Standardized NUHOMS System. VECTRA would bear the risk of any activities conducted under the proposed exemption, in light of NRC's future action on VECTRA's application and proposed design.

Environmental Impacts of the Proposed Action

The Commission has evaluated the environmental impacts of the proposed action, which is limited to fabrication only and would not authorize any action with respect to use of the transfer cask for spent fuel. As noted, the NRC reviewed the NUHOMS system Final Safety Analysis Report (SAR), and on May 4, 1994, issued a Draft SER, and on April 28, 1994, issued a Draft Certificate of Compliance for use of the Standardized NUHOMS System under a general license. As a result of this SAR review, VECTRA has an NRC-approved quality assurance program under which this component of the NUHOMS system can be fabricated. VECTRA has developed procurement and fabrication specifications under this approved QA

program, which will be used to control procurement and fabrication activities related to construction of the transfer cask. In addition, VECTRA's previous fabrication for NUHOMS systems, performed under NRC-approved QA programs, include those for Carolina Power & Light Company's H.B. Robinson, Duke Power Company's Oconee, and Baltimore Gas and Electric Company's Calvert Cliffs independent spent fuel storage installations. Environmental impact from the limited transfer cask fabrication activities would be similar to the assembly of metal components at a large machine shop. The environmental assessments for the Proposed Rule (54 FR 19379) and Final Rule (55 FR 29181), "Storage of Spent Fuel in NRC-approved Storage Casks at Power Reactor Sites," considered the environmental impact associated with the construction and use of such certified casks and concluded that these activities would have no significant impact on the environment. A finding of no significant environmental impact was also reached in the draft environmental assessment for the pending NRC rulemaking on the Standardized NUHOMS System including the transfer cask. Accordingly, the Commission concludes that the proposed exemption for VECTRA to fabricate (but not use) one transfer cask will have no significant radiological or nonradiological environmental impacts.

Alternative to the Proposed Action

The alternative to the proposed exemption would be to deny the requested exemption. Based on the information provided in VECTRA's request, this would result potentially in the loss of lead time for procurement and fabrication necessary for the availability of the transfer cask needed by Toledo Edison Company, and could thereby cause disruptions in planned activities for a series of plant outages beginning in 1996.

Agencies and Persons Consulted

The Commission's staff reviewed VECTRA's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action would not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, the request for exemption dated March 4, 1994, and other documents are available for public inspection at the Commission's Public Document Room the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and the Local Public Document at the William Carlson Library, Government Documents Collection, University of Toledo, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 24th day of June, 1994.

For the Nuclear Regulatory Commission.

E. William Branch,

Deputy Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–15935 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982, the Nuclear Regulatory Commission (NRC) published in the **Federal Register**, as final, certain amendments to 10 CFR parts 71 and 73 (effective July 6, 1982), which require advance notification to Governors or their designees concerning transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in part 73 is for spent nuclear reactor fuel shipments and the notification for part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR part 73).

The following list updates the names, addresses and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the **Federal Register** on or about June 30, to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

States	Part 71	Part 73
Alabama	Col. George McMinn, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36192–0501, (205) 242–4378.	Same.
Alaska	Mead Treadwell, Deputy Commissioner, Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, AK 99801–1795, (907) 465–5050.	Same.
Arizona	Aubrey Godwin, Director, Arizona Radiation Regulatory Agency, 4814 South 40th Street, Phoenix, AZ 85040, (602) 255–4845, After hours: (602) 223–2212.	Same.
Arkansas	Greta J. Dicus, Director, Division of Radiation Control and Emergency Management Programs, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72205, (501) 661–2301, After hours: (501) 661–2136 or 661–2000.	Same.
California	L. Denno, Chief, Enforcement Services Division, California Highway Patrol, 444 North Third Street, Suite 310, Sacramento, CA 95814, (916) 445–3253.	Same.
Colorado	Lt. Colonel Lonnie J. Westphal, Officer in Charge, Region I, Colorado State Patrol, 700 Kipling Street, Denver, CO 80215, (303) 239–4406, After hours: (303) 239–4501.	Same.
Connecticut	Honorable Timothy R.E. Keeney, Commissioner, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106, (203) 566–2110.	Same.
Delaware	Karen L. Johnson, Secretary, Department of Public Safety, P.O. Box 818, Dover, DE 19903, (302) 739–4321.	Same.
Florida	Harlan Keaton, Manager, Environmental Radiation Program, Office of Radiation Control, Department of Health & Rehabilitative Services, P.O. Box 680069, Orlando, FL 32868–0069, (407) 297–2095.	Same.
Georgia	Al Hatcher, Director, Transportation Division, Public Service Commission, 1007 Virginia Avenue, Suite 310, Hapeville, GA 30354, (404) 559–6600.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Hawaii	Bruce S. Anderson, Ph.D., Deputy Director for Environmental Health, State Department of Health, P.O. Box 96813, Honolulu, HI 96813, (808) 548–4139.	Same.
Idaho	Captain David C. Rich, Department of Law Enforcement, Idaho State Police, 700 South Stratford Drive, P.O. Box 700, Meridian, ID 83680–0700, (208) 884–7200.	Same.
Illinois	Thomas W. Ortciger, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704, (217) 785–9868 (24 Hour), 24 Hrs Emergency: (217) 785–0600.	Same.
Indiana	Lloyd R. Jennings, Superintendent, Indiana State Police, 301 State Office Building, 100 North Senate Avenue, Indianapolis, IN 46204, (317) 232–8241, After hours: (317) 232–8248.	Same.
Iowa	Ellen M. Gordon, Administrator, Emergency Management Division, Hoover State Office Building, Des Moines, IA 50319, (515) 281–3231.	Same.
Kansas	Frank H. Moussa, M.S.A., Technological Hazards Administrator, The Adjutant General's Department, Division of Emergency Preparedness, 2800 SW Topeka Boulevard, Topeka, KS 66611–1287, (913) 266–1409, After hours: (913) 296–3176.	Same.
Kentucky	David L. Klee, Acting Director, Division of Community Safety, Department for Health Services, 275 East Main Street, Frankfort, KY 40621, (502) 564–3700.	Same.
Louisiana	Lt. Russell R. Robinson, Louisiana State Police, 7901 Independence Boulevard, P.O. Box 66614 (#21), Baton Rouge, LA 70896, (504) 925–6113.	Same.
Maine	Chief of the State Police, Maine Dept. of Public Safety, 36 Hospital Street, Augusta, ME 04333, (207) 624–7074.	Same.
Maryland	Colonel James E. Harvey, Chief, Services Bureau, Maryland State Police, 1201 Reisterstown Road, Pikesville, MD 21208, (301) 486–3101.	Same.
Massachusetts	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Health, State Laboratory Institute, 305 South Street, Jamaica Plain, MA 02130, (617) 727–6214.	Same.
Michigan	Captain Allen L. Byam, Commanding Officer, Special Operations Division, Michigan Department of State Police, 714 S. Harrison Road, East Lansing, MI 48823, (517) 336–6187, After hours: (517) 336–6100.	Same.
Minnesota	John R. Kerr, Assistant Director, Planning Branch, Minnesota Division of Emergency Management, B5—State Capitol, 175 Constitution Avenue, St. Paul, MN 55155, (612) 296–0481, After hours: (612) 649–5451.	Same.
Mississippi	James E. Maher, Director, Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39296–4501, (601) 352–9100 (24 hours).	Same.
Missouri	Jerry B. Uhlmann, Director, State Emergency Management Agency, 1717 Industrial Drive, P.O. Box 116, Jefferson City, MO 65102, (314) 526–9779, After hours: (314) 751–2748.	Same.
Montana	Mr. Adrian Howe, Chief, Occupational & Radiologic Health Bureau, Environmental Sciences Div., Dept. of Health & Environmental Sciences, 1400 Broadway, P.O. Box 200901, Helena, MT 59602, (406) 444–3671, After hours: (406) 442–7491.	Jim Greene, Administrator, Disaster & Emergency Services, P.O. Box 4789, Helena, MT 59604, (406) 444–6911.
Nebraska	Colonel Ron Tussing, Superintendent, Nebraska State Patrol, P.O. Box 94907, Lincoln, NE 68509, (402) 479–4931, After hours: (402) 471–4545.	Same.
Nevada	Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Health Protection Services, Nevada Division of Health, 505 East King Street, Carson City, NV 89710, (702) 687–5394.	Same.
New Hampshire	Richard M. Flynn, Commissioner, New Hampshire Dept. of Safety, James H. Hayes Building, Hazen Drive, Concord, NH 03305, (603) 271–3636 (24 hours).	Same.
New Jersey	Kent Tosch, Manager, Department of Environmental Protection & Energy, Bureau of Nuclear Engineering, CN 415, Trenton, NJ 08625, (609) 987–2031.	Same.
New Mexico	Roland K. Lough, Chief, Emergency Management Bureau, Department of Public Safety, P.O. Box 1628, Santa Fe, NM 87504–1628, (505) 827–9222, After hours: (505) 294–7932.	Same.
New York	Anthony J. Germano, Director, State Emergency Management Office, Public Security Building #22, State Campus, Albany, NY 12226, (518) 457–9996.	Same.
North Carolina	First Sergeant T.C. Stroud, Hazardous Materials Coordinator, North Carolina Highway Patrol Headquarters, 512 N. Salisbury St., P.O. Box 27687, Raleigh, NC 27611–7687, (919) 733–4045, After hours: (919) 733–3861.	Same.
North Dakota	Dana K. Mount, Director, Division of Environmental Engineering, Department of Health, 1200 Missouri Avenue, Box 5520, Bismarck, ND 58502–5520, (701) 221–5188, After hours: (701) 224–2121.	Same.
Ohio	James R. Williams, Chief of Staff, Ohio Emergency Management Agency, 2825 W. Dublin-Granville Road, Columbus, OH 43235–2789, (614) 889–7150.	Same.
Oklahoma	Dave McBride, Commissioner of Public Safety, Oklahoma Department of Public Safety, 3600 N. King Avenue, P.O. Box 11415, Oklahoma City, OK 73136–0145, (405) 425–2424 (24 hours).	Same.
Oregon	David Stewart-Smith, Administrator, Facility Regulation Division, Oregon Department of Energy, 625 Marion Street, NE., Salem, OR 97310, (503) 378–6469.	Same.
Pennsylvania	George M. Johnson, Director, Response and Recovery, Pennsylvania Emergency Management Agency, P.O. Box 3321, Harrisburg, PA 17105, (717) 783–8150, After hours: (717) 783–8150.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Rhode Island	William A. Maloney, Associate Administrator, Motor Carriers, Division of Public Utilities and Carriers, 100 Orange Street, Providence, RI 02903, (401) 277–3500.	Same.
South Carolina	Heyward G. Shealy, Consultant, Bureau of Radiological Health, South Carolina Department of Health & Environmental Control, 2600 Bull Street, Columbia, SC 29201, (803) 734–4632, After hours: (803) 253–6497.	Same.
South Dakota	Gary N. Whitney, Division Director, Emergency Management, 500 E. Capitol, Pierre, SD 57501–5060, (605) 773–3231.	Same.
Tennessee	John White, Assistant Deputy Director, Tennessee Emergency Management Agency, State Emergency Operations Center, 3041 Sidco Drive, Nashville, TN 37204, (615) 741–0001, After hours: (Inside TN) 1–800–262–3300, (Outside TN) 1–800–258–3300.	Same.
Texas	Richard A. Ratliff, Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756, (512) 834–6688.	Col. James Wilson, Director, Texas Department of Public Safety, 5805 N. Lamar Blvd., Austin, TX 78752, (512) 465–2000.
Utah	William J. Sinclair, Director, Division of Radiation Control, 168 North 1950 West, P.O. Box 144850, Salt Lake City, UT 84114–4850, (801) 536–4250, After hours: (801) 538–6333.	Same.
Vermont	Patrick J. Garahan, Secretary, Vermont Agency of Transportation, 133 State Street, Montpelier, VT 05602, (802) 828–2657.	Same.
Virginia	James D. Holloway, Director, Technological Hazards Division, Department of Emergency Services, Commonwealth of Virginia, 310 Turner Road, Richmond, VA 23225, (804) 674–2400.	Same.
Washington	Robert J. Huss, Deputy Chief, Washington State Patrol, General Administration Building, P.O. Box 42613, Olympia, WA 98504–2613, (206) 586–2340.	Same.
West Virginia	Colonel Thomas L. Kirk, Superintendent, Division of Public Safety, West Virginia State Police, 725 Jefferson Road, South Charleston, WV 25309, (304) 746–2111.	Same.
Wisconsin	Leroy E. Conner, Jr., Administrator, Wisconsin Division of Emergency Government, P.O. Box 7865, Madison, WI 53707–7865, (608) 242–3232.	Same.
Wyoming	Captain L.S. Gerard, Motor Carrier Officer, Wyoming Highway Patrol, 5300 Bishop Boulevard, P.O. Box 1708, Cheyenne, WY 82003–1708, (307) 777–4317, After hours: (307) 777–4323.	Same.
District of Columbia	Norma J. Stewart, Program Manager, Pharmaceutical and Medical Devices Control Division, Department of Consumer and Regulatory Affairs, 614 H Street, NW., Washington, DC 20001, (202) 727–7219, After hours: (202) 727–6161.	Same.
Puerto Rico	Hector Russe Martinez, Chairman, Environmental Quality Board, P.O. Box 11488, Santurce, PR 00910, (809) 767–8056 or (809) 725–5140.	Same.
Guam	Fred M. Castro, Administrator, Guam Environmental Protection Agency, D107 IT&E Plaza, 130 Rojas Street, Harmon, Guam 96911, (671) 646–8863/64/65.	Same.
Virgin Islands	Alexander Farrelly, Governor, Government House, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774–0001.	Same.
American Samoa	Mr. Pati Faiai, Government Ecologist, Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799, (684) 633–2304.	Same.
Commonwealth of the Northern Mariana Islands.	Nicolas M. Leon Guerrero, Director, Department of Natural Resources, Commonwealth of Northern Mariana Islands Government, Capitol Hill, Saipan, MP 96950, (670) 322–9830 or (670) 322–9834.	

Questions regarding this matter should be directed to Spiros Droggitis at (301) 504–2367.

Dated at Rockville, Maryland, this 20th day of June, 1994.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 94–15939 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

Correction to Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On April 28, 1994, the Federal Register published a Bi-Weekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On page 22012, under the South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, the date of the amendment request should read March 11, 1994.

Dated at Rockville, Maryland, this 23rd day of June 1994.

For the Nuclear Regulatory Commission.

William H. Bateman,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15936 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is temporarily identified as DG–8015, "Release of Patients Administered Radioactive Materials," and is intended for Division

8, "Occupational Health." DG–8015 is being developed to provide guidance on determining the potential doses to an individual likely to receive the highest dose from exposure to a patient and to establish appropriate activities and dose rates for release of a patient. The guide will also provide guideline on instructions for patients on how to maintain doses to other individuals as low as reasonably achievable and will describe recordkeeping requirements.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by August 29, 1994.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 20th day of May 1994.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 94–15938 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–29025, License No. 37–20935–01 (Expired), EA 94–093]

Order To Transfer Licensed Materials (Effective Immediately) and Demand for Information

In the matter of: Brian A. Clark, Dunmore, Pennsylvania.

I

Brian A. Clark was the President and Owner of August Corporation (Licensee), the holder of expired Byproduct Materials License No. 37–20935–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on November 15, 1985. The License authorized the possession and use of an americium-241 sealed source, not to exceed 44 millicuries, in a Troxler Electronics Labs gauge, in accordance with the conditions specified therein. The License expired on November 30, 1990, and the NRC has been informed by Mr. Clark that August Corporation is now defunct. Since the expiration of the License, the byproduct material has remained in the possession of Mr. Clark at his residence at 1608 Adams Avenue, Dunmore, Pennsylvania 18509.

II

The Licensee did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration, nor did the Licensee notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License. Although Mr. Clark stated his intentions, in a telephone conversation he initiated with Mr. William Oliveira, Health Physicist, NRC, Region I, on December 27, 1991, to obtain a license in his name, as of this date, Mr. Clark has not applied for, nor obtained, an NRC license.

On February 24, 1992, the NRC, Region I, issued a Notice of Violation (NOV) to the August Corporation for failure to request renewal, or to file a notice of non-renewal or transfer of the byproduct material, prior to expiration of the License. The letter forwarding the NOV directed the Licensee to place the gauge in secure storage and not to use the material until the Licensee obtained a new NRC license. Neither the Licensee nor Mr. Clark responded to the Notice of Violation, even though Mr. Clark was again telephonically contacted by Mr. Charles Amato, Health Physics Inspector, NRC, Region I, on December 29, 1992, and informed that he was illegally possessing radioactive material, had not responded to the Notice of Violation, and enforcement action could be taken. Although Mr. Clark again stated that he wanted to obtain a license in his name, he has not applied for an NRC license.

In addition, in a July 1, 1993 letter, the NRC again reminded Mr. Clark of the need to respond to the NRC Notice of Violation. Further, Ms. Sharon Johnson, Administrative Assistant, NRC, Region I, in a telephone conversation that Mr. Clark initiated on February 25, 1994, and telephone conversations that Ms. Johnson initiated on March 15, 1994, and March 28, 1994, reminded Mr. Clark of his possession of NRC-licensed material without a license. Mr. Herbert Kaplan, Senior Reactor Engineer, NRC, Region I, discussed the same issue in a subsequent telephone conversation that he initiated on April 28, 1994. To date, Mr. Clark still possesses the gauge without an NRC license and without applying for such a license.

III

Mr. Clark remains in possession of NRC-licensed radioactive material without a license. This is prohibited by Section 81 of the Atomic Energy Act of 1954, as amended, and by 10 CFR 30.3, which state that, except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general NRC license. Furthermore, based on the above, Mr. Clark has deliberately violated NRC requirements by possessing the gauge without a license. This conclusion is based on the fact that Mr. Clark never filed a renewal application before the License issued to August Corporation expired on November 30, 1990, as required by 10 CFR 30.37; Mr. Clark has not responded to an Inquiry Letter (No. 90–001) dated November 28, 1990, sent by the NRC before the License expired; Mr. Clark has not responded to the NRC Notice of Violation issued on February 24, 1992; Mr. Clark has not respond to an NRC letter, via "CERTIFIED MAIL" dated July 1, 1993, addressing his previous failure to respond to the Notice of Violation; Mr. Clark has refused to dispose of the radioactive material; Mr. Clark possesses the radioactive material contrary to 10 CFR 30.3, without a valid NRC specific license; and Mr. Clark has stated to the NRC on numerous occasions that he wants an NRC license (in his own name), but has not applied for such a license.

Improper handling of the gauge can result in an unnecessary exposure to radiation. The Atomic Energy Act and the Commission's regulations require that material possessed by the Licensee be under a regulated system of licensing and inspection. Mr. Clark's possession of NRC-licensed material without a

valid NRC license, as documented in the February 24, 1992 Notice of Violation, and his unwillingness to respond to numerous NRC written and verbal communications to apply for an NRC license, demonstrate a deliberate disregard for NRC requirements. Mr. Clark, by continuing to possess material after being notified of the expiration of the License, has demonstrated that he is not willing to comply with Commission requirements.

Given the circumstances surrounding Mr. Clark's possession of the byproduct material and his lack of communication with the NRC, I lack the requisite reasonable assurance that the health and safety of the public will be protected while Mr. Clark remains in possession of the radioactive material. Consequently, the public health, safety, and interest require the imposition of the requirements set forth in Section IV below. Furthermore, pursuant to 10 CFR 2.202, I have determined that the significance of Mr. Clark's actions described above (specifically, the deliberate possession of licensed material without a License, after repeated NRC notification of the need to either obtain a license or transfer the material to an authorized recipient) is such that the public health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations at 10 CFR 2.202 and 10 CFR Part 30, It Is Hereby Ordered, Effective Immediately, That:

A. The americium–241 source in Mr. Clark's possession shall be transferred to a person authorized to receive and possess the source within 45 days of the date of this Order. If Mr. Clark believes he does not have sufficient funds to complete the transfer, he must provide, within 30 days of this Order, evidence supporting such a claim by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (1) an estimate of the cost of the transfer and the basis for the estimate, including the license number and identity of the person who would perform the transfer, (2) written statements from at least two banks stating that Mr. Clark could not qualify for a loan to pay for the transfer, (3) copies of Federal income tax returns for the years ending 1993, 1992, 1991, and 1990, for Mr. Clark, and (4) a signed agreement to allow the NRC to receive Mr. Clark's credit information from a credit agency. A submittal of evidence supporting the lack of sufficient funds does not excuse noncompliance with this order.

B. The americium–241 source shall be tested for leakage by a person authorized to perform the test prior to transfer of the source to another person, if a leak test has not been performed with the last six months prior to transfer.

C. Mr. Clark continue to maintain safe control over the gauge containing the source, by keeping the source in locked storage and not allowing any person access to the source until the source is leak tested and transferred to a person authorized to receive and possess the source in accordance with the provisions of this Order.

D. Mr. Clark ensure that there is no use of the americium–241 source, except for performance of the pre-transfer leak test and transfer to an authorized recipient.

E. Unless the source already has been transferred, Mr. Clark shall provide a written update within 30 days of receipt of this Order to the Regional Administrator, Region I and the Director, Office of Enforcement, on Mr. Clark's progress in finding an authorized person to receive and possess the source.

F. Mr. Clark shall notify Dr. Ronald Bellamy, Chief, Nuclear Materials Safety Branch, NRC, Region I, by telephone at least two working days prior to the date of the transfer of the source so that the NRC may, if it elects, observe the transfer of the source to the authorized recipient.

G. Mr. Clark, within seven days following completion of the transfer, shall provide to the Regional Administration, Region I: (1) confirmation in writing and under oath (NRC Form 314) that the americium–241 has been transferred, (2) a copy of the leak test performed prior to the transfer, and (3) a copy of the certification from the authorized recipient that the source has been received.

The Regional Administrator, NRC Region I, may, in writing, relax or rescind any of the above conditions upon a showing by Mr. Clark of good cause.

V

In accordance with 10 CFR 2.202, Mr. Clark must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which Mr. Clark or other person adversely affected relies and the reasons why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA, 19406, and to Mr. Clark if the answer or hearing request is by a person other than Mr. Clark. If a person other than Mr. Clark requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Clark or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202 (c)(2)(i), Mr. Clark, or any other person adversely affected by this Order may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or request for hearing shall not stay the immediate effectiveness of this order.

VI

In addition to issuance of this Order, the Commission requires further information from Mr. Clark in order to determine whether the Commission can have reasonable assurance that in the future, should Mr. Clark perform licensed activities under any other NRC license, Mr. Clark will conduct any NRC licensed activity in accordance with NRC requirements, and whether enforcement action is warranted against Mr. Clark, individually.

Accordingly, pursuant to section 161c, 161o, 182, and 186 of the Atomic

Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 30.32(b), you are hereby required to submit to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the date of this Order and Demand for Information, a statement in writing, under oath or affirmation, of:

1. Why the NRC should have confidence that you will comply with NRC requirements in the event that you perform licensed activities under another NRC license.

2. Why, in light of the facts set forth above, the NRC should not issue an Order to you prohibiting you from engaging in NRC-licensed activities.

This information is needed in light of the deliberate violations of Commission requirements. Copies of the response to this Demand for Information also shall be sent to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

Dated at Rockville, Maryland this 21st day of June 1994.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 94–15940 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–39 and DPR–48, issued to the Commonwealth Edison Company (CECo, the licensee), for operation of the Zion Station, Units 1 and 2, located in Lake County, Illinois.

The proposed amendments would consist primarily of an administrative change to the Zion Station's Technical Specifications (TSs) to reflect an exemption to 10 CFR part 50, appendix J, section III.D.3.

The exemption from section III.D.3 of appendix J, which is schedular in nature, would authorize the licensee to defer, on a one time only basis, the Type C leak rate testing requirements for valves 1(2)MOV–CC685 until the next refueling outage for each unit. NRC approval of this request would allow CECo continued operation of both units in full compliance with the operating license.

Emergency circumstances existed in 1991, in that prior to that date, CECo was unaware of a number of penetrations and their associated valves, including 1(2)MOV–CC685, which had never been Type C leak rate tested in accordance with 10 CFR part 50, appendix J. On April 5, 1991, the NRC issued an Emergency Technical Specification Amendment (EMTSA) which allowed continued operation of Zion, Units 1 and 2, until their next refueling outages, at which time the required Type C leak rate tests for those penetrations were to be performed. The staff expected that 1(2)MOV–CC685 and the other penetrations would be subjected to the appropriate modifications and required testing performed, which would put Zion Station in compliance with the Type C testing requirement. However, on June 8, 1994, it was determined by Zion Station that the Type C leak rate testing requirement had inadvertently not been met for 1(2)MOV–CC685. On June 13, 1994, the NRC issued a Notice of Enforcement Discretion (NOED) not to enforce compliance with the Technical Specification (TS) for Zion Nuclear Power Station, Units 1 and 2 pending submittal of a schedular exemption request to the requirements of 10 CFR part 50, appendix J, and a Technical Specification amendment request. The exigent nature of this request is necessary due to the identification of this issue after the completion of the Zion Station's refueling outage and startup operations and is required to be reviewed quickly by the staff to support an exemption request from the requirements to test in accordance with 10 CFR part 50, appendix J, for valves 1(2)MOV–CC685 until the next refueling outage for each unit. The exemption request was submitted by the licensee in another letter, also dated June 16, 1994.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability of occurrence or consequences of any accident previously evaluated.

The subject pathway and associated containment isolation valves 1(2)MOV–CC685and 1(2)MOV–CC9438 provide the necessary assurance to conclude that the overall containment leakage rates will remain within the limits assumed in the accident analysis. Failures in excess of design basis requirements would be necessary to adversely impact the offsite dose in the unlikely event of an accident. This conclusion can be reached since the isolation barriers of the Component Cooling Water return from the reactor coolant pumps' thermal barriers meet the following criteria:

—are of seismic design,
—are required to operate post accident (except for large break LOCA),
—the valves close automatically on Phase B isolation signal,
—are subject to Emergency Operating Procedure guidance for manual IVSW system actuation,
—are of similar design and exposed to similar environments as those penetrations that are Type C leak tested,

As such, the consequences of previously evaluated accidents, with respect to offsite dose considerations, would not be significantly impacted.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to the Technical Specifications do not result in plant operations or configurations that could create a new or different type of accident. Installed plant equipment is not operated in a new or different manner. The proposed amendment does not add new or different types of plant equipment nor do the proposed changes alter any plant procedures used during recovery from accidents described in the analysis. As such, it can be concluded that the possibility for a new or different type of accident has not been introduced.

3. The proposed changes do not involve a significant reduction in a margin of safety.

As described in Technical Specification Bases, dose calculations suggest that the public exposure would be well below the 10 CFR 100 values in the event of a design basis accident.

Calculations indicate that the accident leak rate could be allowed to increase to approximately 0.148%/day before the guidance thyroid [dose] value given in 10 CFR 100 would be exceeded. However, the 0.1%/day pre-operational test acceptance criteria provides an adequate margin of safety to assure the health and safety of the public. Additional margin is achieved by establishing the allowable operational leakage rate at 0.075%/day. The measured containment leakage rates are well within that limit. Despite the lack of Type C testing of the subject valves in strict compliance with appendix J, substantial barriers to fission product release are provided by the intact system piping and associated valves.

Testing that has been completed on the subject valves and penetrations provides a high degree of confidence that Type C leakage limits would be met. Based on this it is concluded that the proposed changes to the Technical Specifications do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11555 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 1, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington 20555 and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respects to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a

hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment date June 16, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 24th day of June 1994.

For The Nuclear Regulatory Commission.

Robert A. Capra,

Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15941 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket 70–143; License SNM–124]

Confirmatory Order Modifying License (Effective Immediately)

I

In the Matter of: Nuclear Fuel Services, Inc., Erwin, Tennessee.

Nuclear Fuel Services, Inc. (NFS), located at Erwin, Tennessee, is the holder of License SNM–124 issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 70. The license authorizes the licensee to receive, possess, use, and transfer special nuclear material under the conditions specified in the license. The license was originally issued on September 18, 1957, and was last renewed on June 9, 1992.

II

During the course of licensed activities and until June 28, 1981, when on-site burial of waste contaminated with special nuclear material was no longer permitted by former 10 CFR 20.304, NFS buried certain wastes contaminated with special nuclear material, such as specific process wastes, contaminated equipment, and other like debris, in an area on the licensee's premises now designated as "Pond 4." Pond 4 has also been designated by the United States Environmental Protection Agency (EPA) as Solid Waste Management Units 2, 4, and 6, and is subject to the requirements for remediation and management for ground water protection of the Resources Conservation and Recovery Act, 42 USC § 6901–6986.

In order to comply with the decommissioning requirements of the Commission, NFS must ultimately decontaminate the above identified areas used for waste management and disposal to a level suitable for release of the property for unrestricted use. 10 CFR 70.38. To do so requires the removal or reduction of the special nuclear material present, either in its discrete form or as part of other materials present.

III

In order to comply with requirements of the Resource Conservation and Recovery Act, regarding solid waste management, and with NRC decontamination and decommissioning requirements, the licensee proposes to engage in a program of remediation of the Pond 4 area, as detailed in its "Decommissioning/Interim Measures Workplan for the Pond 4 Area, Solid Waste Management, Units 2, 4, and 6" (Interim Workplan).

Although the licensee believes that its license already contains adequate authority to carry out Phase I source removal of the decontamination and decommissioning activities outlined in the Interim Workplan for Pond 4 and other areas, the staff of the NRC has concluded that the decontamination and decommissioning activities proposed represent a significant change from past practices so as to require additional license conditions to assure protection of the health and safety of the public, workers, and the environment from unexpected radiological conditions resulting from the material excavated, stored, and ultimately disposed of.

In accordance with 10 CFR 70.38(c)(2)(i)(A)–(D), the licensee is required to submit a decommissioning plan for approval by the NRC prior to undertaking decommissioning work, which poses potential health and safety impacts, if procedures would involve techniques not applied routinely during cleanup or maintenance operations; or if workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation; or if procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or if procedures could result in significantly greater release of radioactive material to the environment than those associated with operation.

Pursuant to Clause H.015 of the NFS/U.S. DOE contract DE–A–C12–90 SN 39106 incorporated into NFS license Chapter 7, the United States Deepartment of Energy (DOE) is responsible for providing funds to decommission and decontaminate Pond 4 and other areas covered by the Interim Workplan. DOE has established funding to recognize and support the immediate commencement of the decontamination and decommissioning of Pond 4 and other areas subject to the Interim Workplan and as directed by this Order. NFS has kept DOE, EPA, and the State of Tennessee informed of the schedule for commencement of decontamination

and decommissioning activities under the Interim Workplan.

Decontamination and decommissioning activities proposed by the Interim Workplan will involve techniques not applied routinely during operation, cleanup, or maintenance operations, in that bulk soil and waste material excavation will take place using heavy equipment in an enclosed structure. Additionally, procedures used in the excavation and processing of contaminated soils and debris will result in the material becoming highly disturbed and thereby creating a potential for release of radioactivity to the environment through liquid and gaseous effluents, and a greater potential for exposure of workers though inhalation of airborne radioactivity, than that associated with operation. The currently scheduled date for commencement of those activities is June 23, 1994.

Therefore, the Commission finds that the public health, safety, and interest requires that the NFS license be further conditioned and modified with special conditions to protect the health and safety of workers and public in the performance of the decontamination and decommissioning of the Pond 4 area of the NFS site, with respect to activities proposed by the Interim Workplan. The licensee has consented to these conditions and modification of the license by issuance of this Order.

Pursuant to 10 CFR 2.202(d), I have determined that, based on the licensee's consent to the issuance of this Order and the public health, safety, and interest, this Order shall be immediately effective.

IV

Accordingly, pursuant to sections 53, 161b, 161i, 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 70, it is hereby ordered, effective immediately, that License SNM–124 is modified by addition of the following conditions, to require Nuclear Fuel Services, Inc. to:

1. By November 1, 1994, submit a technically derived characterization plan. The characterization plan must provide a program to reasonably define the extent and nature of the contamination in Pond 4 and other areas of the plant site used for waste management and disposal, denoted as the crosshatched area on the attached plane outline of the licensee's facility. (Appendix I)

2. Perform all current decommissioning and decontamination of the Pond 4 area within Building 410 in accordance with the "Decommissioning/Interim Measures Workplan for the Pond 4 Area, Solid Waste Management, Units 2, 4, and 6," dated December 7, 1993, Revision 1 of the Interim Workplan dated June 16, 1994, and the letter dated June 1, 1994, signed by Andrew Maxin and addressed to Robert Pierson, "Responses to NRC Questions/Comments, dated May 20, 1994," which are hereby incorporated by reference and made part of this Order. The licensee may make changes to the Interim Workplan without notification to the NRC as long as those changes do not decrease the effectiveness of its safety program as determined by the NFS Safety and Safeguards Review Council (SSRC). Proposed changes which decrease the effectiveness of its safety program shall not be implemented without prior approval of the NRC. Revisions to the Interim Workplan implemented without NRC review and approval shall be reported to the NRC within 15 days.

3. Not undertake any decommissioning and decontamination activities of the Pond 4 area outside of the confines of Building 410 prior to the approval by the NRC of a remediation plan for such outside areas. The remediation plan must include an evaluation of estimated worker and public radiation exposures that takes into account the experience from work performed within Building 410 for partial remediation, and for the partial remediation of Impoundments 1, 2, and 3. The remediation plan for outside areas must describe and analyze the impact of the proposed remediation of the outside areas on groundwater.

4. Install and use an environmental air sampling device in a location that will most effectively monitor airborne releases from Building 410. To ensure that all potential pathways are monitored, Trailer T–20 must be moved so that it does not obstruct the free flow of air around the air sampling device presently located immediately north of Trailer T–20, or the air sampling device must be repositioned to accomplish the same objective.

5. Return processed soil only to the remediated areas within Building 410 or ship to a licensed burial site.

6. Analyze excavated material for radioactivity levels and submit data to NRC for review prior to removal of Building 410 and the licensee's securing of the groundwater drawdown system. After reviewing data, NRC will determine when Building 410 may be removed and when the licensee may secure the groundwater drawdown system, and if additional measures are needed to avoid unacceptable groundwater contamination.

7. Not release any liquids to the sanitary sewer system prior to the approval by the NRC of the licensee's evaluation and demonstration that the release will conform to 10 CFR 20.2003.

8. In the absence of, or in lieu of, monitoring effluents in air at the point of release to the ambient atmosphere from Building 410, not allow concentrations of radioactive elements in air within Building 410 in the immediate vicinity of areas under remediation to exceed the exposure rates in 10 CFR 20.1302.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than Nuclear Fuel Services, Inc., may request a hearing within 20 days of the date of this Order. Any request for a hearing must be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies must also be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Assistant General Counsel for Hearings and Enforcement at the same address; Regional Administrator, NRC Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, GA 30323–0199; and Nuclear Fuel Services, Inc., P.O. Box 337, MS 123, Erwin, TN 37650–9718. Any person requesting a hearing shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria in 10 CFR 2.714(d) of the Commission's regulations.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person, other than the licensee, adversely affected by this Order may, in addition to demanding a hearing, at the same time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, the requirements specified in

Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or request for a hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 23rd day of June 1994.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–15942 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–P

[Docket 70–1257; License SNM–1227]

In the Matter of: Siemens Power Corporation, Richland, Washington.

Order and Demand for Information

I

Siemens Power Corporation (SPC) is the holder of Special Nuclear Materials License SNM–1227, issued by the Nuclear Regulatory Commission. The license authorizes possession and use of uranium for the manufacture of fuel assemblies for commercial nuclear power plants. The license also authorizes possession and use of plutonium in sealed sources and as mixed oxide in stored waste. The license was last renewed on September 10, 1987, and was due to expire September 30, 1992. The licensee submitted an application for renewal of the license on August 25, 1992. The license has continued in effect since then under the timely renewal provision of 10 CFR 70.33(b).

II

The Commission's regulations in 10 CFR Part 20 (Standards for Protection Against Radiation) prohibit the release of insoluble non-biological licensed materials to sanitary sewers. Specifically, 10 CFR 20.2003(a)(1) provides that a licensee may discharge licensed material into sanitary sewer systems only if, among other things, the material is readily soluble in water. The purpose of this prohibition is to prevent accumulation and possible reconcentration of the materials in the sanitary sewer system, sewage treatment plants, and sewage sludge. While revised Part 20 was effective in June 1991, licensees were permitted to defer implementation of the rule until January 1, 1994. 56 Fed. Reg. 23360, May 21, 1991; 57 Fed. Reg. 38588, August 26, 1992.

On January 28, 1994, the NRC issued Information Notice (IN) 94–07, which discussed two approaches that could be used for determining a chemical compound's solubility in water. The IN emphasized that unless releases qualify as being "readily soluble," 10 CFR 20.2003(a)(1) would prohibit release to sanitary sewers absent the grant of an exemption to that regulation.

SPC is authorized by License SNM–1227, Safety Condition S–1, to operate a laundry facility for the cleaning of protective clothing and equipment contaminated with uranium compounds and to discharge liquid effluents to the Richland Municipal Sewerage System. These effluents are continuously monitored, and composite samples are analyzed for uranium and regulated chemicals. Results of the liquid effluent monitoring are reported to the NRC in accordance with 10 CFR 70.59. The results are also reported to the Washington State Department of Ecology, Water Quality Division and the Director, Water and Waste Utilities, of the City of Richland.

On April 14, 1994, SPC submitted an application for an exemption from 10 CFR 20.2003(a)(1). SPC stated that based on 1993 data an evaluation of liquid effluents had demonstrated that the sewer discharge from its retention tanks, which receive the bulk of their input from the contaminated clothing laundry, contained small amounts of insoluble uranium. SPC reported that the average uranium concentration was 0.24 parts per million; the liquid discharge was approximately 4,000 gallons per day; the total uranium discharged to the sanitary sewer annually was 1.47 kilograms, or 0.0026 curies of uranium; and the insoluble uranium fraction measured by filtration is approximately 59 percent of the total discharged uranium, or 0.0015 curies.

The information contained in SPC's exemption request indicates that SPC may be in violation of 10 CFR 20.2003(a)(1). SPC was required to comply with the provisions of 10 CFR 20.2003 by January 1, 1994, and yet has reported that 59 percent of the uranium discharges to the sanitary sewer from its retention tanks are insoluble. The filing of an exemption request did not and does not relieve SPC from the obligation to comply with NRC regulations. The NRC staff's review of the exemption request has not been completed.

SPC is hereby notified that it must comply with the provisions of 10 CFR 20.2003 notwithstanding the fact that it has requested an exemption from that regulation. Only in the event that the exemption request is granted may SPC discharge any non-biological insoluble licensed material into sanitary sewerage. While the request is pending, SPC could be subject to enforcement action for violating NRC regulations prohibiting such discharges.

III

In light of the information contained in SPC's exemption request, further information is needed. Accordingly, pursuant to Sections 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204, in order for the Commission to determine whether enforcement action should be taken to ensure compliance with NRC statutory and regulatory requirements, SPC is required to submit by July 6, 1994, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Chief, Fuel Cycle Licensing Branch, the following information, in writing and under oath or affirmation:

1. a. State what actions SPC has taken to ensure compliance with 10 CFR 20.2003(a)(1) since January 1, 1994.

b. Describe the circumstances, since January 1, 1994, under which non-biological insoluble licensed materials were discharged into sanitary sewerage, and the actions, if any, which were taken to prevent further discharges.

2. State what actions SPC will take to ensure future compliance with 10 CFR 20.2003(a)(1).

Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address. After receiving your response, the NRC will determine whether further action is necessary to ensure compliance with statutory and regulatory requirements.

Dated at Rockville, Maryland this 24th day of June 1994.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–15943 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corp.; (Wolf Creek Generating Station, Unit 1) Exemption

I

On June 4, 1985, the Commission issued Facility Operating License No. NPF–42 to Wolf Creek Nuclear Operating Corporation (the licensee) for Wolf Creek Generating Station, Unit 1. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the

Commission) now and hereafter in effect.

II

Section 50.54(q) of 10 CFR part 50 requires a licensee authorized to operate a nuclear power plant to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. The subject exemption is from the requirement of Section IV.F.2 of Appendix E to 10 CFR Part 50 which requires each licensee at each site to annually exercise its emergency plan.

The NRC may grant exemptions from the requirements of the regulations, pursuant to 10 CFR 50.12, that (1) are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR Part 50 describes special circumstances as including cases that provide only temporary relief from the applicable regulation when the licensee has made good faith efforts to comply with the regulation.

III

By letter dated March 8, 1994, the licensee requested a one-time exemption from the requirements to conduct an annual exercise of the Wolf Creek emergency plan pursuant to Section IV.F.2 of Appendix E to 10 CFR Part 50. The licensee had planned to conduct the 1994 annual radiological emergency response plan exercise on June 29, 1994. Full participation with the State of Kansas and affected counties was not required during the 1994 exercise. The previous emergency preparedness exercise for Wolf Creek Generating Station was conducted in December 1993. The licensee requested an exemption in order to allow for the approval and implementation of revised emergency classification criteria and to avoid conflict with the seventh refueling outage, currently scheduled to begin in September 1994. The proposed exemption would not affect the requirement to conduct the normally scheduled 1995 annual exercise.

The proposed exemption provides only temporary relief to delay the annual exercise in order to afford the licensee an opportunity to implement revised emergency classification procedures and avoid conflict with a scheduled refueling outage. The exercise has been tentatively rescheduled for February 1995 which would result in an approximate fourteen month interval between the 1993 and rescheduled 1994 exercises.

Section 50.47(a)(4) of 10 CFR Part 50 and Section IV.B of Appendix E to 10 CFR Part 50 require an emergency classification and action level scheme for use by licensees and government response organizations. Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Reactors," Revision 3, August 1992, accepted guidance contained in NUMARC/NESP–007 (Revision 2, January 1992), "Methodology for Development of Emergency Action Levels" as an alternative to NUREG–0654/FEP–REP–1, "Criteria for Preparation and Evaluation of Radiological Response Plans and Preparedness in Support of Nuclear Power Plants" for the preparation of emergency action levels. By letter dated December 15, 1993, the licensee requested NRC review and approval of revised emergency action levels developed using the guidance of NUMARC/NESP–007. The proposed exemption was requested, in part, to accommodate the transition to the revised emergency action levels. The transition period includes time for NRC review and training of licensee personnel on the revised emergency action levels. Conducting an emergency exercise prior to the implementation of the revised emergency action levels would significantly reduce potential benefits since important emergency classification procedures would be superseded shortly after the exercise.

Scheduling the exercise for the latter portions of 1994, following implementation of the revised emergency action levels, results in a conflict with the planning and execution of the seventh refueling outage, currently scheduled to begin in September 1994. Both activities, the exercise and refueling outage, are resource intensive and require focused management attention. Therefore, it is undesirable to schedule them for the same time period.

The proposed exemption would result in an interval between exercises of approximately fourteen months. Although slightly longer than the twelve month period specified by the regulations, the proposed interval adequately addresses the underlying purpose of the rule regarding periodic exercises. In addition to the December 1993 exercise, the licensee conducts smaller scale emergency plan drills and has stated that emergency response team members will participate in such a drill during the first half of 1994. These activities ensure that licensee personnel and equipment remain capable of responding during an emergency.

On this basis, the NRC staff finds that the licensee has demonstrated that special circumstances are present as required by 10 CFR 50.12(a)(2). Further the staff also finds that a delay in the 1994 exercise until early in 1995 will not present an undue risk to the public health and safety.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12, this exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants Wolf Creek Nuclear Operating Corporation an exemption from the requirements of 10 CFR 50, Appendix E, Paragraph IV.F.2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (59 FR 27076).

Dated at Rockville, Maryland this 23rd day of June 1994.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15944 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

Correction to Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards; Consideration Determination, and Opportunity for a Hearing

In the Notice published Friday, May 13, 1994, on page 25133, column one, last paragraph, "amendment dated *May 5, 1994*" should be changed to read "amendment dated *December 6, 1993, supplemented by letter dated May 6, 1994.*"

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15937 Filed 6–29–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby

given that the meeting of the Federal Prevailing Rate Advisory Committee Scheduled for Thursday, July 21, 1994, has been cancelled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: June 23, 1994.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 94–15753 Filed 6–29–94; 8:45 am]

BILLING CODE 6325–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval of Collection of Information Under the Paperwork Reduction Act; Requests for PBGC Approval of Multiemployer Plan Amendment Adopting Abatement Rules

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") has requested that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information in its regulations on the reduction or waiver of complete withdrawal liability (OMB control number 1212–0044; expires September 30, 1994). A multiemployer plan amendment adopting alternative rules for the reduction or waiver of complete withdrawal liability may not be put into effect until approved by the PBGC in response to a plan sponsor's request. The effect of this notice is to advise the public of the PBGC's request and solicit public comment on this collection of information.

ADDRESSES: All written comments (at least three copies) should be addressed to Office of Management and Budget, Paperwork Reduction Project (1212–0040), Washington, DC 20503. The PBGC's request for extension will be available for inspection at the PBGC's Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (29 U.S.C. 1001 *et seq.*). Part 2647 of the PBGC's regulations (29 CFR Part 2647), Reduction or Waiver of Complete Withdrawal Liability, implements the requirements of ERISA section 4207 (29 U.S.C. 1387). Since April 1, 1994, Part 2647 has included, in § 2647.9, a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of complete withdrawal liability (*i.e.*, rules for abatement under conditions other than those specified in §§ 2647.4 and 2647.8 (c) and (d)) (59 FR 9926, March 2, 1994).

Under § 2647.9, Plan rules for abatement, a plan amendment adopting such alternative rules (and any subsequent modification thereof) may not be put into effect until approved by the PBGC in response to a request by the plan sponsor. Paragraph (d) of § 2647.9 requires the submission of information that the PBGC needs to identify a plan and to determine whether to approve the amendment. (The PBGC will approve an amendment if it determines that the rules rules therein are consistent with the purposes of ERISA (paragraph (f)).)

The PBGC is requesting that the Office of Management and Budget ("OMB") extend approval of the collection of information (OMB control number 1212–0044; expires September 30, 1994) for another three years. The agency estimates that it will receive not more than 10 requests annually and that each request will take about 1/4 hour to prepare, for a total annual burden of not more than 2½ hours.

Issued in Washington, DC this 27th day of June 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–15926 Filed 6–29–94; 8:45 am]

BILLING CODE 7708–01–M

POSTAL RATE COMMISSION

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Before Commissioners: Edward J. Gleiman, Chairman; W.H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: East Greenwich, New York 12826 (Mrs. Frank T. Pell, Petitioner), Docket No. A94–11.

Issued June 24, 1994.

Docket Number: A94–11

Name of Affected Post Office: East Greenwich, New York 12826

Name(s) of Petitioner(s): Mrs. Frank T. Pell

Type of Determination: Closing

Date of Filing of Appeal Papers: June 21, 1994

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. § 404(b)(2)(C)].
2. Effect on the community [39 U.S.C. § 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. § 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioner. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioner or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by July 6, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

June 21, 1994—Filing of Appeal letters
June 24, 1994—Commission Notice and Order of Filing of Appeal
July 18, 1994—Last day of filing of petitions to intervene [*see* 39 C.F.R. § 3001.111(b)]
July 26, 1994—Petitioner's Participant Statement or Initial Brief [*see* 39 C.F.R. § 3001.115 (a) and (b)]

August 16, 1994—Postal Service's Answering Brief [*see* 39 C.F.R. § 3001.115(c)]
August 31, 1994—Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 C.F.R. § 3001.115(d)]
September 7, 1994—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 C.F.R. § 3001.116]
October 19, 1994—Expiration of the Commission's 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)]

[FR Doc. 94–15888 Filed 6–29–94; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Office: John J. Lane, (202) 942–8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Proposed Revisions

Regulation 14A—File No. 270–56
Regulation 14C—File No. 270–57
Rule 19b–4 and Form 19b–4—File No. 270–38
Rule 204–2—File No. 270–215
Rule 6a–2 and Form 1–A—File No. 270–13

Extensions

Rule 206(4)–3—File No. 270–218
Rule 206(4)–4—File No. 270–304
Form S–6—File No. 270–181
Rule 11a–3—File No. 270–321
Rule 17f–5—File No. 270–259

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. section 3501 *et. seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget requests for approval of proposed amendments and/or extensions on previously approved collections for the following rules and forms:

Regulation 14A specifies the information to be disclosed in proxy statements to security holders of companies registered under Section 12 of the Securities Exchange Act of 1934 (1934 Act) and registered under the Investment Company Act of 1940 (Investment Company Act) to enable them to make informed voting decisions. Approximately 7,980 respondents will incur a total of 670,320 burden hours annually.

Regulation 14C specifies the information to be disclosed in information statements to security holders of companies registered under Section 12 of the 1934 Act and registered under the Investment Company Act to enable them to make informed voting decisions. Approximately 58 respondents will incur a total of 4,930 burden hours annually.

Rule 19b–4 implements the requirements of Section 19(b) of the Exchange Act by requiring self regulatory organizations (SROs) to file their rule proposals on Form 19b–4, and by clarifying which actions by SROs must be filed pursuant to Section 19(b). Form 19b–4 is designed to provide the Commission with the information necessary to determine whether, as required by the Exchange Act, the rule proposal is consistent with the Exchange Act and the rules thereunder. The information received also is made available to members of the public who may wish to comment on a particular rule proposal. Approximately 25 respondents will incur a total of 15,750 burden hours annually.

Rule 204–2 sets forth the books and records that registered investment advisers must maintain and preserve. Approximately 21,000 advisers will incur a total of 5,049,870 burden hours annually.

Rule 6a–2 and Form 1–A allows a registered or exempt exchange to update its registration annually by filing amendments on Form 1–A to reflect any changes in specified information contained in the registration statement of the exchange or its accompanying exhibits that were not previously reported in an amendment. Approximately 9 national securities exchanges will incur a total of 270 burden hours annually.

Rule 206(4)–3 sets forth the conditions in which investment advisers are permitted to pay referral fees to solicitors of clients. Approximately 3,588 respondents will incur a total of 25,260 burden hours annually.

Rule 206(4)–4 requires advisers to disclose certain financial and disciplinary information to clients. Approximately 1,231 advisers will incur a total of 9,233 burden hours annually.

Form S–6 is used for registration of securities under the Securities Act of 1933 (1933 Act) by unit investment trusts currently issuing securities. Approximately 11,527 respondents will incur a total of 403,445 burden hours annually.

Rule 11a–3 regulates offers of exchange that may be made by open-end investment companies, other than insurance company separate accounts, and their principal underwriters to their shareholders and to shareholders of other open-end investment companies within the same group of investment companies. Approximately 3,000 respondents will incur a total of 6,000 burden hours annually.

Rule 17f–5 permits registered management investment companies that engage in foreign securities transactions to place their assets with eligible foreign custodians under certain specified conditions. Approximately 1,035 recordkeepers will incur a total of 5,105 burden hours annually.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, (Project Number 3235–0059, 3235–0057, 3235–0045, 3235–0278, 3235–0022, 3235–0242, 3235–0345, 3235–0184, 3235–0358, and 3235–0269), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: June 14, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15849 Filed 6–29–94; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–34256; File No. SR–CHX–94–07]

June 24, 1994.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Utilization of Exempt Credit by Market Makers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 15, 1994, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

[1] 15 U.S.C. § 78s(b)(1).

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend Interpretation and Policy .01 of Rule 17 of Article XXXIV of the Exchange's Rules. The text of the proposed rule is as follows:

Additions italicized.

Article XXXIV
Rule 17
Interpretations and Policies
.01 Utilization of Exempt Credit. Exchange Members registered as equity market makers are members registered as specialists for purposes of the Securities Exchange Act of 1934 and as such are entitled to obtain exempt credit for financing their market maker transactions. Members and/or prospective members who are anticipating becoming registered as equity market makers as well as those clearing firms who are or will be carrying the accounts of market makers should be aware of the following interpretation relative to the use of such credit:

1. Only those transactions initiated on the Exchange Floor qualify as market transactions. This restriction prohibits the use of exempt credit where market maker orders are routed to the Floor from locations off the Floor.

2. Fifty per cent (50%) of the quarterly share volume which creates or increases a position in a market maker account must result from transactions *which are either* consummated on the Exchange *or sent from the Exchange Floor for execution in another market via ITS.*

3. Only those positions which have been established as a direct result of bona fide equity market maker activity qualify for exempt credit treatment. This restriction precludes exempt credit financing based on an equity market maker registration for positions resulting from options exercises and assignments.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change relates to the utilization of exempt credit by market makers. Under current rules, in order for a market maker to obtain exempt credit for the financing of its market maker transactions, fifty percent (50%) of the quarterly share volume in its market maker account must result from transactions consummated on the Exchange.

The proposed rule change would amend this interpretation and policy under the Exchange's rules so that the fifty percent (50%) volume test also would include orders that, although initiated on the Exchange Floor, are sent to another market for execution via the Intermarket Trading System ("ITS"). The Exchange believes that when a market maker initiates an order on the Exchange Floor and clears the post, the market maker should not be penalized when there is no order against which it can be executed or when the specialist does not accept the order for placement in his book. As a result, if a market maker clears the post, sends the order to another market via ITS and the order is executed, under the proposed rules, that transaction would count towards the fifty percent (50%) quarterly share volume requirement.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments where solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consent, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–94–07 and should be submitted by July 21, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15932 Filed 6–29–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34251; International Series Release No. 677; File No. SR–ISCC–94–2]

Self-Regulatory Organizations; International Securities Clearing Corporation; Order Granting Accelerated Approval of Proposed Rule Change Relating to an Amendment to the Linkage Agreement With Japan Securities Clearing Corporation

June 24, 1994.

On May 26, 1994, International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The Commission published notice of the proposed rule change in the **Federal Register** on June 10, 1994.[2] No comments have been received on the notice. As discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

In 1988, ISCC entered into a linkage agreement with the Japan Securities Clearing Corporation ("JSCC")[3] which permits JSCC to obtain access through ISCC to certain services of The Depository Trust Company ("DTC") for U.S. shares listed on stock exchanges in Japan and included in JSCC's central depository clearing system for foreign shares. In 1994, ISCC and JSCC entered into an amendment to the linkage agreement which permits JSCC to obtain access through ISCC to the National Securities Clearing Corporation's ("NSCC") New York Window ("NYW") services for initial public offerings ("IPOs") of U.S. securities listed on exchanges in Japan until such time as such securities are eligible for deposit at DTC.[4]

Under NSCC's NYW service, JSCC gives ISCC instructions to receive securities from an underwriter.[5] ISCC forwards these instructions to NSCC, which accepts the securities on behalf of ISCC. Securities received are checked for good form and apparent negotiability and then are matched with receive instructions. Securities which are not in good form (*i.e.*, not negotiable) or do not match receive instructions within specified tolerances are returned to ISCC. NSCC holds these securities in its custody in vault space leased from DTC. JSCC may then provide further instructions to NSCC via ISCC to deliver securities to parties designated by JSCC. All other securities will be delivered to DTC at such time as these securities become eligible for deposit at DTC.

NSCC provides NYW services to ISCC under the following conditions. NSCC acts as agent for ISCC and not as principal or for its own account. All actions taken by NSCC are based on instructions from ISCC. ISCC is not entitled to reimbursement from NSCC for any losses suffered or liabilities incurred as a result of NYW operations. ISCC's liability to JSCC is limited to losses resulting from a breach of their agreement caused by ISCC's gross negligence, criminal act, or willful misconduct.

The securities held by NSCC will be used as the basis for the bookkeeping entries at JSCC. JSCC will pay to ISCC fees for ISCC services and NSCC charges that ISCC incurs as a result of activity in the ISCC-sponsored account for JSCC. ISCC will capture information about each transaction including, among other things: (1) The daily number of securities delivers and receives that take place within the ISCC-sponsored account at NSCC for JSCC, (2) the quantity of shares, by issue, for each delivery and receipt, (3) the identity of the parties delivering to NSCC and the parties to whom NSCC delivers securities, (4) the start of day and end of day position in each issue, and (5) the identity of the JSCC party to each transaction. In addition, ISCC will provide such information to the Commission upon request pursuant to Section 17(a)(1) of the Act.

II. Discussion

The Commission believes the proposed rule change is consistent with Section 17A of the Act and, therefore, is approving the proposal. Specifically, the Commission believes the proposal is consistent with Section 17A(b)(3)(F)[6] of the Act in that it promotes the prompt and accurate clearance of settlement of securities transactions. NSCC's NYW services were developed to provide a more efficient and standardized procedure for the clearance and settlement of physical securities. Without access to the NYW services, JSCC would be required to develop its own window service, which would be a fairly expensive venture.[7] ISCC's provision of this service to JSCC enables it to settle securities transactions more efficiently and to expedite the transfer of its securities to DTC when the securities become eligible for deposit.

In the initial order granting ISCC temporary registration as a clearing agency, the Commission stated that the development of efficient and comparable automated national and international clearance, settlement, and payment systems is one of the more important international goals.[8] In light of the increase in foreign activity in U.S. stocks, the Commission stressed the importance of developing clearing linkages between existing clearance and settlement systems. The amendment to the linkage agreement will make the U.S. securities market more accessible to foreign investors by giving Japanese investors a more efficient method of settling U.S. IPO activity.

ISCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. JSCC is participating in an IPO during the month of June for which the securities will not be immediately eligible for DTC services. Without the agreement in effect, JSCC will need to develop its own window service for the securities during the short period prior to the expiration of the customary notice period. Due to the burdensome nature of this process, the Commission finds sufficient cause to accelerate approval of this proposal.

III. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–ISCC–94–02) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15848 Filed 6–29–94; 8:45 am]

BILLING CODE 8010–01–M

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34163, International Series Release No. 670 (June 6, 1994), 59 FR 30068.

[3] JSCC is a wholly owned subsidiary of the Tokyo Stock Exchange and provides clearing services for securities listed on stock exchanges in Japan. JSCC acts as the central depository for the benefit of the beneficial owners of foreign shares, including U.S. shares, listed on stock exchanges in Japan. It appoints local custodians with respect to non-Japanese securities.

[4] ISCC is a member and wholly owned subsidiary of NSCC.

[5] Delivers and receives of these securities will be free of payment. The related money settlements for the securities movements will take place between the parties outside of ISCC.

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[7] The NYW services was initially developed because individual participants complained about the high fixed costs associated with window activity (*i.e.*, the processing of physical securities).

[8] Securities Exchange Act Release 26812 (May 12, 1989), 54 FR 21691.

[Release No. 34–34254]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Initial Quotations of Initial Public Offerings

June 24, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 15, 1994 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to implement a change to its existing practice and procedures regarding quotations and the commencement of trading in Nasdaq securities newly listed after an initial public offering ("IPO") that permit a five minute quotation-only time period prior to the commencement of trading in the IPO.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to change the current policies and practices by which initial quoting and trading of new issues are conducted in The Nasdaq Stock Market. Under the proposed change, when an IPO is first authorized for inclusion in the Nasdaq Stock Market, the system will display the time of day when quoting in the issue may begin and a time of day when trading in that issue may begin. Specifically, when a new security is released for trading, the window for quotations has been set to allow market makers a period of five minutes to enter and adjust their quotations prior to the commencement of trading. This quotation period should assist the market makers in determining the appropriate opening price. Currently, when an IPO is authorized for trading on Nasdaq, market makers are permitted to immediately and simultaneously enter quotations and trade on the subject security.

The proposed quotation-only period for IPOs is similar to the display of quotations that occurs prior to the opening of the Nasdaq Stock market. As with the pre-opening quotation period that occurs daily in the Nasdaq Stock Market, the proposed quotation-only period should provide market makers with the opportunity to adjust their quotations and to present a better quotation when the market opens for trading. Because it may be difficult at times to accurately gauge interest in an IPO, quotes and trades in the IPO may be subject to excessive volatility. This "IPO Quote Window" should permit a more orderly market to develop prior to its release for actual trading.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the rules of the Association remove impediments to and perfect the mechanism of a free and open market and a national market system, and Section 15A(b)(11), which provides that the rules of the Association relating to quotations should be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19B–4 thereunder because the proposal constitutes a change to its stated practices regarding the administration and operation of existing quotation rules. At any time within 60 days of the filing rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by July 21, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15933 Filed 6–29–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34250; File No. SR–PHILADEP–93–02]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Concerning the PHILANET Terminal Communication System, the Voluntary Offer Instruction Service, and the Defender Security System

June 23, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] ("Act") notice is hereby given that on

[1] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

August 17, 1993 the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by PHILADEP. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to obtain permanent approval for PHILADEP's PHILANET Terminal Communication System ("PHILANET") and for PHILADEP's Voluntary Offer Instruction ("VOI") service. PHILANET is an electronic communication system linking PHILADEP to its participants. The VOI service allows participants to electronically submit to PHILADEP's Reorganization Department through PHILANET instructions relating to voluntary corporate actions. PHILANET and the VOI service currently are being operated as temporarily approved pilot programs. The proposal also seeks approval of the installation of the Defender security system to PHILANET.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, PHILADEP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PHILADEP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of and Statutory Basis for the Proposed Rule Change

On December 30, 1983, the Commission approved File No. SR–PHILADEP–83–03 which approved PHILANET on a pilot basis.[2] The Commission has extended its approval of the pilot program several times.[3] On March 8, 1993, the VOI service was approved on a pilot basis as part of the PHILANET System.[4]

PHILADEP states it has operated PHILANET for ten years without experiencing any instances of unauthorized system access. PHILADEP continues to monitor the adequacy of current safeguards and to implement additional safeguards as necessary to minimize the risk of unauthorized access. PHILADEP has recently installed the Defender access management system, a dial-back data communications security program. Defender protects against unauthorized dial-up access to PHILANET and the VOI service by verifying that only authorized users from authorized locations have access. To access PHILANET, a participant must dial the Defender system and enter an assigned identification number. Defender then verifies the identification number and the time-of-day restrictions and dials the authorized location for that participant. Defender secures all dial-up lines (synchronous and asynchronous) of the PHILANET system. Audit records are generated for all accesses and configuration changes, and Defender incorporates the audit information into reports and graphs which assist in operating and maintaining proper security.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP does not believe that PHILANET, the VOI service, or Defender will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments on the proposal have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Sections 17A(b)(3) (A) and (F) of the Act require that a clearing agency be organized and its rules designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] The proposal enhances PHILADEP's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions by providing participants with the ability to electronically communicate with PHILADEP. PHILANET along with the VOI service has enhanced securities processing, has reduced paper processing, and has reduced the use of tape transmissions. As a result, PHILADEP has been able to reduce the risk of data loss and delays in receiving and transmitting data. The Defender security system program should help prevent unauthorized access to PHILANET and VOI.

PHILADEP has requested and the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. PHILADEP has informed the Commission that PHILANET and the VOI service have been operating satisfactorily during the pilot phase.[6] The Defender system, which has been implemented and is already operating, appears to be an appropriate security measure for PHILADEP's data communication systems. In light of the above reasons for approving the proposal, the fact that PHILANET, VOI, and the Defender system have been operating satisfactorily for some time, and the fact that the Commission does not expect any adverse comments, the Commission believes it is appropriate to grant accelerated approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance 5 U.S.C. 552, will be available for inspection and copying

[2] Securities Exchange Act Release No. 20519 (December 30, 1983), 49 FR 966. (order granting temporary approval).

[3] Securities Exchange Act Release Nos. 27491 (November 30, 1989), 54 FR 50556, [SR–PHILADEP–89–02] (order granting temporary approval until March 31, 1990); 27863 (April 29, 1990), 55 FR 12762, [SR–PHILADEP–89–02] (order granting temporary approval until June 30, 1990); 28172 (July 3, 1990), 55 FR 28493, [SR–PHILADEP–89–02] (order granting temporary approval until July 31, 1990); 30362 (February 10, 1992), 57 FR 5921, [SR–PHILADEP–90–04] (order granting temporary approval until February 28, 1993); and 31959 (March 8, 1993), 58 FR 13658, [SR–PHILADEP–93–01] (order granting temporary approval until February 28, 1994).

[4] Securities Exchange Act Release No. 31959 (March 8, 1993), 58 FR 13658 [SR–PHILADEP–93–01] (order granting temporary approval until February 28, 1994).

[5] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[6] *Supra* note 4.

in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PHILADEP. All submissions should refer to File No. SR–PHILADEP–93–02 and should be submitted by July 21, 1994.

V. Conclusion

On the basis of the foregoing, the Commission finds that PHILADEP's proposed rule change is consistent with the Act and in particular with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–PHILADEP–93–02) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15847 Filed 6–29–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26070]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 24, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 18, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70–8433)

Central and South West Corporation ("CSW"), a registered holding company, and its nonutility subsidiary company CSW Energy, Inc. ("Energy"), both located at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, and its proposed nonutility subsidiary, Energy Sub ("Energy Sub") (together, "Applicants"), have filed an application-declaration under Sections 6, 7, 9(a), 10, 12(b) and 32 of the Act and Rules 43, 45 and 54 thereunder.

CSW and Energy propose to form and invest in Energy Sub, a wholly owned special purpose subsidiary of Energy, in connection with the purchase from Texasgulf, Inc. ("Texasgulf"), a nonassociate corporation, of an approximately 85 megawatt natural gas fired generation facility, including approximately 40 acres of land ("Project") located in or near Wharton County, Texas. Energy Sub will develop the Project such that it will qualify as an exempt wholesale generator, as defined in Section 32(e) of the Act ("EWG").

Energy Sub will be incorporated under the laws of the State of Delaware with an authorized capital of up to 1,000 shares of common stock, each without par value. Energy will subscribe to all of Energy Sub's common stock at a subscription price of $1.00 per share.

It is further proposed that Energy Sub will purchase the Project from Texasgulf, the sole owner of the Project, for a purchase price in an amount not to exceed $11 million ("Purchase Price") at financial closing of the purchase of the Project ("Purchase Closing"). The Purchase Closing is anticipated to occur promptly after the Commission's approval of the proposed transactions, expected to be in July 1994.

In addition to the Purchase Price, Energy Sub anticipates incurring costs to develop the Project. The aggregate of such development costs will not exceed $5 million ("Development Costs"). CSW and Energy propose to fund the Purchase Price and the Development Costs by capital contributions, loans or open account advances from CSW to Energy and from Energy to Energy Sub. All such loans or open account advances from CSW to Energy and from Energy to Energy Sub would bear interest at a rate per annum not in excess of CSW's weighted cost of capital and would have a final maturity not to exceed five years.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15934 Filed 6–29–94; 8:45 am]

BILLING CODE 8010–01–M

---

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1993).

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

[Public Notice 2030]

Determinations Under the Arms Export Control Act and the Foreign Assistance Act of 1961

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended (the "Act"), notice is hereby given that the Under Secretary of State for Arms Control and International Security Affairs has made two determinations pursuant to Section 81 of the Arms Export Control Act and has concluded that publication of the determinations would be harmful to the national security of the United States.

Dated: June 2, 1994.

Robert L. Gallucci,

Assistance Secretary of State for Politico-Military Affairs.

[FR Doc. 94–15967 Filed 6–2–94; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 2026]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals (BCH) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on August 30, 1994, in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to provide a preview of the agenda items to be addressed at the Twenty-fourth Session of the Bulk Chemicals Subcommittee of the International Maritime Organization (IMO) which is scheduled for September 19–23, 1994, at the IMO Headquarters in London.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the International Code for the Construction and Equipment of Ships Carrying

Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amendments and interpretation of the provisions of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

d. Guidelines for technical assessment for intervention under the 1973 Intervention Protocol.

e. Role of the human element in maritime casualties.

f. Air pollution from ships.

g. Existing ships' standards.

h. International Convention on Oil Pollution Preparedness, Response and Cooperation.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K. J. Eldridge, U.S. Coast Guard (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: June 15, 1994.

Marie Murray,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 94–15919 Filed 6–29–94; 8:45 am]

BILLING CODE 4710–7–M

Office of Defense Trade Controls

[Public Notice 2027]

Munitions Exports Involving the Armaments Corporation of South Africa, Ltd., a/k/a ARMSCOR, and Related Entities and Individuals

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that it shall be the policy of the Department of State to deny all export license applications and other requests for approval involving, directly or indirectly: the Armaments Corporation of South Africa, Ltd, a/k/a ARMSCOR, an agency of the South African Government; the Denel Group (Pty) Ltd., a/k/a DENEL, a wholly-owned company of the South African Government; Kentron (Pty) Ltd. (KENTRON); Fuchs Electronics (Pty) Ltd. (FUCHS); William Randy METELERKAMP. Vern DAVIS; Brian SCOTT, a/k/a "Graham Craighness"; Bert QUINN; Johan LOMBARD; Jaco BUDRICKS; Gerrit PRETORIUS, a/k/a "Bull"; and, any divisions, subsidiaries, associated companies, affiliated persons, or successor entities. This action also precludes the use in connection with such entities of any exemptions from license or other approval included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130).

EFFECTIVE DATE: June 8, 1994.

FOR FURTHER INFORMATION CONTACT: Mary F. Sweeney, Compliance Enforcement Branch, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (703: 875–6650).

SUPPLEMENTARY INFORMATION: On October 31, 1991, a federal grand jury in the Eastern District of Pennsylvania returned an indictment charging the above cited persons, except DENEL, with conspiracy to violate and violating the Arms Export Control Act (AECA). The Department of State, therefore, has reasonable cause to believe that, during the period from 1978 through 1989, ARMSCOR and the other cited entities have engaged in an ongoing conspiracy to export, and exported, defense articles and defense services to the Republic of South Africa and to Iraq without the requisite license(s) or approval(s) of the Department of State. During the period from 1978 through 1989, what is now DENEL was an integral part of ARMSCOR. DENEL reportedly came into being in 1992, in the separation and restructuring of ARMSCOR. It is a wholly owned company of the South African Government, operating as a commercial organization. Inasmuch as it is a successor to ARMSCOR, DENEL is also liable for AECA and/or ITAR related violations.

This action has been taken pursuant to sections 38 and 42 of the Arms Export Control Act (AECA) (22 U.S.C. 2778 & 2791) and sections 126.7(a) (1) and 126.7(a)(2) of the ITAR (22 CFR 126.7(a) (1) & (2)). It will remain in force until rescinded.

Exceptions may be made to this policy on a case-by-case basis at the discretion of the Office of Defense Trade Controls. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding foreign policy or national security interests; whether an exception would further law enforcement concerns; and whether other compelling circumstances exist which are consistent with the foreign policy or national security interests of the United States, and which do not conflict with law enforcement concerns.

A person (as defined at 22 CFR 120.14) named in an indictment for an AECA-related violation may submit a written request for reconsideration of the denial policy to the Office of Defense Trade Controls. Such request for reconsideration should be supported by evidence of remedial measures taken to prevent future violations of the AECA and/or the ITAR and other pertinent documented information showing that the person would not be a risk for future violations of the AECA and/or the ITAR. The Office of Defense Trade Controls will evaluate the submission in consultation with the Departments of Treasury, Justice, and other necessary agencies. After a decision on the request for reconsideration has been rendered by the Assistant Secretary for Political-Military Affairs, the requester will be notified.

Dated: June 16, 1994.

Thomas E. McNamara,

Principal Deputy, Assistant Secretary, Bureau of Political-Military Affairs Department of State.

[FR Doc. 94–15920 Filed 6–29–94; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 2031]

Defense Trade Advisory Group; Open Meeting

SUMMARY: Pursuant to Section 10(a)(1) of the Federal Advisory Committee Act (FACA), notice is hereby given of a meeting of the Defense Trade Advisory Group (DTAG). The DTAG initially established in February 1992 pursuant to the FACA (Public Law 92–463; 5 U.S.C. app. I), is an advisory committee consisting of private sector defense trade specialists. They advise the Department on policies, regulations, and technical issues affecting defense trade.

The meeting will include speakers from the Bureau of Political-Military Affairs; reports on DTAG Working Group progress, accomplishments, and future projects; and unclassified briefings on topics of interest to defense exporters.

DATES: The open session will take place on Thursday, October 6, 1994 from 10 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in the Loy Henderson Conference Room, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520.

SUPPLEMENTARY INFORMATION: Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the

discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by Monday, September 26, 1994. Each person should provide his or her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647–4231 or fax number (202) 647–4232 (Attention: Eva Chesteen). Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance (21st and C Streets, N.W.), where Department personnel will direct them to the Loy Henderson auditorium.

For further information, contact Linda Lum of the DTAG Secretariat, U.S. Department of State, Office of Export Control Policy (PM/EXP), room 2422 Main State, Washington, DC 20520–2422. She may be reached at telephone number (202) 647–4231 or fax number (202) 647–4232.

Dated: June 16, 1994.

William Pope,

Acting Deputy Assistant, Secretary for Export Controls, Bureau of Political-Military Affairs.

[FR Doc. 94–15965 Filed 6–29–94; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 2029; Delegation of Authority No. 145–10]

Under Secretary for Arms Control and International Security Affairs; Delegation of Authority

By virtue of the authority vested in me by:

(1) section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), and section 1(a)(4) of the State Department Basic Authorities Act, as amended;

(2) sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510 (50 U.S.C. App. 2402 note, 2405, 2410(b); 22 U.S.C. 2797–2797c); sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138; sections 305–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, Public Law 102–182 (50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Public Law 102–190; section 1364 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484; and the related Executive Order 12851 of June 11, 1993;

(3) section 504 of the Freedom Support Act (22 U.S.C. 5801), Title III of the Foreign Operations, Export Financing, and Related Programs Act, 1994 (Public Law 103–87), and the President's Memorandum Delegation of Authority dated April 21, 1994;

(4) section 374 of title 10; and

(5) section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and Executive Order 12918 of May 26, 1994, State Department Delegation of Authority No. 145 of February 4, 1980, 45 FR 11655, as amended, is further amended as follows:

(a) Section 1(a) is amended by striking "Under Secretary for Security Assistance, Science, and Technology" and inserting in lieu thereof "Under Secretary for Arms Control and International Security Affairs";

(b) Section 1(a) is further amended by adding the following subsections:

(6) The functions conferred on the Secretary of State by sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991 (NDAA) (Public Law 101–510; 50 U.S.C. App. 2402 note, 2405, 2410(b); 22 U.S.C. 2797–2797c), and all functions conferred on the President by sections 1701–1703 of the NDAA; sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138); sections 305, 306, 308, and all of section 307 with the exception of subsection 307(b)(2)(F)(ii), of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182; 50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190); and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484), to the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12851 of June 11, 1993.

(7) The functions conferred on the Secretary of State by section 374 of Title 10, United States Code and other authorities and responsibilities of the Secretary of State relating to the provision of Department of Defense equipment and services for narcotics-related purposes.

(8) The functions specified in section 504 of the Freedom Support Act (22 U.S.C. 5801) and Title III of the Foreign Operations, Export Financing, and Related Programs Act, 1994 (Public Law 103–87) relating to the Nonproliferation and Disarmament Fund, to the extent that such functions were delegated to the Secretary of State pursuant to the Presidential Memorandum Delegation of Authority dated April 21, 1994.

(9) The function specified in section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), relating to the implementation of United Nations arms embargoes, to the extent that such functions were delegated to the Secretary of State pursuant to Executive Order 12918 of May 26, 1994.

Dated: June 10, 1994.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 94–15966 Filed 6–29–94; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: June 23, 1994

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Susan Pickrel or Annette Wilson, Information Management Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–4735.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those

information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on June 23, 1994:

DOT No: 3951.
OMB No: New.
Administration: Federal Aviation Administration.
Title: Customer Service Survey.
Need for Information: To comply with the principles of Executive Order 12862 of September 11, 1993, the FAA proposes to conduct customer satisfaction surveys in four major program areas: Airmen Certification, Aircraft Registration, Flight Inspection of Air Navigation Facilities, and National Flight Procedures.
Proposed Use of Information: Data will be used to evaluate how well current programs are doing and to determine if FAA's services/products are meeting customers' needs as well as those of the agency.
Frequency: One time.
Burden Estimate: 1,254 hours.
Respondents: Customers of the four program areas.
Form(s): None.
Average Burden Hours Per Response: 20 minutes reporting.

DOT No: 3952.
OMB No: 2130–0008.
Administration: Federal Railroad Administration.
Title: Railroad Power Brake and Drawbars (Air Brake Inspection and Test Certification).
Need for Information: The Rail Safety Enforcement and Review Act, Section 7, Public Law No. 102–365, amended Section 202 of the Federal Railroad Safety Act by adding a new subsection relating to power brake safety.
Proposed Use of Information: The information will be used to ensure that an initial terminal air brake test has been performed as required.
Frequency: On occasion, Recordkeeping.
Burden Estimate: 267,547 hours.
Respondents: Railroads.
Form(s): None.
Average Burden Hours Per Response: 8 hours and 52 minutes reporting; 428 hours and 22 minutes recordkeeping.

DOT No: 3953.
OMB No: 2120–0028.
Administration: Federal Aviation Administration.
Title: Operations Specifications.
Need for Information: Under authority of Section 604 of the Federal Aviation Act of 1958, as amended, FAR Parts 121, 125, 129, and 135 prescribe the requirements for the different categories of operations specifications. The information is needed to comply with those regulations.
Proposed Use of Information: The information will be used to ensure compliance and to approve aircraft operators' requests for operations specifications. Operations specifications prescribe such things as terms, conditions, and limitations as are necessary to ensure safety in air transportation.
Frequency: On occasion.
Burden Estimate: 7,972 hours.
Respondents: Businesses.
Form(s): FAA Form 8400–8.
Average Burden Hours Per Response: 1 hour and 6 minutes reporting.

DOT No: 3954.
OMB No: 2130–0524.
Administration: Federal Railroad Administration.
Title: Transmission of Train Orders by Radio.
Need for Information: Title 49 CFR Part 220, Radio Standards and Procedures, prescribes mandatory procedures governing the use of radio communications in connection with railroad operations to assure safe operating practices.
Proposed Use of Information: FRA will use the information to assure safe uniform procedures covering the use of radio phone technology in railroad operations.
Frequency: Recordkeeping.
Burden Estimate: 240,000 hours.
Respondents: Railroads.
Form(s): None.
Average Burden Hours Per Response: 600 hours recordkeeping.

DOT No: 3955.
OMB No: 2130–0523.
Administration: Federal Railroad Administration.
Title: Rear End Marking Device.
Need for Information: Title 49 CFR Part 221, Rear End Marking Device—Passenger, Commuter and Freight Trains, ensures that marking devices for the trailing end of rear cars meet minimum requirements regarding visibility and display.
Proposed Use of Information: FRA will use the information in the event of an incident of non-compliance with the specified requirements of the Federal Railroad Safety Act of 1976.
Frequency: On occasion, Recordkeeping.
Burden Estimate: 21 hours.
Respondents: Railroads.
Form(s): None.
Average Burden Hours Per Response: 4 hours reporting; 30 minutes recordkeeping.

DOT No: 3956.
OMB No: 2125–0039.
Administration: Federal Highway Administration.
Title: Planning and Research Program Administration.
Need for Information: Sections 134 (Metropolitan Planning) and 135 (Statewide Planning) of Title 23 USC require Metropolitan Planning Organizations and States to conduct transportation planning. Title 23 USC 303 (Management Systems) requires that States develop, establish, and implement seven management and monitoring systems, and Title 23 USC 307(c) requires States to conduct research, development and technology transfer activities.
Proposed Use of Information: The information will be used to determine how FHWA highway planning and research funds will be used by the State highway agencies, and to determine if proposed work is eligible for Federal participation. The information will enable the FHWA to monitor and evaluate progress toward meeting national highway planning and research goals.
Frequency: Annually.
Burden Estimate: 37,440 hours.
Respondents: State highway agencies.
Form(s): None.
Average Burden Hours Per Response: 720 hours reporting.

DOT No: 3957.
OMB No: 2106–0044.
Administration: Office of the Secretary.
Title: Supporting Statements-Air Carriers' Claims for Subsidy Payments.
Need for Information: Under Section 419 of the Federal Aviation Act of 1958, as amended, the Department of Transportation is directed to determine essential air transportation for certain eligible points as defined, and to guarantee that this level of air service is provided with Federal subsidy where necessary.
Proposed Use of Information: The information will be used to verify, adjust, and settle claims for the provisions of subsidized essential air service at eligible communities.
Frequency: Monthly.
Burden Estimate: 7,500 hours.
Respondents: Subsidized air carriers.
Form(s): DOT Forms 397 and 398.

Average Burden Hours Per Response: 9 hours and 46 minutes reporting.

DOT No: 3958.

OMB No: 2133–0522.

Administration: Maritime Administration.

Title: Seamen's Claims; Administrative Action and Litigation.

Need for Information: The statutory authority for this collection can be found in Section 20 of the Merchant Marine Act 1920, 46 App. USC 688; Suits in Admiralty Act, 46 App. USC 741–752; and the Public Vessels Act USC 781–790. The combined effect of these statutes is to permit non-jury proceedings in admiralty to be brought against the United States by persons who suffer death, injury or illness while serving as masters or members of a crew on board a vessel owned or operated by the United States.

Proposed Use of Information: The information will be used by the Maritime Administration when responding to claims for damage recovery allowed under these statutes.

Frequency: On occasion.

Burden Estimate: 2,250 hours.

Respondents: Merchant mariners and/or their legal representatives.

Form(s): None .

Average Burden Hours Per Response: 3 hours reporting.

DOT No: 3959.

OMB No: 2133–0006.

Administration: Maritime Administration.

Title: Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels.

Need for Information: Section 9 of the Shipping Act, 1916, as amended, requires Maritime Administration approval of the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to noncitizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign-flag vessels by their owners as required by various contractual requirements.

Proposed Use of Information: The information will be used by the Maritime Administration to assist in determining whether the vessel proposed for transfer is needed for retention under the U.S. flag.

Frequency: On occasion.

Burden Estimate: 550 hours.

Respondents: Vessel owners and operators.

Form(s): MA–29, MA–29A, MA–29B.

Average Burden Hours Per Response: 2 hours and 30 minutes reporting.

Issued in Washington, D.C. on June 23, 1994.

Paula R. Ewen,

Chief, Information Management Division.

[FR Doc. 94–15883 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

James M. Cox-Dayton International Airport Dayton, OH; Noise Exposure Map Notice

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the revised noise exposure maps submitted by the city of Dayton, Ohio, for James M. Cox-Dayton International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is June 6, 1994.

FOR FURTHER INFORMATION CONTACT: Lawrence C. King, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–670.2, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7293.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the James M. Cox-Dayton International Airport are in compliance with applicable requirements of Part 150, effective June 6,1994. These maps replace the previously accepted NEM's of September 23, 1988.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the city of Dayton, Ohio for James M. Cox-Dayton International Airport. The specific maps under consideration are the "1992 Noise Exposure Map", page I–8 and "1997 Noise Exposure Map", page I–9, in the submission. The FAA has determined that these maps for James M. Cox-Dayton International Airport are in compliance with applicable requirements. This determination is effective on June 6, 1994. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through the FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps

are available for examination at the following locations:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Mr. Roy Williams, Director of Aviation, James M. Cox-Dayton International Airport, Terminal Building, Vandalia, OH 45377

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on June 6, 1994.

James M. Opatrny,

Acting Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 94–15969 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–M

Pilot Briefings Concerning VFR Operating Procedures in the Boston Class B Airspace over the "Thunderfest 1994 Powerboat Race"

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice is announcing pilot briefings concerning Visual Flight Rules (VFR) operating procedures in the Boston Class B airspace over the Thunderfest 1994 Powerboat Race. The race is scheduled for July 30, 1994, in Boston Harbor, Boston, Massachusetts. The race start time is scheduled for 1:00 p.m. and is expected to last approximately 2 hours. In the event of inclement weather on July 30, the race will start at the same time on the following day (July 31).

The race course is located adjacent to Boston-Logan International Airport, within the Boston Class B airspace. Because this event will take place in close proximity to the Boston-Logan International Airport, the FAA will conduct mandatory pilot briefings for those pilots who would like to observe the event. Due to the limited airspace surrounding the race course and the possible need to conduct search and rescue operations, the number of aircraft that will be permitted to operate in the vicinity of the race course will be limited. Receiving one of the briefings will make a pilot eligible to enter the Class B airspace encompassing the race course, but will not guarantee that a clearance to enter the area will be granted.

TIMES AND DATES: The meetings will be held at 10 a.m. on July 21, 1994; and at 1 p.m. on July 27, 1994.

PLACE: New England Regional Office, Third Floor Conference Room, 12 New England Executive Park, Burlington, Massachusetts.

CONTACT PERSON FOR MORE INFORMATION: John O'Shea, FAA, New England Regional Office, ANE–534, telephone: (617) 238–7534.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA New England Region. Representatives from the FAA will present a formal briefing on procedures to be used during the event. At the meeting, information regarding procedures to be used on the day of the event will be distributed. These procedures were developed by the FAA, in concert with system user representatives.

(b) A list of pilot's names and associated aircraft registration numbers will be compiled at the meetings.

(c) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charges to attend and participate.

(d) The meeting will not be formally recorded. However, a list of attendees will be compiled and forwarded to Boston Air Traffic Control Tower.

Agenda for the Meeting

Opening Remarks.

Briefing on procedures that will be in effect on race day.

Question and Answer Period.

Closing Comments.

Issued in Washington, DC, on June 27, 1994.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94–15971 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–P

Federal Railroad Administration

[Docket No. RSAD–91–3]

Test Program to Evaluate Random Drug Testing Rate

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Extension of Test Program.

SUMMARY: FRA extends an experimental program designed to evaluate the effect of different random drug testing rates on general deterrence. In a recent notice, the Department of Transportation proposed a system which would authorize FRA to lower the minimum random drug testing rate for railroads from 50 percent to 25 percent if the industry-wide random positive rate is less than 1.0 percent for 2 calendar years. If the Department adopts this proposal, FRA could use existing data from its previous annual reporting system as a basis for adjusting the minimum railroad random drug testing rate. Extending FRA's experimental program indefinitely will allow four test railroads that have been conducting random drug testing at a 25 percent rate to provide additional data on the relative effectiveness of the two testing rates.

DATES: FRA will extend the current conditional waivers indefinitely beginning on July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Walter C. Rockey, Executive Assistant (RRS–3), Office of Safety, FRA, Washington, DC 20590 (Telephone: (202) 366–0897) or Patricia V. Sun, Trial Attorney (RCC–30), Office of Chief Counsel, FRA, Washington, DC 20590 (Telephone: (202) 366–4002).

SUPPLEMENTARY INFORMATION: In February of 1991, the Association of American Railroads (AAR) filed a petition proposing an experimental program that would permit a test group of railroads to conduct random drug testing at a 25 percent rate for one year, for comparison against a group of control railroads which would continue to test at the required 50 percent rate. Data from the two groups could then be analyzed to determine the effect of different testing rates on deterrence.

FRA agreed with the AAR that an experimental program would be useful. To create a group of test railroads, FRA granted four railroads (three Class I freight railroads and one commuter railroad) a waiver to conduct random drug testing at a 25 percent rate (instead of the required 50 percent rate) beginning on July 1, 1991. FRA also designated a control group of three additional Class I freight railroads and one additional commuter railroad which would continue to test at the 50 percent rate. FRA monitored the program by reviewing quarterly test reports submitted by the test and control railroads.

In the program's first two years, positive test rates did not vary appreciably between the test and control groups. Through June 30, 1993, the four test railroads conducted 19,958 random drug tests, with a positive test rate of .90 percent. The four control railroads conducted 34,121 random drug tests, with a positive rate of .85 percent. (The positive test rate for the industry as a whole was .89 percent in 1991, .79

percent in 1992, and .72 percent in 1993).

The last three quarters of data, however, show a greater improvement in the aggregated positive test rate for the control group, (.75 percent), than for the test group (.83). This trend suggests caution when considering further reductions in the random drug testing rate. Railroads should also continue to use a mix of countermeasures, in addition to random testing, to ensure deterrence.

On February 15, 1994, the Department published a Notice of Proposed Rulemaking proposing to allow the operating administrations to lower the minimum random drug testing rate from 50 percent to 25 percent if the industry-wide random positive rate is less than 1.0 percent for 2 calendar years [59 FR 7614]. Under this proposed system, FRA could use existing data from railroad annual reports as a basis for lowering the minimum railroad random drug testing rate to 25 percent. In light of this notice, the AAR has requested an extension of the experimental program, currently set to expire on June 30, 1994, to allow the test railroads to continue testing at a 25 percent random rate until the Department decides whether or not to adopt this proposal.

FRA intends to grant the AAR's request to extend the experimental program, and capture more data on the relative effectiveness of the two testing rates. By letter, FRA will extend the current conditional waivers indefinitely. FRA will continue to require all participating railroads to comply with its previously established protocols covering test conditions and reporting requirements. As before, FRA reserves the right to terminate or modify the experimental program on 10 days notice if any party fails to comply with any conditions specified in the protocols, if quarterly reports indicate a particularly serious degrading of performance by one or more of the test railroads, or if FRA finds material deficiencies in railroad alcohol/drug program administration.

FRA does not intend to grant the AAR's proposal for a second experimental program to study the effect of further lowering the random drug testing rate to 10 percent. As stated above, the latest data from FRA's current experimental program shows a stronger trend of improvement in the positive test rate of the control railroads, which have continued to test at 50 percent. Moreover, the minimum testing rate should be set at that point which balances the value of additional deterrence against the increased cost of testing. As mentioned above, the Department has already considered this issue, and has proposed to lower the random drug testing rate to 25 percent if an industry achieves a positive test rate of less than 1.0 percent for two years. FRA's current experimental rate of 25 percent is consistent with the Department's proposal, and is not excessively burdensome in view of the residual rate of drug use in the rail industry. FRA therefore believes that an additional, separate rail experimental program to study the effect of a 10 percent rate is unnecessary, and will so notify the AAR by letter.

Authority: 45 U.S.C. 431(c), 437; 49 CFR 1.49(m), 211.43, 211.51.

Issued in Washington, DC on June 27, 1994.

Bruce M. Fine,

Associate Administrator for Safety.

[FR Doc. 94–15928 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Monthly Statement of Wages Paid to Trainee (Chapter 31, Title 38, U.S.C.), VA Form 28–1917

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s); if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 273–7011.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATED: Comments on the information collection should be directed to the OMB Desk Officer on or before August 1, 1994.

Dated: June 14, 1994.

By direction of the Secretary:

Donald L. Neilson,

Director, Records Management Service.

Reinstatement

1. Monthly Statement of Wages Paid to Trainee (Chapter 31, Title 38, U.S.C.), VA Form 28–1917.

2. The form is used by employers who train veterans under VA Vocational Rehabilitation Program to report wages which these employers paid each veteran during the preceding month. The information is used to determine the correct rate of subsistence allowance which may be paid to a trainee in an established and approved on-the-job training or apprenticeship program.

3. Individuals or households—Business or other for-profit—Small businesses or organizations.

4. 1,800 hours.

5. 30 minutes.

6. Monthly.

7. 300 respondents.

[FR Doc. 94–15815 Filed 6–29–94; 8:45 am]

BILLING CODE 6320–01–M

Information Collection Under OMB Review: Vocational Training Application for VA Pensioners, VA Form 28–8966

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 273–7011.

Comments and questions about the items on the list should be directed to

VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 1, 1994.

Dated: June 14, 1994.

By direction of the Secretary:

Donald L. Neilson,

Director, Records Management Service.

Reinstatement

1. Vocational Training Application for VA Pensioners, VA Form 28–8966.
2. The form is used by veterans receiving VA pension benefits to apply for vocational training benefits. The information is used by VA to determine the applicant's entitlement to these benefits.
3. Individuals or households.
4. 500 hours.
5. 12 minutes.
6. On occasion.
7. 2,500 respondents.

[FR Doc. 94–15816 Filed 6–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Marital Status Questionnaire, VA Form 21–0537

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 273–7011.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 1, 1994.

Dated: June 14, 1994.

By direction of the Secretary:

Donald L. Neilson,

Director, Records Management Service.

Extension

1. Marital Status Questionnaire, VA Form 21–0537.
2. The form is used to request certification of a continued unremarried status by surviving spouses receiving Dependency and Indemnity Compensation. The information is used by VA to determine continued eligibility to benefits.
3. Individuals or households.
4. 2,875 hours.
5. 5 minutes.
6. On occasion.
7. 34,500 respondents.

[FR Doc. 94–15817 Filed 6–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Application for Education Benefits (Under Chapters 30 and 32, Title 38, U.S.C.; Section 903, Public Law 96–342; and Chapter 106, Title 10, U.S.C.), VA Form 22–1990

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 273–7011.

Comments questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 1, 1994.

Dated: June 14, 1994.

By direction of the Secretary:

Donald L. Neilson,

Director, Records Management Service.

Extension

1. Application for Education Benefits (Under Chapters 30 and 32, Title 38, U.S.C.; Section 903, Public Law 96–342; and Chapter 106, Title 10, U.S.C.), VA Form 22–1990.
2. The form is used by individuals to apply for VA education benefits. The information is used by VA to determine the applicant's eligibility.
3. Individuals or households.
4. 150,596 hours.
5. 45 minutes.
6. Once—Initial application.
7. 200,795 respondents.

[FR Doc. 94–15818 Filed 6–29–94; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Student Verification of Enrollment, VA Forms 22–8979 and 22–8979–1

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 273–7011.

Comments and questions about the items on the list should be directed to

VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 1, 1994.

Dated: June 14, 1993.

By direction of the Secretary:

Donald L. Neilson,

Director, Records Management Service.

Extension

1. Student Verification of Enrollment, VA Forms 22–8979 and 22–8979–1.

2. The forms are used by students in certifying attendance and continued enrollment in courses leading to a standard college degree and in non-college degree programs. The information is used by VA to determine the individual's continued eligibility to benefits.

3. Individuals or households.

4. 205,625 hours.

5. 5 minutes.

6. Monthly.

7. 352,500 respondents.

[FR Doc. 94–15819 Filed 6–29–94; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59 No. 125
Thursday, June 30, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 2:00 p.m., Tuesday, July 5, 1994.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 27, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16027 Filed 6-28-94; 11:11 am]

BILLING CODE 6210–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, July 14, 1994.

PLACE: Hearing Room 965, One Lafayette Centre, 1120—20th Street, NW., Washington, DC 20036–3419.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in *Arcadian Corporation.*

OSHRC Docket No. 93–3270

CONTACT PERSON FOR MORE INFORMATION: Patrick Moran, (202) 606–5410.

Dated: June 28, 1994.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 94–16059 Filed 6–28–94; 12:55 pm]

BILLING CODE 7600–01–M

Federal Register

Thursday
June 30, 1994

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Airworthiness Standards; Powerplant Proposals Based on European Joint Aviation Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 27804; Notice No. 94–19]

RIN: 2120–AE60

Airworthiness Standards; Powerplant Proposals Based on European Joint Aviation Requirements Proposals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes changes to the powerplant airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. These proposals arise from the joint effort of the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA) to harmonize the Federal Aviation Regulations (FAR) and the Joint Aviation Requirements (JAR) for airplanes that will be certificated in these categories. The proposed changes would provide nearly uniform powerplant airworthiness standards for airplanes certificated in the United States under 14 CFR part 23 (part 23) and in the JAA countries under Joint Aviation Requirements 23 (JAR 23) simplifying airworthiness approvals for import and export purposes.

DATES: Comments must be submitted on or before October 28, 1994.

ADDRESSES: Comments on this notice should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27804, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27804. Comments may be inspected in Room 915G weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

In addition, the FAA is maintaining a duplicate information docket of comments in the Office of the Assistant Chief Counsel, ACE–7, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Comments in the duplicate information docket may be inspected in the Office of the Assistant Chief Counsel weekdays, except Federal holidays, between the hours of 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Norman Vetter, ACE–112, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

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. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27804." The postcard will be date stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request, from the above office, a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

At the June 1990 meeting of the JAA Council (consisting of JAA members from European countries) and the FAA, the FAA Administrator committed the FAA to support the harmonization of the FAR with the JAR being developed for use by the European authorities who are members of the JAA. In response to this commitment, the FAA Small Airplane Directorate established an FAA Harmonization Task Force to work with the JAR 23 Study Group to harmonize part 23 and the proposed JAR 23. The General Aviation Manufacturers Association (GAMA) also established a JAR 23/part 23 Committee to provide technical assistance in this effort.

Following a review of the first draft of proposed JAR 23, members of the FAA Harmonization Task Force and the GAMA Committee met in Brussels, Belgium for the October 1990 meeting of the JAR 23 Study Group. Representatives from the Association Europeenne des Constructeures de Material Aerospatial (AECMA), an organization of European airframe manufacturers, also attended. The main agenda item for this meeting was the establishment of procedures to accomplish harmonization of the airworthiness standards for normal, utility, and acrobatic category airplanes. The JAA had decided that its initial rulemaking effort should be limited to these three categories and that commuter category airworthiness standards should be addressed separately.

After that meeting, technical representatives from each of the four organizations (GAMA, AECMA, FAA and JAA) met to resolve differences between the proposed JAR and part 23. This portion of the harmonization effort involved a number of separate meetings of specialists in the flight, airframe, powerplant, and systems disciplines. These meetings showed that harmonization would require revisions to both part 23 and the proposed JAR 23.

Near the end of the effort to harmonize the normal, utility, and acrobatic category airplane airworthiness standards, the JAA requested and received recomendations from its member countries on proposed airworthiness standards for commuter category airplanes. The JAA and the FAA held specialist and study group meetings to discuss these recommendations, which resulted in proposals to revise portions of the part 23 commuter category airworthiness standards.

Unlike the European rules, where commuter category airworthiness standards are separate, for U.S. rulemaking it is advantageous to adopt normal, utility, acrobatic, and commuter category airworthiness standards simultaneously, since commuter category airworthiness standards are already contained in part 23.

Accordingly, this NPRM proposes to revise the powerplant airworthiness standards for all part 23 airplanes.

During the part 23 Harmonization effort, the FAA established an Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991), which held its first meeting on May 23, 1991. The ARAC on General Aviation and Business Airplane (GABA) Issues was established at that meeting to provide advice and recommendations to the Director, Aircraft Certification Service, FAA, regarding the airworthiness standards in part 23 as well as related provisions of parts 91 and 135 of the regulations.

The FAA announced, on June 2–5, 1992, at the JAA/FAA Harmonization Conference in Toronto, Ontario, Canada, that it would consolidate within the ARAC structure an ongoing objective to "harmonize" the JAR and the FAR. Coinciding with that announcement, the FAA assigned the ARAC on GABA Issues those rulemaking projects related to JAR/part 23 harmonization that were in final coordination between the JAA and the FAA. The harmonization process included the intention to present the results of JAA/FAA coordination to the public as NPRM's. Subsequently, the ARAC on GABA Issues established on ARAC–JAR 23 Study Group.

The JAR 23 Study Group made recommendations to the ARAC on GABA Issues concerning the FAA's disposition of the rulemaking issues coordinated between the JAA and the FAA. The draft NPRM's previously prepared by the FAA harmonization team were made available to the harmonization working group to assist them in their effort.

A notice of the formation of the JAR/FAR 23 Harmonization Working Group was published on November 30, 1992 (54 FR 56626). The group held its first meeting on February 2, 1993. These efforts resulted in the proposals for powerplant airworthiness standards contained in this notice. The ARAC on GABA Issues agreed with these proposals.

The FAA received unsolicited comments from the JAA dated January 20, 1994, concerning issues that were left unresolved with the JAR 23 Study Group. The JAR/FAR 23 Harmonization Working Group did not address some of the unresolved issues because the JAA had not yet reached positions on those issues. Unresolved issues will be dealt with at future FAR/JAR Harmonization meetings. With respect to other issues unresolved by the JAR 23 Study Group, the JAR/FAR Harmonization Working Group recommendations did not reflect harmonization, but reflected the technical discussion of the merits of each issue that had been thoroughly debated at the JAR/FAR 23 Harmonization meetings. (The Working Group Chairperson had been present at the Harmonization meetings.) The JAA comments have been placed in the docket for this proposal, and will be considered along with those received during the comment period.

Following completion of these harmonization efforts, the FAA determined that the proposed revisions to part 23 were too numerous for a single NPRM. The FAA decided to simplify the issues by issuing four NPRM's. These NPRM's address the airworthiness standards in the specific areas of systems and equipment, powerplant, flight, and airframe. These NPRM's propose changes in all seven subparts of part 23. Since there is some overlap, interested persons are advised to review all four NPRM's to identify all proposed changes to a particular section.

Discussion of the Proposals

Section 23.777 Cockpit Controls

The current requirements of § 23.777 address the location of powerplant controls on tandem-seated airplanes. For single-engine airplanes that are designed for a single cockpit occupant, the powerplant controls should be located in the same position as they are for tandem-seated airplanes. Therefore, § 23.777(c)(2) would be revised to include single-seated airplanes.

Section 23.779 Motion and Effect of Cockpit Controls

Current § 23.779(b)(1) provides requirements for "powerplant controls," including direction of travel and effect. This proposal would revise § 23.779(b)(1) by adding a new item "fuel" to the table. This proposal would require that any fuel shutoff control other than mixture must move forward to open.

Section 23.901 Installation

Section 23.901(d)(1), as amended in Amendment 23–43, requires that each turbine engine installation must be constructed and arranged to result in vibration characteristics that do not exceed those established during the type certification of the engine. This requirement would be revised to add the word "carcass" before vibration. This change would restrict analyses to those vibrations that are caused by external excitation to the main engine frame or "carcass." While the word "carcass" has not traditionally been used in this context in the United States, it is used in Europe and is proposed here in the interest of harmonization.

Section 23.901(d)(2), as amended in Amendment 23–43, would be revised by deleting the last sentence which reads: "The engine must accelerate and decelerate safely following stabilized operations under these rain conditions." This requirement is already provided for in the first sentence of paragraph (d)(2), which states that the turbine engine must be constructed and arranged to provide "continued safe operation."

Paragraph (e) of this section would be revised by adding the word "powerplant" in front of "installation" to make clear that it pertains to all powerplant installations.

Current paragraph (e)(1) would be reformatted to accommodate the added provisions of new paragraph (e)(1)(ii). The current paragraph (e)(1) would be divided into paragraphs (e)(1), (e)(1)(i), and (e)(1)(ii). Paragraph (e)(1) would be revised by adding the word "installation" in front of "instruction" to make clear which instructions are applicable. Proposed paragraph (e)(1) would end after the word "under—," and paragraphs (e)(1)(i) and (e)(1)(ii) would continue the paragraph.

Proposed paragraph (e)(1)(i) would contain the requirement with respect to the engine type certificate currently set forth in paragraph (e)(1). Proposed paragraph (e)(1)(ii) would continue the current requirement with respect to the propeller type certificate, but also would permit the alternative of meeting the requirements of another approved procedure that would provide an equivalent level of safety. This revision is proposed to be consistent with the proposed revisions to § 23.905, Propellers, which are discussed below.

Section 23.903 Engines

This proposal would revise paragraphs (c) and (g) by adding the headings "Engine isolation" and "Restart capability," respectively. Current § 23.903 includes headings for paragraphs (a), (b), (d), (e) and (f) that identify the subject of each paragraph. This revision will provide this same identification for paragraphs (c) and (g).

The heading of paragraph (f) would be changed from "Restart capability" to "Restart envelope" since the paragraph addresses the altitude and airspeed envelope for restarting the engines in flight.

Section 23.905 Propellers

Section 23.905(a), which requires each propeller to have a type certificate, would be revised to require the propeller to either be type certificated

meet the requirements of another approved procedure that provides an equivalent level of safety. This would allow a propeller to be installed and approved on a U.S. type certificated airplane if that propeller is approved by a procedure that provides a level of safety equivalent to that provided by the FAA type certificate. For example, some foreign propellers, approved as part of the airplane and not having a separate type certificate, could be approved without requiring an exemption to part 23 or obtaining a U.S. type certificate; but the "equivalent procedure" is not intended to be limited to a procedure of a foreign authority.

This proposal would provide an alternative approval process for propellers without reducing safety.

Section 23.906 Propeller Vibration

Current § 23.907(a) requires that each "propeller with metal blades or highly stressed metal components must be shown to have vibration stresses, in normal operating conditions, that do not exceed values" that are "safe for continuous operation." The proposed revision to paragraph (a) would change the applicability to propellers "other than a conventional fixed-pitch wooden propeller." This change is necessary because all metal and most composite propeller blades are highly stressed and need to be evaluated for vibration. Only propellers with fixed-pitch wooden blades would be exempt from the vibration requirements.

Section 23.925 Propeller Clearance

Current § 23.925 requires that propeller clearance must be evaluated with the airplane at maximum weight, with the most adverse center of gravity and with the propeller in the most adverse pitch position. To make the requirement consistent with current certification practice, paragraph (a) would be revised to read that propeller clearance must be evaluated with the airplane at the most adverse combination of weight and center of gravity, and with the propeller in the most adverse pitch position.

Interested persons should additionally note that the FAA is also proposing a change to § 23.925(b). In the Airframe Harmonization notice, the FAA proposes to move the requirements in § 23.925(b) for tail wheels, bumpers, and energy absorption devices to § 23.497(c), *Supplementary conditions for tail wheels*, where the structural designer would expect to find such a requirement.

Section 23.929 Engine Installation Ice Protection

This proposal would replace the word "power" in § 23.929 in the phrase "without appreciable loss of power" with the word "thrust." The word "thrust" is more descriptive of the loss experienced when ice forms on a propeller.

Section 23.933 Reversing Systems

This proposal would revise § 23.933(a)(1) to agree with the corresponding turbojet and turbofan reversing system airworthiness standards of part 25. The purpose of thrust reversing systems for part 23 airplanes is the same as that for part 25 airplanes. While there is no technical change, in the interest of harmonization part 23 would be changed to read the same as part 25. Also, this proposal would delete the word "forward" from paragraph (a)(3) since this word is not necessary. It would correct the typographical error in paragraph (b)(2) to read "(b)(1)" instead of "(a)(1)."

Section 23.955 Fuel Flow

Section 23.955(a) would be revised by deleting the word "and" where it occurs between paragraphs (1), (2), (3) and (4). This is a nonsubstantive editorial change. All four paragraphs are independent of each other and equally subordinate to paragraph (a).

Section 23.955(a)(3) would be revised by adding the word "probable" so that the requirement would read as follows: "If there is a flow meter without a bypass, it must not have any probable failure mode * * *" This addition of the word "probable" would clarify the intent of the requirement that only probable failures need be analyzed.

Section 23.959 Unusable Fuel Supply

Current § 23.959 requires that the unusable fuel supply for each tank be established and states certain parameters for establishing the unusable supply. The current text of § 23.959 would be redesignated as paragraph (a); a proposed new paragraph (b) would require that the effect of any fuel pump failure on the unusable fuel supply also be established.

It has been industry practice to include in the Airplane Flight Manual an entry describing any additional unusable fuel quantity that results from a fuel pump failure. This proposal would not require any change in the fuel quantity indicator marking required by § 23.1553.

Section 23.963 Fuel Tanks: General

Current § 23.963(b), which requires that each flexible fuel tank liner must be of an acceptable kind, would be revised by replacing the phrase "must be of an acceptable kind" with the phrase "must be shown to be suitable for the particular application." The word "acceptable" is inexact since all components of a type certificated airplane must be acceptable. This is a clarifying, nonsubstantive change. Also the reference to § 23.959 would be revised by changing it to § 23.959(a) to coincide with the proposed revision of § 23.959 discussed above.

Section 23.965 Fuel Tank Tests

Section § 23.965(b)(3)(i) would be revised by changing the phrase "the test frequency of vibration cycles per minute is obtained by * * *" to "the test frequency of vibration is the number of cycles per minute obtained by * * *". This would clarify that it is the number of cycles per minute that is to be used during testing of a fuel tank. The frequency of vibration to be used during testing of a fuel tank on a non-propeller driven airplane has received differing interpretations during certification procedures.

Section 23.973 Fuel Tank Filler Connection

Current § 23.973(f) specifies a minimum diameter of the fuel filler opening for airplanes with turbine engines that are not equipped with pressure fueling systems. The proposed paragraph (f) would remove the provision related to pressure fueling systems to make the regulation apply to all airplanes with turbine engines, including turbine engines that are equipped with pressure fueling systems. The need to restrict the fuel opening diameter on the top side of the fuel tank is not related to a function of whether or not the airplane is equipped with pressure refueling.

Section 23.975 Fuel Tank Vents and Carburetor Vents

Current 23.975(a)(5), as amended in Amendment 23–43, requires that there be no undrainable points in any vent lines where moisture can accumulate and that any drain lines installed in the vent lines must discharge clear of that airplane and be accessible for drainage. This paragraph would be revised to clarify that there may be no points in any vent line where moisture can accumulate unless drainage is provided. The intent is to allow low spots in the fuel tank vent system if a drain is provided for each low spot.

Section 23.979 Pressure Fueling System

Section 23.979(b) would be revised to add a requirement for commuter category airplanes that an automatic shutoff means must provide indication at each fueling station of failure of the shutoff means to stop fuel flow at the maximum level. This revision makes the commuter category automatic shutoff means requirements similar to the requirements for transport category airplanes in § 25.979.

Section 23.1001 Fuel Jettisoning System

This proposal would revise § 23.1001(b)(2) to redefine the speed at which the fuel jettisoning system tests should be conducted. In a separate notice, as identified in the background section of this document, the FAA determined that the best rate-of-climb speed no longer need be determined under part 23, and has proposed that it be eliminated from § 23.69(b). Accordingly, this proposal would redefine the climb speed as stated in § 23.1001(b)(2) to reference § 23.69(b) as proposed.

Section 23.1013 Oil Tanks

This proposal would delete the word "crankcase" in § 23.1013(d)(1), making this paragraph applicable to all engine installations.

Section 23.1041 General

Current § 23.1041 under the cooling heading requires that powerplant and auxiliary power unit cooling provisions must maintain the temperature of powerplant components and engine fluids within the limits established for those components and fluids to the maximum altitude for which approval is requested. This section would be revised to state "to the maximum altitude and maximum ambient atmospheric temperature conditions for which approval is requested."

For reciprocating engine powered airplanes, it has been the practice to correct the cooling temperatures to 100 °F ambient temperature. In practice, turbine engine powered airplanes have been corrected to the maximum temperature for which approval is requested. The standard would be revised to require all airplanes, regardless of engine type, to demonstrate adequate cooling at one maximum ambient atmosphere temperature for which approval is requested.

Section 23.1043 Cooling Tests

Section 23.1043(a)(3) would be revised to shown that the minimum grade fuel requirement applies to both turbine and reciprocating engines and that the lean mixture requirement applies to reciprocating engines only. The introductory text of paragraph (a) would be simplified by deleting the requirement that compliance must be shown "under critical ground, water, and flight operating conditions to the maximum altitude for which approval is requested." This requirement is already contained in § 23.1041.

The requirement in the introductory text of paragraph (a), which states that, for turbo-charged engines, each turbocharger must be operated through the part of the climb profile for which turbo-charger operation is requested, would be moved to paragraph (a)(4) to improve the organization of the section.

Paragraph (a)(1) would not be substantively changed. It would be revised to be consistent with proposed changes to § 23.1041 and changes to the introductory text of paragraph (a) described above.

Paragraph (a)(2) is reworded without substantive change to make this language identical to the JAR.

Paragraph (a)(3) would be revised to clarify that the requirement for mixture settings applies to reciprocating engines and that the mixture settings must be the leanest recommended for the climb. While this has been the case in practice, it has not been explicitly stated in the rule. The "leanest recommended for climb" mixture setting is considered a normal operating condition.

Paragraph (a)(5) is removed because water taxi tests are required by § 23.1041 as amended by Amendment 23–43.

Paragraphs (c) and (d) would be revised by adding the requirement that cooling correction factors be determined for the appropriate altitude. This would codify current certification practice and increase safety by ensuring the proper correction factor is determined.

Section 23.1045 Cooling Test Procedures for Turbine Engine Powered Airplanes

Current 23.1045(a)(3) requires that compliance with § 23.1041 must be shown by certain specified phases of operations: takeoff, climb, en route, and landing. It also specifies that the cooling tests must be conducted with the airplane in the configuration and under the operating conditions that are critical to cooling for each stage of flight. It also defines a "stabilized" temperature as having a rate of change of less than 2 °F per minute.

Current paragraph (a) would be revised to state more generally that compliance with § 23.1041 must be shown for all phases of operations. Also, the airplane must be flown in the configuration, at the speeds, and following the procedures recommended in the Airplane Flight Manual for the relative stage of flight that corresponds to the applicable performance requirements critical to cooling.

The purpose of this proposed revision is to clarify the cooling test procedures by specifying that all phases of operations, not only the four phases of flight, are to be evaluated for proper cooling.

Section 23.1047 Cooling Test Procedures for Reciprocating Engine Powered Airplanes

This proposal would revise the cooling test procedures in § 23.1047 for reciprocating engine powered airplanes by deleting the specific procedures. Many of the current provisions in § 23.1047 provide procedures for conducting a cooling test that are inappropriate in the regulation. Experience has shown that such detailed procedures are not directly applicable to certain engine configurations and certain operating conditions. Guidance material is available that provides appropriate procedures for testing different types of engine configurations and for testing at different operating conditions.

Section 23.1091 Air Induction System

Current § 23.1091 requires the air induction system design protect against ingestion of foreign material located "on the runway, taxiway, or other airport operating surface." This proposal would require the air induction system design protect against foreign matter, from whatever source, "during takeoff, landing, and taxiing." This would codify current certification practice and increase safety by protecting against universal foreign matter rather than foreign matter from a restricted source.

Section 23.1093 Induction System Icing Protection

Section 23.1093(c) would be revised by adding the heading "Reciprocating engines with superchargers." This is being done to be consistent with paragraphs (a) and (b) of this section, which have headings.

Section 23.1105 Induction System Screens

Current § 23.1105 requires that any induction screens must be upstream of the carburetor. This requirement would be revised to include fuel injection systems. Some reciprocating engines incorporate a fuel injection system, and the same provisions required for a

carburetor are necessary for a fuel injection system.

Section 23.1107 Induction System Filters

Current § 23.1107, which was added in Amendment 23–43, applies to reciprocating engine installations. The introductory section of this paragraph would be revised by deleting the reference to reciprocating engine installations to make the section applicable to airplanes with either reciprocating or turbine engines. If a filter is installed in the induction system of a turbine powered airplane, the same provisions that apply to a reciprocating engine are necessary.

Section 23.1121 General

This proposal would revise § 23.1121(g) by adding standards for APU exhaust systems; these were overlooked when APU standards were introduced into part 23 by Amendment 23–43. Prior to Amendment 23–43, applicants for type certification of part 23 airplanes having APU installations were required to comply with special conditions for those installations. Amendment 23–43 included a codification, albeit an incomplete one, of those special conditions.

Section 23.1141 Powerplant Controls: General

Current § 23.1141(b) requires that each flexible control be of an acceptable kind. This paragraph would be revised to replace the phrase "must be of an acceptable kind" with the phrase "must be shown to be suitable for the particular application." This is a clarifying, non-substantive change.

Section 23.1143 Engine Controls

Current § 23.1143(f) requires that if a power or thrust control incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of the control into the shutoff position. Paragraph (f) would be revised to add that a fuel control (other than a mixture control) must also have such a means.

Section 23.1153 Propeller Feathering Controls

Current § 23.1153 requires that if there are propeller feathering controls, each propeller must have a separate control, and each control must have a means to prevent inadvertent operation. This section would be revised because it does not matter whether the feathering controls are separate from the propeller speed and pitch controls as long as it is possible to feather each propeller separately.

Section 23.1181 Designated Fire Zones; Regions Included

Current § 23.1181, which was added in Amendment 23–43, defines designated fire zones for reciprocating engines and turbine engines. Proposed new § 23.1181(b)(3) would add to the designated fire zones for turbine engines any complete powerplant compartments that do not have firewalls between compressor, accessory, combustor, turbine and tailpipe sections. The proposal would codify current certification practice and increase safety by ensuring that all appropriate regions of turbine engines are evaluated as designated fire zones.

Section 23.1183 Lines, Fittings, and Components

Current § 23.1183(a) includes the requirement that flexible hose assemblies must be approved. This requirement in paragraph (a) would be revised by replacing the word "approved" with the words "shown to be suitable for the particular application." The revision clarifies what is required.

Section 23.1191 Firewalls

Current § 23.1191(a) requires that each engine, auxiliary power unit, fuel-burning heater, and other combustion equipment intended for operation in flight must be isolated "by fire walls, shrouds, or equivalent means." Paragraph (b) of the section requires that each firewall or shroud must be constructed so that no hazardous quantity of liquid, gas, or flame can pass from the engine compartment to other parts of the airplane.

Paragraph (b) would be revised to define isolated compartment and to show that the provisions of paragraph (b) would also apply to APU's.

Section 23.1203 Fire Detector System

Current § 23.1203(e) requires that wiring and other components of each fire detector system in an engine compartment must be at least fire resistant. For accuracy, proposed § 23.1203(e) would replace the words "engine compartment" with "designated fire zone" to correct an oversight in the amendment and to make it consistent with § 23.1181.

Section 23.1305 Powerplant Instruments

Current § 23.1305(b)(3), as amended in Amendment 23–43, requires, for reciprocating engine-powered airplanes, a cylinder head temperature indicator for each air-cooled engine with cowl flaps; each airplane for which compliance with § 23.1041 is shown at a speed higher than V_Y; and each commuter category airplane.

The proposed revision to paragraph (b)(3) would delete paragraph (b)(3)(ii), which refers to compliance with § 23.1041. The flight notice referenced above contains a proposal to delete the determination of the V_Y speed and this notice proposes a change that the engine cooling test of § 23.1047 be conducted at a speed recommended in the Airplane Flight Manual (AFM). Accordingly, other sections referencing the V_Y speed or the engine cooling test would also be amended.

The proposed revision would retain the requirement that a cylinder head temperature indicator is required for commuter category airplanes having reciprocating engines and for airplanes having air-cooled engines and cowl flaps.

Section 23.1337 Powerplant Instruments

Under the area of "Installation," the reference in § 23.1337(b)(1) to § 23.959 would be changed to § 23.959(a), in accordance with the revision to § 23.959 proposed in this notice. The revision would redesignate the existing § 23.959 text as § 23.959(a); there is no change in the requirement itself.

Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Would generate benefits that would justify its costs and is not a "significant regulatory action" as defined in the Executive Order; (2) is not "significant" as defined in DOT's Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Regulatory Evaluation Summary

The FAA has determined that the benefits of the proposed rule, though

not directly quantifiable, would exceed the expected costs. Minor costs, ranging from $240 to $6,000 per certification, are projected for four of the provisions in this proposal. No costs are attributed to the other thirty-two provisions. The benefits of the proposed rule are considered below in four categories: (1) harmonization, (2) safety, (3) reduced need for special conditions, and (4) clarification.

Harmonization

The proposed rule, in concert with other rulemaking and policy actions, would provide nearly uniform powerplant airworthiness standards for airplanes certificated in the United States and the JAA member countries. Thirty-four of the thirty-six sections affected by the proposed rule would be harmonized. The resulting greater uniformity of standards would simplify airworthiness approval for import and export purposes and reduce the cost of certification for airplanes seeking certification under both sets of regulations.

Safety

In addition to the harmonization benefits, five proposed changes would provide additional safety benefits. First, the proposed rule would revise § 23.933(a)(1) to more closely agree with the corresponding turbojet and turbofan reversing system airworthiness standards of part 25. The FAA estimates that this provision would necessitate an additional 100 hours of failure mode and effects analysis at an assumed cost rate of $60 per hour, including labor and overhead. The estimated $6,000 cost would apply to each certification. The FAA projects that no additional production or operating costs would result from this provision.

The primary potential benefit of the provision is the additional safety that could result from analyzing the feasible range of reverser system failures, the effects of those failures, and the corresponding capabilities necessary to correct the failure or circumvent its effects. Such an analysis would reduce the possibility that an unanticipated condition with catastrophic potential would remain in the system. In addition to the safety benefit, it is expected that some operating benefits and manufacturing economies would result from the uniformity of standards between parts 23 and 25. The FAA is not able to quantify the potential benefits of this provision but has determined that the benefits would exceed the expected minor costs.

Second, the proposed rule would add a new paragraph (b) to § 23.959 requiring that the effect of any fuel pump failure on the unusable fuel supply be determined. Though not previously required, it has been industry practice to include this information in the Airplane Flight Manual. The FAA estimates that the nominal cost of making this determination would be $240 per certification (4 hours of engineering analysis at $60 per hour). In addition, an insignificant cost ($1) would be incurred in adding a table entry to the manual for each airplane that is produced. The fact that the proposed requirement is already standard practice supports the FAA's position that the potential benefits of the provision would exceed the minor costs. The safety benefits of this provision would be derived from the assurance that this vital information would continue to be provided for future airplane models.

Third, under § 23.979, the proposed rule would add the requirement for commuter category airplanes that an indication be provided at each fueling station in the event of a failure of the shutoff means to stop fuel flow at the maximum level. The FAA estimates that the proposed required device would necessitate an incremental design and development cost of $3000 per certification (50 hours of engineering design at $60 per hour) and an additional nominal manufacturing cost of $10 per airplane. The benefit of the provision is the avoidance of a potentially catastrophic condition whereby excess fuel could unknowingly be forced out of the contained fuel system by the pressure fueling system. The FAA holds that these potential benefits would exceed the minor associated costs.

Fourth, § 23.1041 would require that the powerplant cooling system must be able to maintain the specified operating temperatures of the powerplant components and fluids. The ambient temperature for testing reciprocating engine airplanes is currently required to be corrected to show the capacity of the cooling system at 100 °F. Under the proposal, this temperature standard would be revised to the "maximum ambient temperature conditions for which approval is requested."

No costs are attributed to this provision. Reciprocating engine airplane manufacturers would continue to have the option to request approval for operations at the existing 100 °F temperature.

A decision to request approval for a higher temperature would necessitate demonstration of the capability of the cooling system at that temperature. That choice, however, would be made at the manufacturer's discretion and would be based on its decision that any associated incremental cooling system costs would be recovered in the marketplace. The potential benefit of this provision is the reduced likelihood that an inadequate cooling system would be relied on during high temperature operations.

Finally, § 23.1045(a) would be revised to state more generally that compliance with the cooling margin requirements of § 23.1041 must be shown for all phases of operation, as compared to the four phases of flight currently listed. In effect, the proposal would add the taxi phase of operation.

The FAA estimates that the specific addition of the taxi phase would necessitate an incremental 5 hours of engineering analysis valued at $60 per hour, for a total of $300 per certification. The potential benefit of this provision is the enhanced safety that would result from evaluating the efficacy of the cooling system during the taxi phase of operation. In the taxi phase of operation, engine power settings and heat production generally may be lower than that experienced during flight, but available air circulation might also be lower. The heat mechanics of the two phases of operation are distinct and warrant separate evaluation. The FAA holds that the potential benefits of this provision would exceed the nominal associated costs.

Reduced Need for Special Conditions

The proposed rule includes five provisions that would replace the need for processing certain parts or materials as special conditions because they have been considered novel or unusual design features. The subjects of these provisions include composite propellers, fuel injection systems for reciprocating engines, induction filters on turbine engines, fuel shutoff controls other than mixture controls, and auxiliary power units. No costs are attributed to these provisions. Formalization of the equivalent safety standards and requirements for these subjects would obviate the need for special conditions actions and would simplify the certification process for manufacturers.

Clarification

Several unclear provisions of part 23 were revealed during the harmonization review. In response to this finding, the proposal includes a number of no-cost, editorial revisions that would clarify the existing requirements. These changes would benefit manufacturers by removing potential confusion about the specific standards and requirements necessary for product certification.

In summary, the FAA holds that each of the provisions, as well as the entire proposal, would be cost beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on implementing FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the proposed amendments would not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The proposed rule would not constitute a barrier to international trade, including the export of American airplanes to foreign countries and the import of foreign airplanes into the United States. Instead, the proposed powerplant airworthiness standards would be harmonized with those of foreign aviation authorities and would lessen current restraints on trade caused by differences in certification requirements.

Federalism Implications

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.

Conclusion

The FAA proposes to revise the airworthiness standards to provide propulsion standards for normal, utility, acrobatic, and commuter category airplanes to harmonize them with the standards that will be proposed for the same category airplanes by the Joint Aviation Authorities in Europe. If adopted, the proposed revisions would reduce the regulatory burden on the United States and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation, the FAA has determined that this proposed regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this proposal, if adopted, 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. This proposal is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). An initial regulatory evaluation of the proposal has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 23 of the Federal Aviation Regulations (14 CFR part 23) as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, ACROBATIC, AND COMMUTER CATEGORY AIRPLANES

1. The authority citation for part 23 continues to read as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g).

§ 23.777 [Amended]

2. Section 23.777(c)(2) is amended by adding the words "single and" between the words "for" and "tandem" in the first sentence.

3. The table in § 23.779(b)(1) is amended by adding a new item between the items "mixture" and "carburetor air heat or alternate air" to read as follows:

§ 23.779 Motion and effect of cockpit controls.

* * * * *

(b) * * *

	Motion and effect
(1) *Powerplant controls:*	
* * * * *	
Fuel	Forward for open.
* * * * *	

4. Section 23.901 is amended by revising paragraphs (d)(1), (d)(2), (e) Introductory text and (e)(1) to read as follows:

§ 23.901 Installation.

* * * * *

(d) * * *

(1) Result in carcass vibration characteristics that do not exceed those established during the type certification of the engine.

(2) Provide continued safe operation without a hazardous loss of power or thrust while being operated in rain for at least three minutes with the rate of water ingestion being not less than four percent, by weight, of the engine induction airflow rate at the maximum installed power or thrust approved for takeoff and at flight idle.

(e) The powerplant installation must comply with—

(1) The installation instructions provided under—

(i) The engine type certificate; and

(ii) The propeller type certificate or the requirements of another approved procedure that provides an equivalent level of safety.

* * * * *

5. Section 23.903 is amended by adding headings to paragraphs (c) and (g), and by revising the heading of paragraph (f) to read as follows:

§ 23.903 Engines.

* * * * *

(c) *Engine isolation.* * * *

* * * * *

(f) *Restart envelope.* * * *

(g) *Restart capability.* * * *

§ 23.905 [Amended]

6. Section 23.905 is amended by adding the words "or meet the requirements of another approved procedure that provides an equivalent level of safety" to the end of paragraph (a).

§ 23.907 [Amended]

7. Section 23.907(a) introductory text is amended by removing the words "with metal blades or highly stressed metal components" and replacing them with the words "other than a conventional fixed-pitch wooden propeller."

8. Section 23.925 is amended by revising the introductory text to read as follows:

§ 23.925 Propeller clearance.

Unless smaller clearances are substantiated, propeller clearances, with the airplane at the most adverse combination of weight and center of gravity, and with the propeller in the most adverse pitch position, may not be less than the following:

* * * * *

§ 23.929 [Amended]

9. Section 23.929 is amended by removing the word "power" and adding, in its place, the word "thrust."

10. Section 23.933 is amended by removing the word "forward" where ever it appears in paragraph (a)(3); by revising the reference in paragraph (b)(2) that reads "(a)(1)" to read "(b)(1)"; and by revising paragraph (a)(1) to read as follows:

§ 23.933 Reversing systems.

(a) * * *

(1) Each system intended for ground operation only must be designed so that, during any reversal in flight, the engine will produce no more than flight idle thrust. In addition, it must be shown by analysis or test, or both, that—

(i) Each operable reverser can be restored to the forward thrust position; or

(ii) The airplane is capable of continued safe flight and landing under any possible position of the thrust reverser.

* * * * *

11. Section 23.955 is amended by revising paragraphs (a)(1) through (a)(4) to read as follows:

§ 23.955 Fuel flow.

(a) * * *

(1) The quantity of fuel in the tank may not exceed the amount established as the unusable fuel supply for that tank under § 23.959(a) plus that necessary to show compliance with this section.

(2) If there is a fuel flowmeter, it must be blocked during the flow test and the fuel must flow through the meter or its bypass.

(3) If there is a flowmeter without a bypass, it must not have any probable failure mode that would restrict fuel flow below the level required in this fuel demonstration.

(4) The fuel flow must include that flow needed for vapor return flow, jet pump drive flow, and for all other purposes for which fuel is used.

* * * * *

12. Section 23.959 is amended by designating the text of the section as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 23.959 Unusable fuel supply.

* * * * *

(b) The effect on the unusable fuel quantity as a result of a failure of any pump shall be determined.

13. Section 23.963 is amended by revising the reference in paragraph (e) that reads "§ 23.959" to read "§ 23.959(a)" and by revising paragraph (b) to read as follows:

§ 23.963 Fuel tanks: general.

* * * * *

(b) Each flexible fuel tank liner must be shown to be suitable for the particular application.

* * * * *

14. Section 23.965 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 23.965 Fuel tank tests.

* * * * *

(b) * * *

(3) * * *

(i) If no frequency of vibration resulting from any r.p.m. within the normal operating range of engine or propeller speeds is critical, the test frequency of vibration is the number of cycles per minute obtained by multiplying the maximum continuous propeller speed in r.p.m. by 0.9 for propeller-driven airplanes, except that for non-propeller driven airplanes the test frequency of vibration is 2,000 cycles per minute.

* * * * *

15. Section 23.973(f) is revised to read as follows:

§ 23.973 Fuel tank filler connection.

* * * * *

(f) For airplanes with turbine engines, the inside diameter of the fuel filler opening must be no smaller than 2.95 inches.

16. Section 23.975(a)(5) is revised to read as follows:

§ 23.975 Fuel tank vents and carburetor vapor vents.

(a) * * *

(5) There may be no point in any vent line where moisture can accumulate with the airplane in either the ground or level flight attitudes, unless drainage is provided. Any drain valve installed in the vent lines must discharge clear of the airplane and be accessible for drainage;

* * * * *

17. Section 23.979(b) is revised to read as follows:

§ 23.979 Pressure fueling systems.

* * * * *

(b) An automatic shutoff means must be provided to prevent the quantity of fuel in each tank from exceeding the maximum quantity approved for that tank. This means must—

(1) Allow checking for proper shutoff operation before each fueling of the tank; and

(2) For commuter category airplanes, indicate at each fueling station, a failure of the shutoff means to stop the fuel flow at the maximum quantity approved for that tank.

* * * * *

18. Section 23.1001 is amended by revising paragraph (b)(2) to read as follows:

* * * * *

§ 23.1001 Fuel jettisoning system.

* * * * *

(b) * * *

(2) A climb at the speed at which the one engine inoperative enroute climb data have been established in accordance with § 23.69(b), with the critical engine inoperative and the remaining engines at maximum continuous power; and

* * * * *

§ 23.1013 [Amended]

19. Section 23.1013 is amended by removing the word "crankcase" in paragraph (d)(1).

§ 23.1041 [Amended]

20. Section 23.1041 is amended by adding the phrase "and maximum ambient atmospheric temperature conditions" between the words "maximum altitude" and "for which approval".

21. Section 23.1043 (a), (c), and (d) are revised to read as follows:

§ 23.1043 Cooling tests.

(a) *General.* Compliance with § 23.1041 must be shown on the basis of tests, for which the following apply:

(1) If the tests are conducted under ambient atmospheric temperature conditions deviating from the maximum for which approval is requested, the recorded powerplant temperatures must be corrected under paragraphs (c) and (d) of this section, unless a more rational correction method is applicable.

(2) No corrected temperature determined under paragraph (a)(1) of this section may exceed established limits.

(3) The fuel used during the cooling tests must be of the minimum grade approved for the engine and, for a reciprocating engine, the mixture settings must be the leanest recommended for climb.

(4) For turbocharged engines, such turbocharger must be operated through that part of the climb profile for which operation with the turbocharger is requested.

(b) * * *

(c) *Correction factor (except cylinder barrels).* Temperatures of engine fluids and powerplant components (except cylinder barrels) for which temperature limits are established, must be corrected by adding to them the difference

between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum fluid or component temperature recorded during the cooling test.

(d) *Correction factor for cylinder barrel temperatures.* Cylinder barrel temperatures must be corrected by adding to them 0.7 times the difference between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum cylinder barrel temperature recorded during the cooling test.

22. Section 23.1045(a) is revised to read as follows:

§ 23.1045 Cooling test procedures for turbine engine powered airplanes.

(a) Compliance with § 23.1041 must be shown for all phases of operation. The airplane must be flown in the configurations, at the speeds, and following the procedures recommended in the Airplane Flight Manual for the relevant stage of flight, and that correspond to the applicable performance requirements that are critical to cooling.

* * * * *

23. Section 23.1047 is revised to read as follows:

§ 23.1047 Cooling test procedures for reciprocating engine powered airplanes.

Compliance with § 23.1041 must be shown for the climb (or, for multiengine airplanes with negative one-engine-inoperative rates of climb, the descent) stage of flight. The airplane must be flown in the configurations, at the speeds and following the procedures recommended in the Airplane Flight Manual (AFM), and that correspond to the applicable performance requirements that are critical to cooling.

24. Section 23.1091 is amended by revising paragraph (c)(2) to read as follows:

§ 23.1091 Air induction system.

* * * * *

(c) * * *

(2) The airplane must be designed to prevent water or slush on the runway, taxiway, or other airport operating surfaces from being directed into the engine or auxiliary power unit air intake ducts in hazardous quantities. The air intake ducts must be located or protected so as to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

§ 23.1093 [Amended]

25. Section 23.1093 is amended by adding the heading "*Reciprocating engines with Superchargers*" to paragraph (c).

26. Section 23.1105 is amended by revising paragraph (a) to read as follows:

§ 23.1105 Induction system screens.

* * * * *

(a) Each screen must be upstream of the carburetor or fuel injection system.

* * * * *

27. Section 23.1107 is amended by revising the introductory text to read as follows:

* * * * *

§ 23.1107 Induction system filters.

If an air filter is used to protect the engine against foreign material particles in the induction air supply—

* * * * *

28. Section 23.1121(g) is revised to read as follows:

§ 23.1121 General.

* * * * *

(g) If significant traps exist, each turbine engine and auxiliary power unit exhaust system must have drains discharging clear of the airplane, in any normal ground and flight attitude, to prevent fuel accumulation after the failure of an attempted engine or auxiliary power unit start.

* * * * *

29. Section 23.1141(b) is revised to read as follows:

§ 23.1141 Powerplant controls: general.

* * * * *

(b) Each flexible control must be shown to be suitable for the particular application.

* * * * *

30. Section 23.1143(f) is amended by revising the introductory text to read as follows:

§ 23.1143 Engine controls.

* * * * *

(f) If a power or thrust control, or a fuel control (other than a mixture control) incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of control into the off position. The means must—

* * * * *

31. Section 23.1153 is revised to read as follows:

§ 23.1153 Propeller feathering controls.

If there are propeller feathering controls, whether or not they are separate from the propeller speed and pitch controls, it must be possible to feather each propeller separately. Each control must have means to prevent inadvertent operation.

32. Section 23.1181 is amended by adding a new paragraph (b)(3) to read as follows:

§ 23.1181 Designated fire zones; regions included.

* * * * *

(b) * * *

(3) Any complete powerplant compartment in which there is no isolation between compressor, accessory, combustor, turbine, and tailpipe sections.

* * * * *

§ 23.1183 [Amended]

33. Section 23.1183(a) is amended by removing the word "approved" in the next to the last sentence, and replacing it with the words "shown to be suitable for the particular application."

34. Section 23.1191 is amended by revising paragraph (b) to read as follows:

§ 23.1191 Firewalls.

* * * * *

(b) Each firewall or shroud must be constructed so that no hazardous quantity of liquid, gas, or flame can pass from the compartment created by the firewall or shroud to other parts of the airplane.

* * * * *

35. Section 23.1203 is amended by revising paragraph (e) to read as follows:

§ 23.1203 Fire detector system.

* * * * *

(e) Wiring and other components of each fire detector system in a designated fire zone must be at least fire resistant.

* * * * *

§ 23.1305 [Amended]

36. Section 23.1305 is amended by removing paragraph (b)(3)(ii) and redesignating paragraph (b)(3)(iii) as paragraph (b)(3)(ii).

§ 23.1337 [Amended]

37. Section 23.1337 is amended by removing the reference to "§ 23.959" in paragraph (b)(1) and replacing it with "§ 23.959(a)".

Issued in Washington, DC, on June 22, 1994.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 94–15619 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Thursday
June 30, 1994

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 187

Fees for Certification Services and Approvals Performed Outside the United States; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. 27809; Notice No. 94–24]

RIN 2120–AE72

Fees for Certification Services and Approvals Performed Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking would update existing fees for airmen and repair station certification services performed outside the United States (U.S.) to reflect current cost levels; establish a schedule of fees where no fee currently exists for: tests, authorizations, certificates, permits, or ratings relating to any airmen certification, and repair station certification performed outside the United States; establish the methodology for computing user fees and a timetable for periodic updates of fees; and establish additional methods of collecting those fees.

This proposed rulemaking is necessary to allow the FAA to fully recover the costs it incurs in performing airmen certification, and repair station certification services outside the United States and to bring current airmen fees charges more nearly in line with nondiscrimination principles of multilateral trade agreements to which the U.S. is a signatory including the General Agreement on Tariffs and Trade (GATT) and the GATT Aircraft Code.

The intended effect of this proposed action is to recover the costs of providing airmen, and repair station certification services outside the United States. Recovering these costs would allow the FAA to continue to provide airmen, and repair station certification services outside the United States, thereby facilitating the acceptance of U.S. aeronautical products overseas.

DATES: Comments must be received on or before August 1, 1994.

ADDRESSES: Comments on this notice should be mailed or delivered in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 27809, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915–G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Emily A. White, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3301.

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. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates, if appropriate. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this rulemaking, will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27809." The postcard will be date/time stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA–200), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Statement of the Problem

The fee schedule that appears in 14 CFR part 187, appendix A, was established by rulemaking and became effective on October 18, 1982. It contains fees for certain certification services performed outside of the United States by the FAA. However, it does not contain fees for the full scope of activities for which fees may be charged under current statutory authority. Rather, the fee schedule lists only fees for services that were being rendered outside the United States at the time of that rulemaking. The fee schedule has not been updated since 1982, although the FAA's costs for performing these services has escalated since adoption of the present rule in 1982. The FAA incurs special costs to operate overseas that increase the costs for providing services outside the United States. These additional costs include cost-of-living allowances as well as allowances for housing and education. Due to these costs, employing an inspector outside the United States is approximately $85.4 thousand more costly than employing the same inspector within the United States.

Further, since the methodology for computing fee schedules and time table for adjustment of fees was not established in 14 CFR part 187, appendix A, it is currently necessary to update this fee schedule by rulemaking.

The changes set out in this NPRM make the FAA's fee practice more nearly consistent with the principles of nondiscrimination and most-favored-nation treatment that are at the core of the international trade regime set up by the GATT, and which includes the Aircraft Code and the General Agreement on Trade in Services. Under these core trade principles, governments should not treat foreign nationals differently in the measures that they take that affect international trade. Airman certifications are not governed by any trade agreement to which the U.S. is a party, but the FAA has determined that bringing its fee practices into line with international trade practices is desirable, if not required by any specific obligation of the U.S. FAA measures with regard to certification of foreign repair stations, however, including fees charged, will be subject to U.S. obligations under the General Agreement on Trade in Service (GATS), recently concluded in the so-called Uruguay Round of GATT negotiations. The U.S. signed the agreement, but has not ratified it, and it is not in force. Implementing legislation

has not yet been submitted to Congress. Nevertheless, the GATS, which applies multilateral trade principles to trade in services for the first time, will cover some aspects of aircraft maintenance. This NPRM will be consistent with U.S. obligations under the GATS, once it goes into effect.

Statutory Authority

Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airmen, instructors, schools, and repair stations.

In addition, under Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the FAA has been charged with establishing a fair and equitable system for recovering full costs expended for any service, such as the issuance of the certificates discussed in this proposal, that provide a special benefit to an individual beyond those that accrue to the general public. Section 403a of that Act provides, in part, as follows:

> It is the sense of the Congress that any work service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency * * * to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the fullest extent possible * * *.

Section 483a further provides, in part:

> The head of each Federal agency is authorized by regulation (which, in the case of agencies in the Executive Branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefore such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *.

Finally, in 1980, Congress passed the International Air Transportation Competition Act of 1979 (hereinafter "IATC Act") giving the FAA authority to establish fee schedules for airmen and repair station certification services provided outside the U.S. Section 28 of the IATC Act amended Section 45 of the Airline Deregulation Act to read as follows:

> Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station. (49 U.S.C. 334, second sentence).

The amounts collected shall be paid to the Federal Government.

Office of Management and Budget (OMB) Guidelines

To aid in establishing fee schedules, OMB has prescribed in Circular No. A–25 the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain government services and property. The circular provides that "where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those that accrue to the public at large, a charge should be imposed to receive the full cost to the Federal Government of rendering that service." Circular No. A–25 specifies the following:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (for example, receiving a patent, crop insurance, or license to carry on a specific business), or

(b) Provides business stability or assures public confidence in the business activity of the beneficiary (for example, certificates of necessity and convenience [sic: convenience and necessity] for airline routes, or safety inspections of craft); or

(c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (for example, receiving passport visa, airman's certificate, or an inspection after regular duty hours).

General Discussion of the Proposals

This notice proposes that the fee schedule in 14 CFR part 187, Appendix A, be amended to provide the methodology for computing user fees that permit full recovery of the FAA costs incurred in performing these services authorized by legislation and to develop a timetable for updating fees. The method of payment of fees prescribed in 14 CFR 187.15 would also be amended to take advantage of some additionally available banking services, that is, wire transfers and payment by credit card, that would expedite deposit of funds to the U.S. Government.

In keeping with the authority granted under the IATC Act, this notice would establish the schedule of fees that would be published in an FAA Advisory Circular on inspector fees. Under this proposal, hourly rates for repair station certifications, and fixed fees for each airman certificate issued would be derived from total costs to the FAA of providing the services and have been computed using direct and indirect labor costs (excluding holiday, Sunday, and overtime costs), and overhead costs. Fees for transportation and subsistence expenses associated with the issuance of certificates have not been included in the computation of hourly fees and fixed fees. Fees covering those expenses would be charged to applicants in addition to the specified fee whenever such expenses are incurred by the FAA in providing the requested service. Consistent with OMB Circular A–25, under this NPRM the FAA would recover all costs incurred for performing the above-described certification services outside the U.S.

Airman Certifications

There are 55 categories of airman certification actions for which fees are prescribed under the Appendix A at the present time. These were the only categories of airman certification actions being administered by the FAA outside the United States at the time of the original fees rulemaking in 1982. Since that time, demand for airman certification services outside the U.S. has increased, and the FAA now administers airman tests, approvals, and ratings for which fees have not been established.

There are 96 categories of FAA airman tests, approvals, or ratings that currently may be performed outside the U.S. This proposal would update existing fees for the 55 types of airman tests, approvals, and ratings listed in 14 CFR part 187, Appendix A, and would also establish fees for the 41 other types of airman tests, approvals and ratings that the FAA may administer outside the United States. Thus, the proposed rule would prescribe fees for all tests, renewals, authorizations, or approvals relating to airman certification outside the United States.

This NPRM would also permit FAA recovery of transportation and subsistence expenses that may be incurred in the administering of airman tests, approvals, and ratings outside the United States. Generally, written airman tests are given at the FAA Flight Standards Office (FSO) and practical airman tests are conducted at a nearby airport where transportation and subsistence expenses are not incurred. When inspectors give airman tests at locations outside of the FAA duty station city, those tests are typically conducted in conjunction with a

scheduled inspection. Since the fees charged for airman tests do not offset the costs associated with travel, the FAA currently does not send its inspectors to locations outside their duty stations solely for the purpose of conducting airman tests.

An occasion may arise, however, where an individual or group of individuals, such as a flying club, may be willing to pay the transportation and subsistence expenses of an FAA inspector to permit him or her to travel in order to administer airman tests. In instances of this type, this notice of proposed rulemaking would permit the FAA to recover transportation and subsistence expenses in addition to the established airman fee.

Under the current rule, the FAA may charge only foreign nationals when it administers airman tests or performs similar services outside the United States. This NPRM would remove that limitation by permitting the FAA to charge all applicants for these services, regardless of country of citizenship, as authorized by the IATC Act. The removal of this limitation will correct the current inequity of FAA charging U.S.-owed foreign repair stations for certification actions but not charging other U.S. citizens for airman certification.

The cost to the FAA of providing airman certification services outside the United States is the same for all applicants for the same type of test regardless of the citizenship of the applicant. Because Federal law prohibits charging anyone, a foreign national or a U.S. citizen, more than the cost of services provided, the application of fees only to foreign nationals effectively precludes full recovery of costs. Moreover, it is highly unlikely that costs of services provided abroad to U.S. citizens could be recovered through the indirect user taxes that provide most of the FAA's funding. These taxes—assessed on the value of domestic passenger tickets, domestic freight charges, passengers departing the United States, and aviation fuel sold in the United States—are not paid by airmen living abroad, whether U.S. citizens or foreign nationals.

Most U.S. citizens already pay for airman testing services provided outside the United States by using FAA designated test examiners for obtaining airman certification services. Under this proposal, U.S. citizens would pay the same fee as anyone else for the certification services described in this NPRM, regardless of whether a service is provided by an FAA designated test examiner or by an FAA inspector.

Repair Stations

This proposal would also revise the hourly billing rate paid to the FAA for the certification of repair stations. The current rate, found in 14 CFR part 187, Appendix A, would be increased from $47 per inspector hour to $80 per inspector hour to cover the FAA's current costs incurred while performing this service. In addition to the hourly fees for inspector services, this proposal would permit the FAA to recover transportation and subsistence expenses that may be incurred in connection with repair station and services. The transportation and subsistence expenses incurred by FAA inspectors represent a large portion of the costs incurred by the FAA when performing repair station certification work. Most of this work must be performed on-site and, therefore, requires that an FAA inspector travel to the repair station facility to be inspected. Repair stations facilities range from 20 minutes to 30 hours in travel time from FAA FSO's and, in some instances, lack of funds to cover the FAA's transportation and subsistence costs may prevent the agency from sending inspectors to perform needed repair station certification evaluations.

This proposal would delete the existing hourly fee of $14 for clerical time devoted to repair station certification activities listed in 14 CFR part 187, Appendix A. Instead of computing a direct fee for clerical time, clerical costs have been included in the hourly base rate that would be charged for the FAA inspector's time.

Fee Computation

Proposed fixed fees and hourly rates have been derived based on the standard methodology used in FAA cost allocation studies. A single, average hourly billing rate for all Flight Standards Aviation Safety Inspectors (ASI'S), both domestic based ASI'S and foreign based ASI'S, was derived using the methodology discussed in this section. Domestic based ASI'S perform certification services, in addition to foreign based ASI'S. While domestic based ASI'S are employed at a much lower rate than foreign based ASI'S ($35.4 thousand annual difference) it is beneficial, and consistent with international treaties, to have one average hourly billing rate for ASI services, rather than have multiple rates based on ASI location.

To determine the average hourly rate the FY94 Flight Standards operations budget of $270,515,400, excluding direct ASI travel, Sunday, holiday and overtime pay, was used as the base. The annual appropriations for facilities and equipment and research and development were also not used in the rate base. The operations budget contains the following items.

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200 and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

10. Insurance claims and indemnities, budget code series 4200.

In order to recover overhead costs attributable to providing safety services, all costs are assigned to the inspector. This is accomplished by dividing the operations budget of $270,515,400 by 2,694 ASI's on board at the beginning of FY94. The number 2,694 is taken from the Flight Standards monthly staffing report and is the total number of ASI'S in the OMB position series 1825. This division results in an annual ASI cost of $100,414.03. The annual ASI cost of $100,414,03 is divided by 2,087 hours, which is the annual paid hours of each federal government employee. This results in an hourly cost of $48.11 per "paid hour" (the actual amount paid by the FAA for each hour of work performed by an inspector), based on 2,087 paid hours per inspector year.

This cost of $48.11 per hour does not ensure full recovery of costs. Inspectors spend a significant amount of time in indirect work such as training and the preparation of administrative reports, to support their inspection activities, much of which cannot be allocated to any one client. In addition, not all 2,087 annual paid hours are available as work hours. Training, providing technical assistance, leave, and other factors reduce the work hours that may be directly billed. Consequently, it is necessary to increase the hourly ASI government paid amount of $48.11 by an indirect work factor of 1.66 to arrive at the full cost recovery hourly ASI billing rate.

The indirect work factor of 1.66 is derived as follows. The Flight Standards

Staffing Standard (FAA Order 1380.28B, dated January 15, 1985) uses an indirect work rate of 0.43 to project the amount of time an ASI spends in indirect work activities, as opposed to certification and surveillance work, during the year. The indirect work activities are:

(a) Development of master minimum equipment lists on Flight Operations Evaluation Board
(b) Development of aircraft training documents on Flight Standardization Board
(c) Development of Maintenance program documents on Maintenance Review Board
(d) Providing technical assistance
(e) Assisting legal counsel
(f) Evaluation of technical documents
(g) Leave (all types)
(h) Training
(i) Administrative time
(j) travel for indirect work

Further, OMB guidelines require agencies to use 1,800 average annual hours available for work and 280 average annual leave hours (all types of leave) for computing manpower requirements. From the OMB guidelines, the ratio of yearly leave hours to average annual hours available for work (280 divided by 1800) is computed at 0.16. Thus, the indirect work factor for billing purposes is computed using the following formula:

$$\left(1+\sum_{1}^{k} a_i\right)(1+b) = \text{indirect work factor}$$

where:
a=indirect work rate, and
b=leave usage (total leave hours divided by total hours available for work).

This computation yields an indirect work factor of 1.66, which is computed from (1+0.43)(1+0.15). The indirect work factor shows that the FAA actually pays for 1.66 hours for each direct billable hour of ASI time.

The hourly inspector billing rate is determined by multiplying the $48.11 hourly government paid rate by the indirect work factor of 1.66 to arrive at the hourly ASI billing rate of $79.81, or $80 rounded to the nearest dollar. The proposed hourly billing rate of $80 per ASI hour is applied to airman and repair station certification actions as follows.

The proposed fixed fees for airman certification were derived by multiplying the proposed ASI billing rate of $80 by the total time used in the Flight Standards Staffing Standard or airman test guidelines as necessary to complete each certification activity. The FAA is not proposing fixed fees for the certification of air agencies, such as airman schools and repair stations, because the time involved in certificating these facilities varies widely and therefore there is no average staffing standard time.

For certification actions where there is no fixed fee, as air agency certifications, this notice proposes that applicants, at the time of application, submit a prepaid deposit at the hourly ASI billing rate of $80 per hour for the minimum estimated time required to complete the certification applied for, as determined by the certifying Flight Standards Office (FSO). When the certification effort is completed, the applicant would either receive a refund or submit the additional amount due, depending upon the time actually required for certification, plus transportation and subsistence expenses.

The charges to applicants by the FAA for inspector transportation and subsistence expenses, are governed by Federal Travel Regulations, and would reflect the cost expended by the FAA on the requested certification action.

Proposed Future Revisions to the Fee Schedule

The FAA plans to review actual costs incurred in the certification efforts every year, at the beginning of the fiscal year, using the same fee methodology described above, and, the FAA proposes to amend the fee schedule on an annual basis to either increase or decrease fees. Each amended fee schedule would be published in the **Federal Register** and published in an FAA Advisory Circular on the subject of Inspector Fees.

The proposed fee schedule that would be established as a result of this rulemaking is contained in the attached Table to this NPRM.

Fee Collection

For airman certification actions, the FAA would collect the fee at the time of application for a certification, rating or approval, after first ascertaining the applicant's eligibility. The FSO or designated examiner would determine whether the applicant meets the preliminary eligibility requirements, such as age and currency. If these requirements are met, the FSO would issue a receipt as evidence of payment, ensure the deposit of fees into a U.S. Treasury approved bank, and forward the fee deposit information to the regional accounting office serving the area.

Under this NPRM, payments for services rendered by FAA inspectors would have to be in the form of a check, money order, draft, or wire transfer, and would have to be payable in U.S. currency to the FAA and drawn on a U.S. bank. Bank processing fees may also be added to the fees charged to applicants, where such processing fees are charged to U.S. Government accounts. No application would be acted upon until evidence of payment by the applicant has been presented.

Generally, there would be no refund of any fee paid for FAA certification services, including fees paid for any airman test, approval, or authorization that an applicant fails to pass. However, if an applicant notifies the FAA of a test cancellation at least one week prior to a scheduled examination, the FAA would refund the fee after deducting a minimal service charge to cover the cost of processing the application.

In the case of a request for airman certification and repair station facility certifications (air agency certification), applicants would submit as prepayment a deposit in the amount specified by the certifying FSO. This prepayment would be based on the estimated minimum number of hours that an ASI would need to certificate the facility, as determined by the FSO performing the service. The hourly rate to be paid for the inspector's time would be the rate specified in Appendix A of Part 187. If the cost to complete the certification is less than the amount prepaid by the applicant, the FAA would submit to the applicant a refund to cover the difference between the prepayment and the actual charges. Conversely, if the cost is greater, the applicant would be required to submit the additional charges. As in the case of airman certificates, applicants for air agency certification would have to pay the required fees, regardless of whether an FAA certificate is issued.

Comparison of FAA Proposal With International Civil Aviation Organization (ICAO) and European Joint Aviation Authority (JAA) Regulations

ICAO does not perform airman or agency certification actions of the type proposed by the FAA in this NPRM.

The JAA currently has not completed writing its operations regulations and, therefore, has no airman charges at this time. For foreign repair station certification, the JAA has announced a charge of $1,000 per non-European facility. The charge will be assessed irregardless of an inspection visit. Within Europe, JAA certificates are issued by the appropriate Civil Aviation Authority (CAA) of the JAA member country and applicants are charged according to the fees of that CAA. Two examples of fees for comparable services provided by the CAA's of JAA member countries follow.

The United Kingdom CAA hourly inspector rate is £147, which is approximately $297 U.S. per inspector hour. Repair station certification charges range from £442 to £3,180 ($884 to $6,360 U.S.). Additional hourly charges may be assessed. Actual transportation and subsistence costs are added for facilities located outside the U.K. These charges include a 7.5% profit on certification actions.

The German LBA repair station charges range from 800 to 7,000 Deutsche Marks (DM), which is approximately $479 to $4,191 U.S. Transportation costs are also added.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this NPRM.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The FAA has determined that this proposed rule is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The results are summarized in this section.

This proposed rule would not impose any additional costs on any members of society other than those requesting FAA certification services outside the United States. The proposed rules, if implemented as final rules, would reimburse the FAA for the cost of services currently being provided to the users. Thus, the beneficiaries, rather than the general taxpayers, would pay for the services provided by the FAA. The FAA has determined that the proposed fees are equitable and reflect the cost of providing these services. The benefits of this NPRM would therefore be the elimination of the need for general revenues by the FAA to cover the costs of these services provided by the FAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to consider the impact of proposed rules on small entities, that is, small businesses, nonprofit organizations, and local governments. If there is a significant impact on a substantial number of small entities, the Agency must prepare a draft Regulatory Flexibility Analysis (RFA) for the NPRM and a final RFA for the final rule.

The proposed rule would primarily affect general aviation pilots and foreign repair stations. The RFA applies neither to individuals nor foreign entities. Therefore, a RFA is not required.

International Trade Impact

This proposed rule would affect primarily general aviation pilots and foreign repair stations. The proposal would have a favorable competitive impact on U.S. repair stations by removing the subsidy that the FAA has provided to foreign repair stations in the form of lower charges for certification services. The NPRM would enhance the competitiveness of domestic firms.

Federalism Implications

The regulations proposed herein would not have substantial direct implications 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 12866, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is nonsignificant under Executive Order 12866. In addition, the FAA certifies that this proposal, if adopted, 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. This proposal is not considered significant under Order DOT 2100.5, Policies and Procedures for Simplication, Analysis, and Review of Regulations. A draft regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 14 CFR Part 187

Administrative practice and procedure, Air transportation, Federal Aviation Administration.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 187 of the Federal Aviation Regulations (14 CFR part 187) as follows:

PART 187—FEES

1. The authority citation for part 187 continues to read as follows:

Authority: Sec. 501, 65 Stat. 290; 31 U.S.C. 9701; secs. 301, 302, 303, 305, 307, 313, 314; 72 Stat. 744, 747, 749, 752, 754; 49 U.S.C. 341, 1343, 1344, 1346, 1348, 1354, 1355.

2. Section 187.15 is amended by designating the current text as paragraph (a) and by adding paragraphs (b) and (c), to read as follows:

§ 187.15 Payment of fees.

(a) * * *

(b) The fees prescribed in Appendix A of this part may be paid by wire transfer.

(c) Applicants for the FAA services described in Appendix A of part 187 shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.

3. Appendix A to part 187 is revised to read as follows:

Appendix A to Part 187—Methodology for Computation of Fees for Certification Services Performed Outside the United States

(a) Fixed fees and hourly rates have been derived using the methodology described below to ensure full cost recovery for certification actions or approvals provided by the FAA for persons outside the United States.

(b) These rates are based on aviation safety inspector time rather than calculating a separate rate for managerial or clerical time because the inspector is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time measurement.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Standards Operations Budget, excluding the items enumerated above, by the number of aviation safety inspections (OMB position series 1825) on board at the beginning of the fiscal year, to determine the annual cost of an aviation safety inspector. This annual cost of an aviation safety inspector is divided by 2,087 hours, which is the annual paid hours of a U.S. Federal Government employee. This results in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

(1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.

(2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect work factor. The calculation of an indirect work factor is discussed below.

(f) The indirect work factor is determined using the following formula:

$$\left(1+\sum_{1}^{k} a_i\right)(1+b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work).

The components of the formula are derived as follows.

(1) a=indirect work rate. Indirect work rate is taken from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and surveillance work. The indirect work activities are:

(i) Development of master minimum equipment lists on Flight Operations Evaluation Board.

(ii) Development of aircraft training documents on Flight Standardization Board.

(iii) Development of Maintenance program documents on Maintenance Review Board.

(iv) Providing technical assistance.

(v) Assisting legal counsel.

(vi) Evaluation of technical documents.

(vii) Leave (all types).

(viii) Training.

(ix) Administrative time.

(x) Travel for indirect work.

(2) b = leave usage (total leave hours divided by total hours available for work). This is computed by using OMB guidelines of 280 average annual hours leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(h) Certifications and approvals for which there are fixed times, such as a airmen tests, are determined by multiplying the time used in the Flight Standards Staffing Standard or airman test guidelines by the inspector hourly billing rate.

(i) Certifications and approvals for which there are no fixed work rates, such as airman, and repair station facilities (air agencies), are billed at the hourly inspector billing rate.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in 14 CFR part 187, Appendix A. The User fee schedule will be published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States."

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests authorizations, certifications, permits, or ratings.

(1) Notice of any changes to the user fee schedule will be published in the **Federal Register.**

(2) Notice of any changes to the methodology for computing the user fees will be published in the **Federal Register.**

Issued in Washington, DC on June 24, 1994.

William J. White,

Acting Director, Flight Standards Service.

Appendix to the Proposed Rule

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States

[Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
1. Transportation and Subsistence Charges, All Categories of Services				
Transportation and subsistence will be assessed to applicants in addition to the charge published below for certification actions requiring travel from the duty station city.	.....	Actual cost	.....	.....
II. Airman Certification, All Categories of Airmen				
Authorizations for written or practical tests unless specified below	Parts 61, 63 65 ...	$40	80	0.5
Special medical check	Part 67	$160	80	2
FA Act Section 609 re-exam	Parts 61, 63, 65 ..	$208	80	2.6
Inspector review for all tests, approvals, ratings given by designated examiners and evaluators.	Part 61, 63, 65	$40	80	0.5
Pilots				
Written tests, including: tests for initial issue or renewal of a certificate of rating, restriction and limitation removals, determination of knowledge based on military experience in the categories below:				
Private pilot	Part 61.103	$40	80	0.5
Recreation pilot	Part 61.96	$40	80	0.5
Commercial pilot	Part 61.123	$40	80	0.5
Airline Transport pilot	Part 61.153 or Part 61.159.	$40	80	0.5

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States—Continued

[Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
Instrument Rating	Part 61.65 or Part 6l.75.	$40	80	0.5
Flight Instructor:		$40	80	0.5
(a) Fundamental of Instructing	Part 61.183	$40	80	0.5
(b) Written, other than gyroplane	Part 61.183	$40	80	0.5
(c) Written for gyroplane	Part 61.183	$40	80	0.5
Ground Instructor	Part 143.3	$40	80	0.5
Practical tests (oral, flight, simulated flight increments, or combinations), for initial award or renewal of a certificate or training, restriction and limitation removals, determination of knowledge based on military experience in the categories below:				
Student pilot	Part 61.83	$32	80	0.4
Recreational pilot	Part 61.96(e)	$0	80	0
Private pilot	Part 61.103	$248	80	3.1
Commercial pilot	Part 61.123	$248	80	3.1
Commercial pilot limited to VFR	Part 61.129(a)	$248	80	3.1
Commercial pilot reissue certificate	Part 61.11	$248	80	3.1
Airline transport pilot	Part 61.157 or Part 61.163.	$400	80	5
Airline transport pilot, applicant without IFR rating	Part 61.157 or Part 61.163 or Part 61.65.	$400	80	5
Replacement of a lost or destroyed certificate	Part 61.29	$0	80	0
Instrument rating	Part 61.65 or Part 61.75.	$256	80	3.2
Flight instructor:				
(a) Instrument rating	Part 61.191 or Part 61.65.	$288	80	3.6
(b) Added category rating	Part 61.191 or Part 61.63.	$248	80	3.1
(c) Added class rating	Part 61.191 or Part 61.63.	$248	80	3.1
(d) Renewal	Part 61.197	$160	80	2
(e) Reinstatement	Part 61.199(b)	$160	80	2
Ground instructor	Part 143.3	$40	80	0.5
Type rating with instrument rating	Part 61.63 or Part 61.157 or Part 61.163.	$368	80	4.6
Type rating without instrument rating	Part 61.63	$368	80	4.6
Category rating	Part 61.63 or Part 61.165.	$368	80	4.6
Class rating	Part 61.63	$368	80	4.6
Special purpose pilot on basis of foreign certificate	Part 61.75	$68	80	0.85
Special purpose pilot on basis of aircraft lease	Part 61.77(e)(4)	$68	80	0.85
Pilot proficiency check—12 month	Part 61.58(b)	$296	80	3.7
Pilot proficiency check—24 month	Part 61.58(c)	$296	80	3.7
Instrument competency check	Part 61.57	$320	80	4
Statement of demonstrated ability	Part 61.13(d)	$320	80	4
Category II authorization	Part 61.57	$320	80	4
Category III authorization	Part 61.58	$320	80	4
Pilot-in-command in lieu of type rating (LOA) authorization	Part 61.31(b) or Part 61.31(h)(3).	$464	80	5.8
Aerobatic competence authorization	Part 91	$320	80	4
Pilot knowledge/skill authorization	Parts 91, 125, 133, 135, 137.	$320	80	4
Flight instructor simulator authorization	Parts 121,135	$320	80	4
Flight Engineers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.35 (a) & (b).	$40	80	0.5
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances.	Part 63.33(b)(1)	$400	80	5
Special purpose flight engineer based on foreign license (initial, renewal, VFR or IFR, with our without medical).	Part 63.42	$68	80	0.85
Special purpose flight engineer based on aircraft lease (initial, renewal, VFR or IFR, with or without medical).	Part 63.23	$68	80	0.85
Flight Navigators				
		$0	80	
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.53(a)	$40	80	0.5

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States—Continued

[Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency.	Part 63.57	$400	80	5
Aircraft Dispatchers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.55(a)	$40	80	0.5
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency—competency for airplane and helicopter.	Part 65.59	$400	80	5
Mechanics				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—general, airframe, powerplant.	Part 65.71(a), 65.77.	$40	80	0.5
Practical tests for initials, renewals, added ratings, restriction removals, reissuances—airframe or powerplant.	Part 65.79	$504	80	6.3
Inspection Authorization				
Inspection Authorization (IA)—initial	Part 65.91	$392	80	4.9
Inspection Authorization (IA)—renewal	Part 65.93	$72	80	0.9
Repairmen				
Initial, renewal, added rating	Part 65.101	$152	80	1.9
Parachute Riggers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—senior or master.	Part 65.115(a); Part 65.117; Part 65.119(b).	$40	80	0.5
Practical tests for initials, renewals, added ratings, restriction removals, reissuances, including tests based on military competency.	Part 65.115(c)	$440	80	5.5
Designated Examiners				
For all categories—including written and practical tests, initials, added ratings, renewals, restriction removals, reissuances unless specified below				
Pilot examiners:	Part 183.23			
Large turbine		$960	80	12
Pilot proficiency		$440	80	5.5
Written test examiner		$640	80	8
Airmen certification representative		$400	80	5
Other types as the FAA may designate	Part 183.11(b)	$960	80	12
Aircraft dispatch examiner (DADE)	Part 183.25(f)	$960	80	12
Flight engineer examiner (DFEE)	Part 183.25(d)	$960	80	12
Flight navigator examiner (DFNE)	Part 183.25(e)	$960	80	12
Designated airworthiness Representative (DAR)—initial	Part 183.33	$440	80	5.5
Designated airworthiness Representative (DAR)—renewal	Part 183.33	$160	80	2
Designated Mechanic Examiner (DME)—initial	Part 183.25(a)	$504	80	6.3
Designated Mechanic Examiner (DME)—renewal	Part 183.25(a)	$184	80	2.3
Designated Parachute Rigger Examiner (DPRE)—initial	Part 183.25(b)	$504	80	6.3
Designated Parachute Rigger Examiner (DPRE)—renewal	Part 183.25(b)	$184	80	2.3
Other designees as the FAA may designate	Part 183.11(b)	$504	80	6.3
iii. Air Agencies				
Repair station certification/approval/authorization actions	Part 145, Subpart C.	$80 per inspector per hour.		
Pilot school certification/approval/authorization actions	Part 141	$80 per inspector per hour.		
Airmen training centers certification/approval/authorization actions	Proposed Part 142.	$80 per inspector per hour.		
Aviation maintenance technical schools certification/approval/authorizing actions.	Part 147	$80 per inspector per hour.		

1–Feb–94

[FR Doc. 94–15968 Filed 6–29–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Thursday
June 30, 1994

Part IV

Department of Housing and Urban Development

NOFA for Consolidated Technical Assistance for Community Planning and Development (CPD) Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–94–3787; FR–3735–N–01]

NOFA for Consolidated Technical Assistance for Community Planning and Development (CPD) Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

SUMMARY: This notice (NOFA) announces the availability of four Community Planning and Development (CPD) Technical Assistance (TA) programs. By announcing the funding for four programs in one NOFA, HUD's goal is to simplify the requirements of its Community Planning and Development Programs and to streamline the Technical Assistance application process.

This NOFA announces the availability of $51 million in TA funds from four separate technical assistance programs: Supportive Housing (SH) TA, HOME TA, Community Housing Development Organization (CHDO) TA and Community Development Block Grant (CDBG) TA. These funds are available for eligible applicants in support of individual program objectives and cross-cutting and coordinated approaches to improving the effective use of these program funds.

The funding of these four TA programs through a single NOFA will not affect the ability of eligible applicants to seek TA funding. Eligible applicants are able, as they have been in the past, to apply for funding under as few as one, and as many as four, separate TA programs, individually or collectively, singularly or in combination. The specific provisions of the four separate CPD TA programs have not been changed. The NOFA reflects the statutory requirements and differences in the four different TA programs. As a result, this new application procedure will not affect the way individual TA programs function.

In the body of this NOFA is information concerning:

(a) The purpose and background of the NOFA, and the funding level provided through this NOFA;

(b) Eligible applicants and activities, factors for award, and statutory and cooperative agreement requirements; and

(c) The application requirements and steps involved in the application process.

DATES: Completed applications must be submitted no later than 4:30 p.m. EST on August 1, 1994. HUD reserves the right to extend the deadline date through notification in the Federal Register. In the interest of fairness to all competing applicants, an application will be treated as ineligible for consideration if it is not physically received by the deadline date and hour. Applicants should take this requirement into account and make early submission of their materials to avoid any risk of losing eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: Completed applications (one original and two copies) should be submitted to: Processing and Control Branch, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Room 7255, Washington, DC 20410, by mail or hand-delivery. When submitting your application, please refer to FR–3735, and include your name, mailing address (including zip code), and telephone number (including area code). HUD, however, will not accept faxed applications. Applications must be received no later than 4:30 p.m. EST.

FOR FURTHER INFORMATION CONTACT: HUD will not accept direct telephone inquiries about this NOFA. Written inquiries should be mailed or faxed to the attention of Syl Angel, Director, Office of Technical Assistance, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; FAX (202) 708–3363. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2535–0084.

I. Background; Purpose; Authority; Amount Allocated

(A) Background

HUD's Office of Community Planning and Development (CPD) is consolidating and simplifying the submission requirements of its formula grant programs to offer local jurisdictions a better ability to shape these and other available resources, into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their communities. To complement this overall consolidation and simplification effort, CPD has designed this NOFA to increase access for technical assistance to CPD grantees, potential grantees and program participants in the CDBG, HOME, Supportive Housing and CHDO assistance programs. This NOFA places heavy emphasis upon coordination of technical assistance activities to provide greater flexibility and responsiveness in meeting the community development and housing needs, including the housing needs of homeless populations in local jurisdictions, while providing greater flexibility to TA providers in the delivery of assistance services.

The new application procedures presented in this NOFA will simplify the TA process, promote cost savings, eliminate duplication, improve the system for potential grantees in need of assistance, and allow interested applicants to seek to deliver a wider, more integrated array of TA services.

The selection criteria are designed to select the best qualified TA providers in each specific program area who are: (a) skilled in providing a variety of technical assistance services which address often multi-faceted and complex problems; (b) knowledgeable about local programs and institutions in the geographic areas they propose to serve; and (c) willing to work with other TA providers to bring the essential programs together, so that available housing resources, services for the homeless and community and economic development resources can more effectively address community problems.

In some instances, HUD may select a single organization to provide TA for all CPD programs within a given geographic area. In other instances several, including qualified consortia of technical assistance providers, may be selected. Where appropriate, HUD may select multiple TA providers to work within a single geographic area. HUD encourages TA providers to work together to coordinate, and to the maximum extent possible, join their activities to form a seamless and comprehensive program of technical assistance for the geographic area they are assisting.

All selected TA providers, with the exception of some national TA providers, will be required to work under the direction of the local HUD Field offices which have jurisdiction over the geographic areas which the provider will serve. All geographically-based work plans must be approved by the local HUD Field Office(s) before they are implemented, and progress reports must be submitted to the

relevant Field Office on a minimum quarterly basis. HUD headquarters shall maintain oversight responsibilities for all awards to ensure continuity and that all areas of the country are fully served by those organizations selected as TA providers. National TA providers conducting activities that do not involve specific geographic areas, such as publications and national training sessions, will be managed by HUD Headquarters or its designee.

(B) Purpose

The purpose of this NOFA is to:

(1) Strengthen the abilities of State and local governments and non-profit organizations to make more effective use of CPD grant and related programs through coordinated neighborhood and community development strategies to revitalize communities;

(2) Create opportunities for strategic planning and citizen participation in a comprehensive context at the local level;

(3) Promote methods for developing more coordinated and effective approaches to dealing with urban problems by recognizing the inter-connections among the underlying problems and ways to address them through the over-laying of available HUD programs;

(4) Promote the ability of non-profit organizations, including CHDOs and community land trusts, to develop more effective ways of assisting communities in maintaining, rehabilitating and constructing affordable housing for low income families; develop and implement programs to assist homeless persons and prevent homelessness; create jobs for low-income persons; and assist CDBG, HOME, and SHP grantees to apply for and maximize the use of available program funds; and

(5) Recognize and make better use of the expertise that each component (supportive housing, affordable housing, community development, economic development) and the organizations (States, local governments, non-profit and for-profit providers) can contribute when developing the consolidated plan.

(C) Authorities

(1) The HOME Investment Partnerships Act (42 U.S.C. 12701–12840) 24 CFR part 92 authorizes the Department to set aside $25 million of the total HOME Program appropriation for FY 1994 for community housing partnership activities and $22 million for support for State and local housing strategies.

(2) The Community Development Block Grant Technical Assistance Program, authorized under Title I of the Housing and Community Development Act of 1974, (42 U.S.C. 5301–5320; Sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d); 24 CFR 570.402.), has several purposes and encompasses several programs.

(3) The Supportive Housing Program is authorized under 42 U.S.C. 11389; 42 U.S.C. 3535(d); 24 CFR 583.140.

(D) Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the four technical assistance programs under this NOFA are:

(1) Supportive Housing Technical Assistance: 14.231

(2) HOME Technical Assistance: 14.239

(3) Community Housing Development Organization (CHDO) Technical Assistance: 14.239

(4) Community Development Block Grant (CDBG) Technical Assistance: 14.227.

(E) Amount Allocated

This NOFA announces the availability of $51 million in TA funds from four separate technical assistance programs: Supportive Housing (SH) TA, HOME TA, Community Housing Development Organization (CHDO) TA and Community Development Block Grant (CDBG) TA. The funds provided are as follows:

CDBG TA funds: $7,500,000
CHDO TA funds: 25,000,000
HOME TA funds: 13,000,000
SH TA funds: 5,500,000

Each HUD/CPD Field Office has been allocated a "fair-share" of TA funds for purposes of this competition. (See Appendix A to this NOFA.) The amounts are based on allocations of HOME and CDBG funds among the States and other factors designed to represent the approximate TA workload in each jurisdiction. These amounts are only for guidance purposes to applicants in developing their program budgets by Field Office jurisdiction and are not the exact amounts to be awarded in each area or to each provider. The total amount to be awarded to any provider will be determined by HUD based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, and the scope of the technical assistance to be provided. Additionally, HUD may reduce the amount of funds allocated for Field Office jurisdictions to fund national TA providers and other TA providers for activities which cannot be budgeted or estimated by Field Office jurisdiction. HUD may require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than applied for in order to supplement or strengthen the intermediary network in terms of the location (service area), types and scope of technical assistance proposed.

To the extent permitted by funding constraints, HUD intends to provide coverage of as full a range as possible of eligible TA activities of each TA program in each Field Office jurisdiction. To achieve this objective, HUD will fund the highest ranking providers that bring the required expertise in one or more specialized activity areas, and fund portions of providers' proposed programs in which they have the greatest skill and capability for given geographic areas or on a national basis. It also may require national, multi-jurisdictional, or other providers to provide coverage to Field Office jurisdictions which cannot otherwise receive cost-effective support from a TA provider. In selecting applicants for funding, in addition to the ranking factors, HUD will apply program policy criteria identified in Section IV(B) of this NOFA to select a range of providers and projects that would best serve program objectives for each program serviced by the TA funded under this NOFA.

Cooperative Agreements will be for a period of up to 36 months. However, HUD reserves the right to terminate awards in accordance with provisions contained in OMB Circulars A–102, A–110 and 24 CFR part 85 anytime after 12 months. HUD also reserves the right to withdraw funds from a specific provider, if HUD determines that the urgency of need for the assistance is greater in other Field Office jurisdictions or the demand for assistance is not commensurate with the award for assistance. In addition, HUD reserves the right, using either funds that have been withdrawn from providers, future appropriations or other available appropriations, to provide additional resources to funded applicants that perform well and can demonstrate a need for the additional funds, and to extend the performance period of individual awardees up to a total of 12 additional months.

In cases where an applicant selected for funding under this NOFA currently is providing TA under an existing CPD TA grant/cooperative agreement, HUD reserves the right to adjust the start date of funding under this NOFA to coincide with the conclusion of the previous award, or to incorporate the remaining

activities from the previous award into the new agreement, adjusting the funding levels as necessary.

(F) General Program Requirements

(1) *Statutory Requirements.* All applicants must meet and comply with all statutory and regulatory requirements applicable to the TA program for which they are chosen in order to be awarded a cooperative agreement. (Appendices C, D, E and F to this NOFA contain copies of applicable regulations.)

(2) *Profit/Fee.* No increment above cost, no fee nor profit, may be paid to any recipient or subrecipient of an award under this NOFA.

(3) *Statement of Work.* After selection for funding but prior to award, each applicant must ensure that any deletions, additions or enhancements to the Statement of Work submitted in the application are incorporated into the approved grant, including details of how the approved Statement of Work will be accomplished. Following a task-by-task format, the approved Statement of Work must:

(a) Delineate the tasks and sub-tasks involved in each program for which the grantee is responsible within each Field Office jurisdiction.

(b) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(c) Identify specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, e.g., number of prospective CHDOs to be certified by Participating Jurisdictions (PJs) as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA, etc.

(4) *Certifications and Assurances.* After selection for funding but prior to award, each applicant must submit signed copies of the following Assurances and Certifications: (a) Standard Form (SF) 424–B–Assurances for Non-Construction Programs; (b) Drug-Free Workplace Certification; (c) Certification Regarding Lobbying; Applicant/Recipient Disclosure Update Report; (d) Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (where applicable); and (e) CDBG Nexus Statement (where applicable).

(5) *Project Management and Staff Allocation Plan.* After selection for funding but prior to award, each applicant must submit a Project Management and Staff Allocation Plan for carrying out the activities proposed in the Statement of Work. The Project Management Plan and Staff Allocation submission should cover the proposed period of performance.

(6) *Financial Management and Audit Information.* After selection for funding but prior to award, each applicant must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by the applicant meets prescribed standards for fund control and accountability required by OMB Circular A–110 for Institutions of Higher Education and other Non-Profit Institutions, OMB Circular A–133 for other non-profit organizations, or 24 CFR part 85 for States and local governments, or the Federal Acquisition Regulations (for all other applicants). The information should include the name and telephone number of the independent auditor, cognizant Federal auditor, or other audit agency as applicable.

(7) *Demand/Response Delivery System.* All awardees must operate within the structure of the demand/response system described in this section. They must coordinate their plans with, and operate under the direction of, each HUD Field Office within whose jurisdictions they are operating. When so directed by a Field Office, they will coordinate their activities instead through a lead TA provider or other organization designated by the Field Office.

If selected as the lead TA provider in any Field Office jurisdiction, the awardee must coordinate the activities of other TA providers selected under this NOFA under the direction of the HUD Field Office. Joint activities by TA providers may be required.

Under the demand/response system, TA providers will be required to:

(a) Market the availability of their services to existing and potential clients.

(b) Respond to requests for assistance from the HUD Field Office(s) with oversight of the geographic service area for which the technical assistance will be delivered. CHDOs, HOME PJs, CDBG and Supportive Housing grantees may request assistance from the TA provider directly, but such requests must be approved by the local HUD Field Office.

(c) Advise grantees of their responsibility to provide economic opportunities for low- and very low-income persons under new regulations to be issued in 24 CFR part 135 implementing section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992. TA providers are encouraged to make program grantees and TA recipients aware of the existence of the new section 3 regulations and their responsibilities under these regulations. Since section 3 applies to many of the program areas for which TA services are being provided, TA providers should encourage TA recipients to facilitate the employment of, and award of contracts to, low- and very low-income persons. Section 3 applies to housing construction, housing rehabilitation and other public construction activities. The new section 3 regulations issued under 24 CFR part 135 are expected to be published in the **Federal Register** on or about June 30, 1994.

(d) Conduct a Needs Assessment to identify the type and nature of the assistance needed by the recipients of the assistance. The needs assessment should identify the nature of the problem to be addressed by the technical assistance services; the plan of action to address the need including the type of technical assistance services to be provided, the duration of the service, the staff assigned to provide the assistance, anticipated products and/or outcomes, and the estimated cost for the provision of services; and the relationship of the proposed services to the planned or expected Consolidated Plan submission to HUD and to other technical assistance providers providing service within the locality.

(e) Obtain approval for the technical assistance delivery plan from the HUD Field Office(s) with oversight for the area in which service will be provided.

(f) Work cooperatively with other TA providers in their geographic areas to ensure that clients are provided with the full range of TA services needed and available. TA providers are expected to be knowledgeable about the range of services available from other providers, make referrals and arrange visits by other TA providers when appropriate, and carry out TA activities concurrently when it is cost-effective and in the interests of the client to do so. HUD Field Offices may direct TA providers to conduct joint activities.

(g) CDBG TA providers will be expected to obtain designation as technical assistance providers by the chief executive officers of each community within which they are working as required by 24 CFR 570.402(c)(2). CHDO TA providers will be responsible for securing a technical assistance designation letter from a PJ stating that a CHDO or prospective CHDO to be assisted by the provider is a recipient or intended recipient of HOME funds and indicating, at its option, subject areas of assistance that are most important to the PJ.

(h) When conducting training sessions as part of its TA activities, TA providers will be expected to: (1) Make provision for professional videotaping of the workshops/courses as directed by the GTR and ensure their production in a professional and high-quality manner suitable for viewing by other CPD clients; (2) design the course materials as "step-in" packages so that a Field Office or other TA provider may separately give the course on its own; and (3) arrange for joint delivery of the training with Field Office participation when so requested by the Field Office.

(i) Report to the HUD Field Office(s) with oversight of the geographic area(s) in which TA services are provided. At a minimum, this reporting shall be on a quarterly basis unless otherwise specified in the approved TA action plan.

(j) HUD Field Offices will be active participants in the delivery of all technical assistance by funded providers throughout the term of the cooperative agreement. HUD Field Offices may modify funded providers' responsibilities to adjust to the demand for assistance, or its internal ability to provide effective oversight. HUD Field Offices may also establish technical assistance coordinator roles through a funded TA provider or other entity, or perform this role themselves.

(k) Where appropriate or requested by HUD Field Offices, HUD Headquarters staff will serve as active participants in the delivery of technical assistance by funded providers, serving in such roles as Cooperative Agreement Officers, Government Technical Representatives, coordinators, etc., as needed.

(6) *CHDO Pass-Through Funds.* TA providers proposing pass-through grants are required to:

(a) Establish written criteria for selection of CHDOs receiving pass-through funds which includes the following:

(i) Participating jurisdictions (PJs) must designate them as CHDOs.

(ii) Generally, the organizations should not have been in existence more than 3 years.

(b) Enter into an agreement with the CHDO that the agreement and pass-through funding may be terminated at the discretion of the Department if no written legally binding agreement to provide assistance for a specific housing project (for acquisition, rehabilitation, new construction or tenant-based rental assistance) has been made by the PJ with the CHDO within 24 months of receiving the pass-through funding. (See 24 CFR 92.300(e).)

II. Eligible Applicants

The eligible applicants for each of the four TA programs are listed below. Many organizations are eligible to apply for more than one TA program and are encouraged to do so to the extent they have the requisite experience, expertise and capability.

All applicant organizations must have demonstrated experience in providing TA in a geographic area larger than a single city or county and must propose to serve an area larger than a single city or county. Additionally, an organization may not provide assistance to itself, and any organization funded to assist CHDOs under this NOFA may not act as a CHDO itself within its service area while under award with HUD.

A consortium of organizations may apply for one or more TA programs, but HUD will require that one organization be designated as the legal applicant, where legally feasible. Where one organization cannot be so designated for all proposed activities, HUD may execute more than one cooperative agreement with the members of a consortium.

All applicants must meet minimum statutory eligibility requirements for each TA program for which they are chosen in order to be awarded a cooperative agreement. (See Appendices C, D, E, and F to this NOFA for copies of applicable regulations.)

All eligible TA providers may propose assistance using in-house staff, consultants, sub-contractors and sub-recipients, and networks of private consultants and/or local organizations with requisite experience and capabilities. Whenever possible, applicants should make use of technical assistance providers located in the Field Office jurisdiction receiving services. This draws upon local expertise and persons familiar with the opportunities and resources available in the area to be served while reducing travel and other costs associated with delivering the proposed technical assistance services.

(A) CDBG and Supportive Housing Eligible Applicants

(1) States and units of general local government.

(2) Public and private non-profit or for-profit groups, including educational institutions and area-wide planning organizations, qualified to provide technical assistance on CDBG programs or Supportive Housing projects.

(B) CHDO Eligible Applicants

Public and private non-profit intermediary organizations that customarily provide services (in more than one community) related to affordable housing or neighborhood revitalization to CHDOs or similar organizations that engage in community revitalization, including all eligible organizations under 24 CFR 92.302(b)(1)(v) and (b)(2). An intermediary will be considered as a primarily single state technical assistance provider if it can document that more than 50 percent of its past activities in working with CHDOs or similar nonprofit and other organizations (on the production of affordable housing or revitalization of deteriorating neighborhoods and/or the delivery of technical assistance to these groups) was confined to the geographic limits of a single state.

(C) HOME Eligible Applicants

(1) A for-profit or non-profit professional and technical services company or firm that has demonstrated capacity to provide technical assistance services;

(2) A HOME participating jurisdiction (PJ) or agency thereof;

(3) A public purpose organization responsible to the chief elected official of a PJ and established pursuant to state or local legislation;

(4) An agency or authority established by two or more PJs to carry out activities consistent with the purposes of the HOME program;

(5) A national or regional non-profit organization that has membership comprised predominantly of entities or officials of entities of PJs or PJs' agencies or established organizations.

III. Eligible Activities

(A) General.

Eligible activities for each of the four TA programs are listed in the program regulations. (See Appendices C, D, E, and F to this NOFA for copies of applicable regulations.) Any and all eligible activities for each TA program may be proposed as part of an applicant's TA program. For the Supportive Housing TA program, this means that TA must be provided to help supportive housing applicants, prospective applicants, and/or recipients involved in supportive housing plan, develop, administer, implement, and evaluate their supportive housing projects or proposed projects; implement linkages between assisted supportive housing projects and other activities (including linkages involved in continuum of care comprehensive planning); and/or evaluate their supportive housing project's effectiveness at establishing a continuum of care.

Applicants should pay special attention to eligible activities related to the Factors for Award contained in Section IV(A) of this NOFA.

(B) Sub-Grants/Pass-Through Funds

Applicants may propose to make sub-grants to achieve the purposes of their proposed TA programs in accordance with program requirements in Section I(E) of this NOFA. In the case of CHDO TA, these sub-grants (also called "pass-through" funds) may be made for eligible activities and to eligible entities as identified in 24 CFR 92.302(c) (1), (2), (6), and (7). When CHDO TA sub-grants are made to CHDOs, two statutory provisions apply: (1) the sub-grant amount, when combined with other capacity building and operating support available through the HOME program, cannot exceed the greater of 50 percent of the CHDO's operating budget for the year in which it receives the funds, or $50,000 annually; (2) an amount not exceeding 10 percent of the total funds awarded for the "Women in the Homebuilding Professions" eligible activity may be used to provide materials and tools for training such women.

IV. Factors for Award

(A) Ranking Factors

Applications will be evaluated competitively and ranked against all other applicants that have applied for the same TA program (CDBG, HOME, CHDO and Supportive Housing). There will be separate rankings for each TA program, and applicants will be ranked only against others that have applied for the same TA program. The factors and maximum points for each factor are provided below. The maximum number of points for each TA program is 100.

Rating of the "applicant" or the "applicant's organization and staff", unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

(1) Potential effectiveness of the application in meeting needs of target groups/localities and accomplishing project objectives for each TA program for which funds are requested (40 points). In rating this factor, HUD will consider the extent to which the proposal: (a) identifies high priority needs and issues to be addressed for each TA program for which funding is requested; (b) outlines a clear & effective plan for addressing those needs and aiding a broad diversity of eligible client/beneficiary groups, including those which traditionally have been under-served; (c) identifies creative and promising ways of carrying out eligible activities which will result in better or less costly service to TA clients; (d) identifies creative activities to assist eligible clients in participating in the development of, and improving, local consolidated plans and comprehensive strategies; (e) identifies creative ways to assist clients in achieving the economic development and continuum of care objectives of local consolidated plans & comprehensive strategies OR of creating linkages between activities they are assisting and activities to achieve these objectives; (f) identifies specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, (e.g., number of prospective CHDOs to be certified by PJs as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA; etc.

(2) Soundness of approach (20 points). In rating this factor, HUD will consider the extent to which the proposal:

(a) Provides a technically and cost effective plan for designing, organizing, and carrying out the proposed technical assistance within the framework of the Demand/Response System;

(b) Demonstrates an effective and creative plan for working in partnership with all other CPD TA providers in each Field Office jurisdiction in which it will operate, coordinating and conducting joint activities under the direction of the Field Office or its designee;

(c) Provides for full geographic coverage, including urban and rural areas, (directly or through a consortium of providers) of a single state or Field Office jurisdiction or is targeted to address the needs of rural areas, minority groups or other under-served client groups.

(3) Capacity of the applicant and relevant organizational experience (30 points). In rating this factor, HUD will consider the extent to which the proposal demonstrates:

(a) Recent, relevant and successful experience of the applicant's organization and staff in providing technical assistance in all eligible activities and to all eligible entities for the TA program(s) applied for, as described in the regulations (see appendices to this NOFA);

(b) The experience and competence of key personnel in managing complex, multi-faceted or multi-disciplinary programs which require coordination with other TA entities or multiple, diverse units in an organization;

(c) The applicant has the skills and knowledge to aid grantees in the development of Consolidated Submissions for CPD programs, comprehensive plans and planning processes and citizen participation activities;

(d) The applicant has a working knowledge of, and established relationships with, key public bodies and private organizations involved in CPD programs in the geographic areas in which it proposes to serve;

(e) The applicant has sufficient personnel or access to qualified experts or professionals to deliver the proposed level of technical assistance in each proposed service area in a timely and effective fashion.

(4) Transferability of results (10 POINTS). In rating this factor, HUD will consider the extent to which the applicant proposes a feasible, creative plan, which uses state of the art or new promising technology, to transfer models and lessons learned in each of its TA program's activities to clients in other TA programs.

Selection Process

Once scores are assigned, all applications will be listed in rank order for each TA program for which they applied. All applications for the CDBG TA program will be listed in rank order on one list, all applications for the CHDO TA program will be listed in rank order on a second list, all applications for the HOME TA program will be listed in rank order on a third list, and all applications for the Supportive Housing TA program will be listed in rank order on a fourth list. Under this system, a single application from one organization for all four TA programs could be assigned different scores and different rankings for each program.

Applications will be funded in rank order for each TA program by Field Office jurisdiction, except for national providers and others which cannot be ranked by Field Office jurisdiction. National providers and others will be ranked separately and funded in rank order for each TA program. Irrespective of final scores, HUD may apply the following criteria to select a range of providers and projects that would best serve program objectives for each program serviced by the TA funded under this NOFA: geographic distribution and diversity of methods, approaches or kinds of projects. HUD will apply these program policy criteria to:

(1) Ensure compliance with all statutory and regulatory requirements of each TA program;

(2) Select providers that bring expertise in one or more specialized activity areas to strengthen or supplement the intermediary network in terms of the location (service area), types and scope of technical assistance provided;

(3) Ensure adequate geographic coverage of urban and rural areas to maximize the number and diversity of clients served;

(4) Ensure an adequate representation of approaches used by small and large TA providers or providers with special skills;

(5) Ensure coverage of TA services for minorities; women, particularly women in the homebuilding professions under 24 CFR 92.302(c)(7); the disabled; homeless; persons with AIDS and others with special needs; and rural areas.

Additionally, HUD reserves the right to adjust funding levels for each applicant for each TA program as follows:

(1) Pursuant to 24 CFR 92.302(d) (1) and (2) of the HOME regulations, funding to any single eligible nonprofit intermediary organization seeking to provide CHDO TA, whether as an independent or joint applicant, is limited to the lesser of 20 percent of all funds (i.e., $5 million), or an amount not to exceed 20 percent of the organization's operating budget for any one year (not including funds sub-awarded or passed through the intermediary to CHDOs);

(2) Reduce the amount of funding for an application based upon the appropriateness of the proposed activities or to meet statutory requirements; not fund all or portions of the activities proposed in an application; and/or determine an appropriate amount of funds for proposed activities.

(3) Award additional funds to organizations designated as lead TA providers as discussed in Sections I(E) and I(F) of this NOFA;

(4) Adjust funding levels for any provider based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, or funds available on a national basis for providers that will be operating nationally, and the scope of the technical assistance to be provided;

(5) To negotiate increased grant awards with applicants approved for funding if HUD requests them to offer coverage to geographic areas for which they did not apply or budget, or if HUD receives an insufficient amount of applications.

Additionally, if funds remain after funding the highest ranking applications, HUD may fund part of the next highest ranking application. If the applicant turns down the grant offer, HUD will make the same determination for the next highest ranking application.

If funds remain after all selections have been made, remaining funds may be made available for other TA program competitions.

V. Application Process

All information and forms needed to complete and submit an application under this NOFA are contained in the NOFA, except for Standard Form (SF) 424 and SF 424B. A special computer-readable form SF–424 is available from HUD by faxing a request to Syl Angel. (See Section VI of this NOFA for instructions for obtaining the SF 424 forms.)

The address for submitting an application is: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. In submitting your application, please refer to FR–3735, and include your name, telephone number (including area code) and mailing address (including zip code). The completed application (one original and 2 copies) must be physically received by the Processing and Control Branch, at the above address, no later than 4:30 p.m. Eastern Standard Time on August 1, 1994. HUD reserves the right to extend the deadline date through notification in the **Federal Register**. HUD will not accept faxed applications. Applications not meeting the format requirements identified in Section VI of this NOFA, Application Submission Requirements, will not be considered for funding.

All applications should be sent to HUD's Washington D.C. Headquarters Office. It is important that all applications are received on time at the Washington D.C. address listed above in order to receive funding consideration.

VI. Application Submission Requirements

All applicants must submit applications on 8½" by 11" paper which are bound in loose leaf binders for easy xeroxing. All pages and attachments must be numbered consecutively, in arabic numbers. No tabs or fold-out sheets will be permitted. Items not meeting these specifications will not be reproduced and distributed for review. Applications must use the following format and contain the following items:

(1) Transmittal Letter which identifies the NOFA under which funds are requested.

(2) OMB Standard Form 424, Request for Federal Assistance and Standard Form 424B, Non-Construction Assurances signed by a person legally authorized to enter into an agreement with the Department. Fax requests for Standard Forms 424 and 424B to Syl Angel at (202) 708–3363. (This is not a toll-free number).

(3) Identify the Field Office jurisdictions in which the applicant proposes to offer services. If services will not be offered throughout the full jurisdictional area of the Field Office, identify the service areas involved (e.g., states, counties, etc.), as well as the communities in which services are proposed to be offered.

(4) A matrix which summarizes the amount of funds requested for each TA program in each Field Office jurisdiction for which funding is requested. (See Appendices for a copy of the matrix to be submitted.)

(5) A statement as to whether the applicant proposes to use pass-through funds for CHDOs under the CHDO TA program, and, if so, the amount and proposed uses of such funds.

(6) If applying for the CHDO TA program, a statement as to whether the applicant qualifies as a primarily single-State provider under 24 CFR 92.302(e) and as discussed in Section II(B) of this NOFA.

(7) A Statement of Work which incorporates all activities to be funded in the application and details how the proposed work will be accomplished. Following a task-by-task format, the Statement of Work must:

(a) Delineate the tasks and sub-tasks involved in each program by Field Office jurisdiction for which the grantee is seeking funds. The tasks should identify activities conducted within each Field Office jurisdiction and how the tasks meet the Factors for Award.

(b) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(c) Identify specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, e.g., number of prospective CHDOs to be certified by Participating Jurisdictions (PJs) as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA; etc.

(8) Narrative statement addressing the Factors for Award in Section IV(A) of this NOFA. Your narrative response should be numbered in accordance with

each factor for award identified under Section IV, Items (A)(1) (a–f) through (A)(4).

(9) Budget-by-task by Field Office jurisdiction or for a national program for each TA program for which funds are requested.

(10) Summary Budget for each TA program for which funds are requested identifying costs by cost category in accordance with the following: (1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs; (2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost; (3) Material Costs indicating the item, unit cost per item, the number of items to be purchased, estimated cost per item, and the total estimated material costs; (4) Transportation Costs. Where local private vehicle is proposed to be used, costs should indicate the proposed number of miles, rate per mile of travel identified by item, and estimated total private vehicle costs. Where Air transportation is proposed, costs should identify the destination(s), number of trips per destination, estimated air fare and total estimated air transportation costs. If other transportation costs are listed, the applicant should identify the other method of transportation selected, the number of trips to be made and destination(s), the estimated cost, and the total estimated costs for other transportation costs. In addition, applicants should identify per diem or subsistence costs per travel day and the number of travel days included, the estimated costs for per diem/subsistence and the total estimated transportation costs; (5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs; (6) Consultant Costs. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants; (7) Subcontract Costs. Indicate each individual subcontract and amount. Each proposed subcontract should include a separate budget which identifies costs by cost categories; (8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total direct costs for the award; (9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs. These line items should total the amount requested for each TA program area. The grand total of all TA program funds requested should reflect the grand total of all funds for which you are applying. The submission should include the rationale used to determine costs and validation of fringe and indirect cost rates.

Corrections To Deficient Applications

After the deadline, applicants have a 14 day cure period to correct technical deficiencies in the applications. Technical deficiencies relate only to items that would not improve the substantive quality of the application relative to the ranking factors such as a failure to submit a required certification. Applicants will have 14 calendar days from the date HUD notifies the applicant of any problem to submit the appropriate information in writing to HUD. Notification of a technical deficiency shall be made in writing.

VII. Other Matters

Environmental Review

In accordance with 40 CFR 1508.4 of the regulation of the Council on Environmental Quality and 24 CFR 50.20 (b) of the HUD regulations, the policies and procedures contained in this rule relate only to the provisions of technical assistance and therefore are categorically excluded from the requirements of the National Environmental Policy Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of the Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The NOFA will fund technical assistance to promote the ability of eligible recipient organizations to assist low-income families in accordance with the program requirements of the programs for which assistance is to be provided as identified in this NOFA. No substantial impacts on States or their political subdivisions are anticipated as a result of the provision of technical assistance services under this NOFA.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will have a beneficial, although indirect, impact on family formation, maintenance, and general well-being. The technical assistance provided as a result of an award under this NOFA will promote the ability of eligible applicants to meet the requirements and program objectives of the programs identified as eligible for technical assistance services under this NOFA. Accordingly, since the impact on the family is beneficial and indirect, no further review is considered necessary.

Section 102 of the HUD Reform Act: Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which the assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14 (a) and 12.16 (b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements).

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD FORM 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act part 15, subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act is codified as 24 CFR part 4, and applies to the funding competition announced today. The requirements of the rule continue to apply until the

announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (voice/TDD). (This is not a toll-free number). The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether a particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel of the program to which the question pertains.

Section 112 of the HUD Reform Act

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3537b). This new section 13 contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if those fees are tied to the number of housing units received or are based upon the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 is implemented by 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to refer to the regulations, particularly the examples contained in Appendix A to this NOFA.

Any questions about the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410–3000. Telephone: (202) 708–3815 (Voice/TDD). (This is not a toll-free telephone number. Forms necessary for compliance with the rule may be obtained from the local HUD Field.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S. C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the applicant has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

Dated: June 27, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Appendix A.—"Fair-Share" Amounts Allocated to Each HUD Field Office

Field office	CDBG TA	SUP HSG TA	CHDO TA	Home TA
AL	$84,886	$49,966	$367,857	$191,286
AK	7,498	38,435	79,080	41,121
AR	54,927	42,278	210,316	109,364
CA–SF	544,274	534,242	1,758,287	914,309
CA–LA	731,524	261,356	1,998,969	1,039,464
CO	194,740	230,608	709,883	369,139
CT	127,330	96,086	265,812	138,222
DC	87,383	234,451	235,363	122,389
FL	399,467	203,704	1,041,663	541,665
GA	107,357	119,147	554,774	288,483
HI	22,470	42,278	149,893	77,944
IL	396,971	238,295	1,188,340	617,937
IN	134,820	130,678	441,762	229,716
KS	89,881	69,182	504,783	262,487
KY	62,416	84,556	382,535	198,918
LA	112,350	96,087	491,671	255,669
MD	82,390	65,339	302,589	157,346
MA	332,057	457,372	1,010,947	525,692
MI	339,547	138,365	915,189	475,898
MN	107,357	96,087	318,710	165,729
MS	27,463	19,217	248,949	129,453
MO	69,907	42,278	136,390	70,923
NE	77,397	61,495	374,392	194,684
NJ	337,050	172,956	666,406	346,531
NY–NY	431,924	280,573	2,377,010	1,236,045
NY–BF	224,700	130,678	375,691	195,359
NC	119,840	73,026	516,327	268,490
OH	337,050	219,078	1,136,163	590,805
OK	57,423	53,808	275,439	143,228
OR	94,874	88,400	370,269	192,540
PA–PH	324,567	157,582	981,756	510,513
PA–PI	167,276	76,869	428,383	222,759
SC	64,913	38,435	265,956	138,297
TN	92,377	65,339	440,546	229,084

Field office	CDBG TA	SUP HSG TA	CHDO TA	Home TA
TX–FW	367,010	184,486	1,457,430	757,863
TX–SA	144,807	49,965	305,331	158,772
VA	117,343	184,486	418,117	217,421
WA	132,324	253,669	429,455	223,317
WI	134,820	80,713	451,616	234,840
PR	157,290	38,435	415,973	216,306
	7,500,000	5,500,000	25,000,021	13,000,011

Appendix B.—Amount of Funds Requested

HUD office	CDBG TA	SHP TA	CHDO TA	HOME TA	Total
Boston	$	$	$	$	$
Hartford	$	$	$	$	$
Buffalo	$	$	$	$	$
Newark	$	$	$	$	$
New York	$	$	$	$	$
Baltimore	$	$	$	$	$
Philadelphia	$	$	$	$	$
Pittsburgh	$	$	$	$	$
Richmond	$	$	$	$	$
Washington	$	$	$	$	$
Atlanta	$	$	$	$	$
Birmingham	$	$	$	$	$
Caribbean	$	$	$	$	$
Columbia	$	$	$	$	$
Greensboro	$	$	$	$	$
Jackson	$	$	$	$	$
Jacksonville	$	$	$	$	$
Knoxville	$	$	$	$	$
Louisville	$	$	$	$	$
Chicago	$	$	$	$	$
Columbus	$	$	$	$	$
Detroit	$	$	$	$	$
Indianapolis	$	$	$	$	$
Milwaukee	$	$	$	$	$
Minneapolis	$	$	$	$	$
Fort Worth	$	$	$	$	$
Little Rock	$	$	$	$	$
New Orleans	$	$	$	$	$
Oklahoma City	$	$	$	$	$
San Antonio	$	$	$	$	$
Kansas City	$	$	$	$	$
Omaha	$	$	$	$	$
St. Louis	$	$	$	$	$
Denver	$	$	$	$	$
Honolulu	$	$	$	$	$
Los Angeles	$	$	$	$	$
Phoenix	$	$	$	$	$
San Francisco	$	$	$	$	$
Anchorage	$	$	$	$	$
Portland	$	$	$	$	$
Seattle	$	$	$	$	$
National	$	$	$	$	$
Grand Total must equal total amount of funds requested:				Grand Total: $	

Appendix C

HOME Program Regulations Relating to the Provision of Technical Assistance to Participating Jurisdictions and Other Eligible Organizations

[The text of § 92.400 is republished for informational purposes.]

§ 92.400 Coordinated federal support for housing strategies.

(a) *General.* HUD will provide assistance under this subpart I to:

(1) Facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this part, including information on program design, housing finance, land use controls, and building construction techniques;

(2) Improve the ability of states and units of general local government to design and implement housing strategies, particularly those states and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) Encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this part;

(4) Improve the ability of states and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) Facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance, and demonstration projects; and

(6) Facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of the HOME program.

(b) *Conditions of contracts*—(1) *Eligible organizations.* HUD will carry out subpart I of this part insofar as is practicable through contract with—

(i) A participating jurisdiction or agency thereof;

(ii) A public purpose organization established pursuant to state or local legislation and responsible to the chief elected official of a participating jurisdiction;

(iii) An agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this part;

(iv) A national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section; or

(v) A professional and technical services company or firm that has demonstrated capacity to provide services under subpart I of this part.

(2) *Contract terms.* Contracts under subpart I of this part must be for not more than 3 years and must not provide more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds available under subpart I of this part in that fiscal year.

(c) *Notice of funding.* HUD will publish a notice in the **Federal Register** announcing the availability of funding under this section as appropriate.

Appendix D

HOME Program Regulations Relating to the provision of Technical Assistance to Community Housing Development Organizations (CHDOs)

[The the definition of "community housing development organization" in § 92.2, and the text of §§ 92.300 and 92.302 are republished for informational purposes.]

§ 92.2 Definitions.

Community housing development organization means a private nonprofit organization that

(1) Is organized under state or local laws;

(2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:

(i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.

(ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members; and

(iii) The community housing development organization must be free to contract for goods and services from vendors of its own choosing;

(4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c) of the Internal Revenue Code of 1986;

(5) Does not include a public body (including the participating jurisdiction). An organization that is State or locally chartered may qualify as a community housing development organization; however, the State or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members;

(6) Has standards of financial accountability that conform to Attachment F of OMB Circular No. A–110 (Rev.) "Standards for Financial Management Systems."

(7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;

(8) Maintains accountability to low-income community residents by—

(i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and

(ii) Providing a formal process for low-income, program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

(9) Has a demonstrated capacity for carrying out activities assisted with HOME funds. An organization may satisfy this requirement by hiring experienced accomplished key staff members who have successfully completed similar projects, or a consultant with the same type of experience and a plan to train appropriate key staff members of the organization; and

(10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must

be able to show one year of serving the community (from the date the participating jurisdiction provides HOME funds to the organization). However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

§ 92.300 Set-aside for community housing development organizations (CHDOs).

(a) For a period of 24 months after the allocation (including, for a state, funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, an allocation transferred from a state under § 92.102(b)) is made available to a participating jurisdiction, the participating jurisdiction must reserve not less than 15 percent of these funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. The funds must be provided to a community housing development organization and the funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. If a community housing development organization's involvement in a project is as an owner it must have control of the project, as evidenced by legal title or a valid contract of sale. If it owns the project in partnership, it or its wholly owned for-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective management control.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable CHDOs, up to 20 percent of the minimum CHDO set-aside of 15 percent specified in paragraph (a) of this section, above, (but not more than $150,000 during the 24 month period) may be expended to develop the capacity of CHDOs in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.206(g) to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) Limitation. A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or $50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This includes organization support and housing education provided under § 92.302 (c)(1), (c)(2), and (c)(6), as well as funds for operating expenses provided under § 92.206(g) and administrative funds provided under § 92.206(f) (if the community housing development organization is a subrecipient or contractor of the participating jurisdiction).

§ 92.302 Housing education and organizational support.

(a) *General.* HUD is authorized to provide education and organizational support assistance, in conjunction with HOME funds made available to community housing development organizations:

(1) To facilitate the education of low-income homeowners and tenants; and

(2) To promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this part; and

(3) To achieve the purposes under paragraphs (a) (1) and (2) of this section by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) *Delivery of assistance.* HUD will provide assistance under this section only through contract—

(1) With a nonprofit intermediary organization that, in the determination of HUD—

(i) Customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(ii) Has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building, and training) to community housing development organizations or similar organizations that engage in community revitalization;

(iii) Has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing; and

(iv) Has described the uses to which such assistance will be put and the intended beneficiaries of the assistance;

(v) In the case of activities under paragraph (c)(7) of this section, is a community based organization as defined in section 4 of the Job Training Partnership Act or a public housing agency which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training for construction or other nontraditional occupations (in which women constitute 25 percent or less of the total number of workers in the occupation); or

(2) With another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (b)(1) of this section. Contracts under paragraph (b)(2) of this section must be for activities specified in an application from the participating jurisdiction. The application must include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's approved housing strategy.

(c) *Eligible activities.* Assistance under this section may be used only for the following eligible activities:

(1) *Organizational support.* Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and

members of the community housing development organization.

(2) *Housing education.* Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this part.

(3) *Program-wide support of nonprofit development and management.* Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this part.

(4) *Benevolent loan funds.* Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) *Community development banks and credit unions.* Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(6) *Community Land Trusts (CLTs).* HOME funds may be made available to CLTs for organizational support, technical assistance, education and training, and continuing support; and to community groups for the establishment of CLTs. A community land trust is a community housing development organization that:

(i) Is not sponsored by a for-profit organization;

(ii) Is established, and undertakes activities to:

(A) Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) Transfer ownership of any structural improvements located on such leased parcels to the lessees; and

(C) Retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(iii) Has a corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization;

(iv) Whose board of directors includes a majority of members who are elected by the corporate membership and is composed of equal numbers of lessees, corporate members who are not lessees, and any other category of persons described in the bylaws of the organization; and

(v) Is not required to have a demonstrated capacity for carrying out HOME activities or a history of serving the local community within which HOME-assisted housing is to be located.

(7) *Facilitating women in homebuilding professions.* Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities. This might include facilitating access by women to, and providing, apprenticeship and other training programs regarding non-traditional skills, recruiting women to participate in such programs, providing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses. Up to ten percent of the funds made available for this activity may be used to provide materials and tools for training such women.

(d) *Limitations.* Contracts under this section with any one contractor for a fiscal year may not—

(1) Exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) Provide more than 20 percent of the operating budget (which may not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) *Single-state contractors.* Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year must be made available for eligible contractors that have worked primarily in one state. HUD shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a HUD regional office.

(f) *Notice of funding.* HUD will publish a notice in the **Federal Register** announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

Appendix E

Supportive Housing Technical Assistance Regulation 24 CFR 583.140

[The text of § 583.140 is republished for informational purposes.]

§ 583.140 Technical assistance.

(a) *General.* HUD will set aside up to two percent of the amount available annually for the Supportive Housing program to provide technical assistance under this part.

(b) *Technical assistance.* Funds are available to organizations or individuals to provide applicants (or prospective applicants) and recipients with skills or knowledge to help them plan, develop, administer, and/or evaluate their supportive housing program or specific activities more effectively. The assistance may include, but is not limited to, written information such as papers, monographs, manuals, guides, and brochures; person-to-person exchanges; and training such as seminars, classes, workshops, and meetings.

(c) *Selection of providers.* From time to time, as HUD determines the need, HUD will advertise and competitively select providers to deliver assistance to Supportive Housing program recipients or applicants (or prospective applicants). HUD may enter into contracts, grants, or cooperative agreements, as appropriate, to implement the technical assistance.

Appendix F

CDBG Technical Assistance Program Regulations, 24 CFR 570.402

[The text of § 570.402 is republished for informational purposes.]

§ 570.402 Technical assistance awards.

(a) *General.* (1) The purpose of the Community Development Technical Assistance Program is to increase the effectiveness with which States, units of general local government, and Indian tribes plan, develop, and administer assistance under Title I and section 810 of the Act. Title I programs are the Entitlement Program (24 CFR part 570, subpart D); the section 108 Loan Guarantee Program (24 CFR part 570, subpart M); the Urban Development Action Grant Program (24 CFR part 570, subpart G); the HUD-administered Small Cities Program (24 CFR part 570, subpart F); the State-administered Program for Non-Entitlement Communities (24 CFR part 570, subpart I); the grants for Indian Tribes program (24 CFR part 571); and the Special Purpose Grants for Insular Areas, Community Development Work Study

and Historically Black Colleges and Universities (24 CFR part 570, subpart E). The section 810 program is the Urban Homesteading Program (24 CFR part 590).

(2) Funding under this section is awarded for the provision of technical expertise in planning, managing or carrying out such programs including the activities being or to be assisted thereunder and other actions being or to be undertaken for the purpose of the program, such as increasing the effectiveness of public service and other activities in addressing identified needs, meeting applicable program requirements (e.g., citizen participation, nondiscrimination, OMB Circulars), increasing program management or capacity building skills, attracting business or industry to CDBG assisted economic development sites or projects, assisting eligible CDBG subrecipients such as neighborhood nonprofits or small cities in how to obtain CDBG funding from cities and States. The provision of technical expertise in other areas which may have some tangential benefit or effect on a program is insufficient to qualify for funding.

(3) Awards may be made pursuant to HUD solicitations for assistance applications or procurement contract proposals issued in the form of a publicly available document which invites the submission of applications or proposals within a prescribed period of time. HUD may also enter into agreements with other Federal agencies for awarding the technical assistance funds:

(i) Where the Secretary determines that such funding procedures will achieve a particular technical assistance objective more effectively and the criteria for making the awards will be consistent with this section; or

(ii) The transfer of funds to the other Federal agency for use under the terms of the agreement is specifically authorized by law. The Department will not accept or fund unsolicited proposals.

(b) *Definitions.* (1) *Areawide planning organization (APO)* means an organization authorized by law or local agreement to undertake planning and other activities for a metropolitan or non-metropolitan area.

(2) *Technical assistance* means the facilitating of skills and knowledge in planning, developing and administering activities under Title I and section 810 of the Act in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under Title I.

(c) *Eligible Applicants.* Eligible applicants for award of technical assistance funding are:

(1) States, units of general local government, APOs, and Indian Tribes; and

(2) Public and private non-profit or for-profit groups, including educational institutions, qualified to provide technical assistance to assist such governmental units to carry out the Title I or Urban Homesteading programs. An applicant group must be designated as a technical assistance provider to a unit of government's Title I program or Urban Homesteading program by the chief executive officer of each unit to be assisted, unless the assistance is limited to conferences/workshops attended by more than one unit of government.

(d) *Eligible Activities.* Activities eligible for technical assistance funding include:

(1) The provision of technical or advisory services;

(2) The design and operation of training projects, such as workshops, seminars, or conferences;

(3) The development and distribution of technical materials and information; and

(4) Other methods of demonstrating and making available skills, information and knowledge to assist States, units of general local government, or Indian Tribes in planning, developing, administering or assessing assistance under Title I and Urban Homesteading programs in which they are participating or seeking to participate.

(e) *Ineligible Activities.* Activities for which costs are ineligible under this section include:

(1) In the case of technical assistance for States, the cost of carrying out the administration of the State CDBG program for non-entitlement communities;

(2) The cost of carrying out the activities authorized under the Title I and Urban Homesteading programs, such as the provision of public services, construction, rehabilitation, planning and administration, for which the technical assistance is to be provided;

(3) The cost of acquiring or developing the specialized skills or knowledge to be provided by a group funded under this section;

(4) Research activities;

(5) The cost of identifying units of governments needing assistance (except that the cost of selecting recipients of technical assistance under the provisions of paragraph (k) is eligible); or

(6) Activities designed primarily to benefit HUD, or to assist HUD in carrying out the Department's responsibilities; such as research, policy analysis of proposed legislation, training or travel of HUD staff, or development and review of reports to the Congress.

(f) *Criteria for Competitive Selection.* In determining whether to fund competitive applications or proposals under this section, the Department will use the following criteria:

(1) For solicited assistance applications. The Department will use two types of criteria for reviewing and selecting competitive assistance applications solicited by HUD:

(i) Evaluation Criteria: These criteria will be used to rank applications according to weights which may vary with each competition:

(A) Probable effectiveness of the application in meeting needs of localities and accomplishing project objectives;

(B) Soundness and cost-effectiveness of the proposed approach;

(C) Capacity of the applicant to carry out the proposed activities in a timely and effective fashion;

(D) The extent to which the results may be transferable or applicable to other title I or Urban Homesteading program participants.

(ii) *Program Policy Criteria:* These factors may be used by the selecting official to select a range of projects that would best serve program objectives for a particular competition:

(A) Geographic distribution;

(B) Diversity of types and sizes of applicant entities; and

(C) Diversity of methods, approaches, or kinds of projects.

The Department will publish a Notice of Fund Availability (NOFA) in the **Federal Register** for each competition indicating the objective of the technical assistance, the amount of funding available, the application procedures, including the eligible applicants and activities to be funded, any special conditions applicable to the solicitation, including any requirements for a matching share or for commitments for CDBG or other title I funding to carry out eligible activities for which the technical assistance is to be provided, the maximum points to be awarded each evaluation criterion for the purpose of ranking applications, and any special factors to be considered in assigning the points to each evaluation criterion. The Notice will also indicate which program policy factors will be used, the impact of those factors on the selection process, the justification for their use and, if appropriate, the relative priority of each program policy factor.

(2) For competitive procurement contract bids/proposals. The Department's criteria for review and

selection of solicited bids/proposals for procurement contracts will be described in its public announcement of the availability of an Invitation for Bids (IFB) or a Request for Proposals (RFP). The public notice, solicitation and award of procurement contracts, when used to acquire technical assistance, shall be procured in accordance with the Federal Acquisition Regulation (48 CFR chapter 1) and the HUD Acquisition Regulation (48 CFR chapter 24).

(g) *Submission Procedures.* Solicited assistance applications shall be submitted in accordance with the time and place and content requirements described in the Department's NOFA. Solicited bids/proposals for procurement contracts shall be submitted in accordance with the requirements in the IFB or RFP.

(h) *Approval Procedures.* (1) *Acceptance.* HUD's acceptance of an application or proposal for review does not imply a commitment to provide funding.

(2) *Notification.* HUD will provide notification of whether a project will be funded or rejected.

(3) *Form of award.* (i) HUD will award technical assistance funds as a grant, cooperative agreement or procurement contract, consistent with this section, the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6301–6308, the HUD Acquisition Regulation, and the Federal Acquisition Regulation.

(ii) When HUD's primary purpose is the transfer of technical assistance to assist the recipients in support of the Title I or Section 810 programs, an assistance instrument (grant or cooperative agreement) will be used. A grant instrument will be used when substantial Federal involvement is not anticipated. A cooperative agreement will be used when substantial Federal involvement is anticipated. When a cooperative agreement is selected, the agreement will specify the nature of HUD's anticipated involvement in the project.

(iii) A contract will be used when HUD's primary purpose is to obtain a provider of technical assistance to act on the Department's behalf. In such cases the Department will define the specific tasks to be performed. However, nothing in this section shall preclude the Department from awarding a procurement contract in any other case when it is determined to be in the Department's best interests.

(4) *Administration.* Project administration will be governed by the terms of individual awards and relevant regulations. As a general rule, proposals will be funded to operate for one to two years, and periodic and final reports will be required.

(i) *Environmental and Intergovernmental Review.* The requirements for Environmental Reviews and Intergovernmental Reviews do not apply to technical assistance awards.

(j) *Selection of Recipients of Technical Assistance.* Where under the terms of the funding award the recipient of the funding is to select the recipients of the technical assistance to be provided, the funding recipient shall publish, and publicly make available to potential technical assistance recipients, the availability of such assistance and the specific criteria to be used for the selection of the recipients to be assisted. Selected recipients must be entities participating or planning to participate in the Title I or Urban Homesteading programs or activities for which the technical assistance is to be provided. (Approved under OMB control numbers 2535–0085 and 2535–0084) (56 FR 41938, Aug. 26, 1991)

Appendix G: List of HUD Field Offices

Telephone numbers for Telecommunications Devices for the Deaf (TDD machines) are listed for field offices; all HUD numbers, including those noted *, may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY or (1–800–877–8339) or (202) 708–9300.

Alabama—Jasper H. Boatright, Beacon Ridge Tower, 600 Beacon Pkwy. West, Suite 300, Birmingham, AL 35209–3144; (205) 672–1230; TDD (205) 290–7624.

Alaska—Colleen Craig, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4399; (907) 271–4684; TDD (907) 271–4328.

Arizona—Diane LeVan, 400 N. 5th St., Suite 1600, Arizona Center, Phoenix AZ 85004; (602) 379–4754; TDD (602) 379–4461.

Arkansas—Billy M. Parsley, TCBY Tower, 425 West Capitol Ave., Suite 900, Little Rock, AR 72201–3488; (501) 324–6375; TDD (501) 324–5931.

California—(Southern) Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015–3801; (213) 251–7235; TDD (213) 251–7038.

(Northern) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 556–8484; TDD (415) 556–8357.

Colorado—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Connecticut—Daniel Kolesar, 330 Main St., Hartford, CT 06106–1860; (203) 240–4508; TDD (203) 240–4522.

Delaware—John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106–3392; (215) 597–2665; TDD (215) 597–5564.

District of Columbia—James H. McDaniel, 820 First St., NE, Washington, DC (and MD and VA suburbs) 20002; (202) 275–0994; TDD (202) 275–0772.

Florida—James N. Nichol, 301 West Bay St., Suite 2200, Jacksonville, FL 32202–5121; (904) 232–3587; TDD (904) 791–1241.

Georgia—Charles N. Straub, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303–3388; (404) 331–5139; TDD (404) 730–2654.

Hawaii (and Pacific)—Patti A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813–4918; (808) 541–1327; TDD (808) 541–1356.

Idaho—John G. Bonham, 520 SW 6th Ave., Portland, OR 97204–1596 (503) 326–7018; TDD * via 1–800–877–8339.

Illinois—Richard Wilson, 77 W. Jackson Blvd., Chicago, IL 60604–3507; (312) 353–1696; TDD (312) 353–7143.

Indiana—Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204–2526; (317) 226–5169; TDD * via 1–800–877–8339.

Iowa—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955; (402) 492–3144; TDD (402) 492–3183.

Kansas—Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 551–5485; TDD (913) 551–6972.

Kentucky—Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201–1044; (502) 582–5394; TDD (502) 582–5139.

Louisiana—Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112–2887; (504) 589–7212; TDD (504) 589–7237.

Maine—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

Maryland—Harold Young, 10 South Howard Street, 5th Floor, Baltimore, MD 21202–0000; (410) 962–2520x3026; TDD (410) 962–0106.

Massachusetts—Robert Paquin, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5343; TDD (617) 565–5453.

Michigan—Richard Wears, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226–2592; (313) 226–7186; TDD * via 1–800–877–8339.

Minnesota—Shawn Huckleby, 220 2nd St. South, Minneapolis, MN 55401–2195; (612) 370–3019; TDD (612) 370–3186.

Mississippi—Jeanie E. Smith, Dr. A.H. McCoy Fed. Bldg., 100 W. Capitol St., Room 910, Jackson, MS 39269–1096; (601) 965–4765; TDD (601) 965–4171.

Missouri—(Eastern) David H. Long, 1222 Spruce St., St. Louis, MO 63103–2836; (314) 539–6524; TDD (314) 539–6331.

(Western) Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 551–5485; TDD (913) 551–6972.

Montana—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Nebraska—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road,

Omaha, NE 68154–3955; (402) 492–3144; TDD (402) 492–3183.

Nevada—(Las Vegas, Clark Cnty) Diane LeVan, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379–4754; TDD (602) 379–4461.

(Remainder of State) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 556–8484; TDD (415) 556–8357.

New Hampshire—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

New Jersey—Frank Sagarese, 1 Newark Center, Newark, NJ 07102; (201) 622–7900 x3300; TDD (201) 645–3298.

New Mexico—R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

New York—(Upstate) Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203–1780; (716) 846–5768; TDD * via 1–800–877–8339.

(Downstate) Joan Dabelko, 26 Federal Plaza, New York, NY 10278–0068; (212) 264–2885; TDD (212) 264–0927.

North Carolina—Charles T. Ferebee, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407; (910) 547–4006; TDD (910) 547–4055.

North Dakota—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Ohio—Jack E. Riordan, 200 North High St., Columbus, OH 43215–2499; (614) 469–6743; TDD (614) 469–6694.

Oklahoma—Katie Worsham, Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102–3202; (405) 231–4973; TDD (405) 231–4181.

Oregon—John G. Bonham, 520 SW 6th Ave., Portland, OR 97204–1596 (503) 326–7018; TDD * via 1–800–877–8339.

Pennsylvania—(Western) Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219–1906; (412) 644–5493; TDD (412) 644–5747.

(Eastern) John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106–3392; (215) 597–2665; TDD (215) 597–5564.

Puerto Rico—Carmen R. Cabrera, 159 Carlos Chardon Ave., (and Caribbean) San Juan, PR 00918–1804; (809) 766–5576; TDD (809) 766–5909.

Rhode Island—Robert Paquin, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5343; TDD (617) 565–5453.

South Carolina—Louis E. Bradley, Fed. Bldg., 1835–45 Assembly St., Columbia, SC 29201–2480; (803) 765–5564; TDD * via 1–800–877–8339.

South Dakota—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Tennessee—Virginia Peck, 710 Locust St., Knoxville, TN 37902–2526; (615) 545–4393; TDD (615) 545–4559.

Texas—(Northern) R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

(Southern) John T. Maldonado, Washington Sq., 800 Dolorosa, San Antonio, TX 78207–4563; (210) 229–6820; TDD (210) 229–6885.

Utah—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Vermont—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

Virginia—Joseph Aversano, 3600 W. Broad St., P.O. Box 90331, Richmond, VA 23230–0331; (804) 278–4503; TDD (804) 278–4501.

Washington—John Peters, Federal Office Bldg., 909 First Ave., Suite 200, Seattle, WA 98104–1000; (206) 220–5150; TDD (206) 220–5185.

West Virginia—Bruce Crawford, Old Post Office & Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219–1906; (412) 644–5493; TDD (412) 644–5747.

Wisconsin—Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Ste. 1380, Milwaukee, WI 53203–2289; (414) 297–3113; TDD * via 1–800–877–8339.

Wyoming—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

APPENDIX H—Home Investment Partnerships Program: Designated Participating Jurisdictions (PJs)

Alaska	AK
Anchorage	AK
Alabama	AL
Birmingham	AL
Huntsville	AL
Jefferson County	AL
Mobile	AL
Montgomery	AL
Tuscaloosa	AL
American Samoa	
Arkansas	AR
Fort Smith	AR
Little Rock	AR
Pine Bluff	AR
Arizona	AZ
Maricopa County-CNSRT	AZ
Phoenix	AZ
Tucson-CNSRT	AZ
Alameda County-CNSRT	CA
Alhambra	CA
Anaheim	CA
Bakersfield	CA
Berkeley	CA
Burbank	CA
California	CA
Chula Vista	CA
Compton	CA
Contra Costa County	CA
Costa Mesa	CA
Downey	CA
El Cajon	CA
El Monte	CA
Escondido	CA
Fresno	CA
Fresno County	CA
Fullerton	CA
Garden Grove	CA
Glendale	CA
Hawthorne	CA
Huntington Beach	CA
Huntington Park	CA
Inglewood	CA
Kern County	CA
Long Beach	CA
Los Angeles	CA
Los Angeles County	CA
Lynwood	CA
Marin County	CA
Merced	CA
Modesto	CA
Montebello	CA
National City	CA
Oakland	CA
Oceanside	CA
Ontario	CA
Orange	CA
Orange County	CA
Oxnard	CA
Pasadena	CA
Pomona	CA
Redding	CA
Richmond	CA
Riverside	CA
Riverside County	CA
Sacramento	CA
Sacramento County	CA
Salinas	CA
San Bernardino	CA
San Bernardino-CNSRT	CA
San Bernardino County	CA
San Diego	CA
San Diego County	CA
San Francisco	CA
San Joaquin County	CA
San Jose	CA
San Luis Obispo County	CA
San Mateo Co-CNSRT	CA
Santa Ana	CA
Santa Barbara	CA
Santa Clara	CA
Santa Clara County	CA
Santa Monica	CA
Santa Rosa	CA
Sonoma County	CA
South Gate	CA
Stockton	CA
Sunnyvale	CA
Vallejo	CA
Ventura County	CA
Ventura County-CNSRT	CA
Visatia	CA
Adams County	CO
Arapahoe County	CO
Aurora	CO
Boulder	CO
Colorado	CO
Colorado Springs	CO
Denver	CO
Pueblo-CNSRT	CO
Fort Collins	CO
Jefferson County	CO
Lakewood	CO
Bridgeport	CT
Connecticut	CT
Hartford	CT
New Britain	CT
New Haven	CT
Stamford	CT
Waterbury	CT
District of Columbia	DC
Delaware	DE
New Castle County	DE
Wilmington	DE
Brevard County-CNSRT	FL
Broward County	FL
Dade County	FL

Daytona Beach	FL	Kansas	KS	Independence	MO
Escambia County	FL	Kansas City	KS	Kansas City	MO
Escambia County-CNSRT	FL	Lawrence	KS	Missouri	MO
Florida	FL	Topeka	KS	Springfield	MO
Ft Lauderdale	FL	Wichita	KS	St. Joseph	MO
Gainesville	FL	Covington	KY	St. Louis	MO
Hialeah	FL	Jefferson County	KY	St. Louis County	MO
Hillsborough County	FL	Kentucky	KY	Jackson	MS
Jacksonville	FL	Lexington-Fayette	KY	Mississippi	MS
Lee County	FL	Louisville	KY	Billings	MT
Miami	FL	Owensboro	KY	Montana	MT
Miami Beach	FL	Alexandria	LA	Ashville-CNSRT	NC
Orange County	FL	Baton Rouge	LA	Charlotte	NC
Orlando	FL	Houma-Terrehonne	LA	Durham	NC
Palm Beach County	FL	Jefferson Parish	LA	Fayetteville	NC
Pasco County	FL	Lafayette	LA	Gastonia	NC
Pinellas County-CNSRT	FL	Lake Charles	LA	Goldsboro	NC
Polk County	FL	Louisiana	LA	Reensboro	NC
Sarasota County-CNSRT	FL	Monroe	LA	High Point	NC
St Petersburg	FL	New Orleans	LA	North Carolina	NC
Tallahassee	FL	Shreveport	LA	Raleigh	NC
Tampa	FL	Barnstable Co-CNSRT	MA	Surry County	NC
Volusia County-CNSRT	FL	Boston	MA	Wake County	NC
West Palm Beach	FL	Brockton	MA	Wilmington	NC
Albany	GA	Cambridge	MA	Winston-Salem	NC
Athens	GA	Fall River	MA	Winston-Salem-CNSRT	NC
Atlanta	GA	Fitchburg-CNSRT	MA	Fargo	ND
Augusta	GA	Holyoke-CNSRT	MA	North Dakota	ND
Columbus	GA	Lawrence	MA	Lincoln	NE
De Kalb County	GA	Lowell	MA	Nebraska	NE
Georgia	GA	Lynn	MA	Omaha	NE
Grt No Atlantic-CNSRT	GA	Malden-CNSRT	MA	Manchester	NH
Macon	GA	Massachusetts	MA	New Hampshire	NH
Marietta-CNSRT	GA	New Bedford	MA	Atlantic City	NJ
Savannah	GA	Newton-CNSRT	MA	Bergen County	NJ
Hawaii	HI	Peabody-CNSRT	MA	Burlington County	NJ
Honclulu	HI	Quincy-CNSRT	MA	Camden	NJ
Cedar Rapids	IA	Somerville	MA	Camden County	NJ
Davenport	IA	Springfield	MA	Camden-CNSRT	NJ
Des Moines	IA	Worcester	MA	East Orange	NJ
Iowa	IA	Anne Arundel County	MD	Elizabeth	NJ
Iowa City	IA	Baltimore	MD	Essex County	NJ
Sioux City-CNSRT	IA	Baltimore County	MD	Gloucester County	NJ
Waterloo	IA	Maryland	MD	Hudson County-CNSRT	NJ
Boise	ID	Montgomery County	MD	Irvington	NJ
Idaho	ID	Prince Georges County	MD	Jersey City	NJ
Chicago	IL	Maine	ME	Mercer County-CNSRT	NJ
Cook County	IL	Portland	ME	Middlesex County	NJ
Decatur	IL	Ann Arbor	MI	Monmouth County	NJ
Du Page County	IL	Battle Creek	MI	Morris County	NJ
Du Page County-CNSRT	IL	Dearborn	MI	New Jersey	NJ
East St Louis	IL	Detroit	MI	Newark	NJ
Illinois	IL	Flint	MI	Ocean County-CNSRT	NJ
Joliet	IL	Genesee County	MI	Passaic	NJ
Lake County-CNSRT	IL	Grand Rapids	MI	Paterson	NJ
Madison County	IL	Jackson	MI	Perth Amboy	NJ
Peoria	IL	Kalamazoo	MI	Somerset County	NJ
Rockford	IL	Kent County	MI	Trenton	NJ
Springfield	IL	Lansing	MI	Union County-CNSRT	NJ
St Clair County	IL	Macomb County	MI	Vineland-CNSRT	NJ
Will County	IL	Michigan	MI	Albuquerque	NM
Anderson	IN	Muskegon	MI	Las Cruces	NM
Bloomington	IN	Oakland County	MI	New Mexico	NM
East Chicago	IN	Pontiac	MI	Clark County-CNSRT	NV
Evansville	IN	Saginaw	MI	Las Vegas	NV
Fort Wayne	IN	Warren	MI	Nevada	NV
Gary	IN	Wayne County	MI	Reno	NV
Hammond	IN	Dakota County-CNSRT	MN	Albany	NY
Indiana	IN	Duluth	MN	Amherst-CNSRT	NY
Indianapolis	IN	Duluth-CNSRT	MN	Babylon Town	NY
Lafayette-CNSRT	IN	Hennepin County-CNSRT	MN	Binghamton	NY
Lake County	IN	Minneapolis	MN	Buffalo	NY
Muncie	IN	Minnesota	MN	Dutchess County	NY
South Bend-CNSRT	IN	St. Paul	MN	Elmira	NY
Terre Haute	IN	St. Louis Co-CNSRT	MN	Erie County-CNSRT	NY
Johnson County	KS	Columbia	MO	Islip Town	NY

Jamestown	NY
Monroe County-CNSRT	NY
Mount Vernon	NY
Nassau County	NY
New Rochelle	NY
New York City	NY
New York State	NY
Niagara Falls	NY
North Counties-CNSRT	NY
Onondaga Co-CNSRT	NY
Orange County	NY
Rochester	NY
Rockland County	NY
Schenectady-CNSRT	NY
Suffolk County	NY
Syracuse	NY
Utica	NY
Westchester County	NY
Yonkers	NY
Akron	OH
Canton	OH
Cincinnati	OH
Cleveland	OH
Columbus	OH
Cuyahoga County	OH
Cuyahoga Co-CNSRT	OH
Dayton	OH
East Cleveland	OH
Franklin County	OH
Hamilton City	OH
Hamilton County	OH
Lake County	OH
Lima	OH
Lorain	OH
Mansfield	OH
Montgomery Co.-CNSRT	OH
Ohio	OH
Springfield	OH
Stark County	OH
Stark County-CNSRT	OH
Summit Co-CNSRT	OH
Toledo	OH
Trumbell Co-CNSRT	OH
Warren-CNSRT	OH
Youngstown	OH
Lawton	OK
Oklahoma	OK
Oklahoma City	OK
Tulsa	OK
Clackamas County	OR
Eugene-CNSRT	OR
Oregon	OR
Portland-CNSRT	OR
Salem	OR
Washington County	OR
Allegheny County	PA
Allentown	PA
Altoona	PA
Beaver County	PA
Berks County	PA
Bethlehem	PA
Bucks County-CNSRT	PA
Chester County	PA
Delaware Co-CNSRT	PA
Erie	PA
Harrisburg	PA
Johnstown	PA
Lancaster	PA
Lancaster County	PA
Luzerene County-CNSRT	PA
Luzerne County	PA
Montgomery County	PA
Montgomery County	PA
Pennsylvania	PA
Philadelphia	PA
Pittsburgh	PA
Reading	PA
Scranton	PA
Washington County	PA
Westmoreland County	PA
Westmoreland-CNSTR	PA
Williamsport	PA
York	PA
York County-CNSRT	PA
Aguadilla	PR
Arecibo	PR
Bayamon Municipio	PR
Caguas Municipio	PR
Carolina Municipio	PR
Guaynabo Municipio	PR
Mayaguez Municipio	PR
Ponce Municipio	PR
Puerto Rico	PR
San Juan Municipio	PR
Pawtucket	RI
Providence	RI
Rhode Island	RI
Woonsocket	RI
Charleston	SC
Columbia	SC
Greenville	SC
Greenville County	SC
North Charleston	SC
South Carolina	SC
Spartanburg	SC
Sumter Co-CNSRT	SC
Sioux Falls	SD
South Dakota	SD
Chattanooga	TN
Knox County	TN
Knoxville	TN
Memphis	TN
Nashville	TN
Nashville-Davidson Co	TN
Shelby County	TN
Tennessee	TN
Abilene	TX
Amarillo	TX
Arlington	TX
Austin	TX
Beaumont	TX
Bexar County	TX
Brownsville	TX
College Station	TX
Corpus Christi	TX
Dallas	TX
Dallas County	TX
Denton	TX
El Paso	TX
Fort Bend County	TX
Fort Worth	TX
Galveston	TX
Garland	TX
Harris County	TX
Hidalgo County	TX
Houston	TX
Irving	TX
Laredo	TX
Lubbock	TX
Mc Allen	TX
Odessa	TX
Pasadena	TX
Port Arthur	TX
San Antonio	TX
San Angelo	TX
Tarrant County	TX
Texas	TX
Tyler	TX
Waco	TX
Wichita Falls	TX
Ogden	UT
Salt Lake City	UT
Salt Lake County-CNSRT	UT
Utah	UT
Utah Valley-CNSRT	UT
Alexandria	VA
Arlington County	VA
Charlottesville-CNSRT	VA
Chesapeake	VA
Danville	VA
Fairfax County	VA
Hampton	VA
Lynchburg	VA
Newport News	VA
Norfolk	VA
Portsmouth	VA
Prince William County	VA
Richmond	VA
Roanoke	VA
Virginia	VA
Virginia Beach	VA
Vermont	VT
Clark County	WA
King County	WA
King County-CNSRT	WA
Kitsap County	WA
Pierce County	WA
Seattle	WA
Snohomish County	WA
Snohomish Co-CNSRT	WA
Spokane	WA
Spokane County	WA
Tacoma	WA
Washington	WA
Yakima	WA
Green Bay	WI
Madison	WI
Milwaukee	WI
Milwaukee County	WI
Milwaukee Co-CNSRT	WI
Racine	WI
Wisconsin	WI
Charlestown	WV
Huntington	WV
Huntington-CNSRT	WV
West Virginia	WV
Wyoming	WY

[FR Doc. 94–15963 Filed 6–29–94; 8:45 am]

BILLING CODE 4210–29–P

Federal Register

Thursday
June 30, 1994

Part V

Environmental Protection Agency

40 CFR Parts 141 and 142
Drinking Water; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–5005–2]

Drinking Water; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical corrections.

SUMMARY: EPA is amending the National Primary Drinking Water Regulations for Lead and Copper to correct typographical errors, clarify language, and restore special primacy requirements inadvertently deleted from the Code of Federal Regulations. These changes clarify Agency requirements. The intended effect is to simplify implementation of the regulations by reducing confusion.

EFFECTIVE DATE: The technical corrections are effective on June 30, 1994.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, between 9:00 a.m. to 5:30 p.m. Eastern Time, Monday through Friday; or Judy Lebowich, Enforcement and Program Implementation Division, Office of Ground Water and Drinking Water, EPA (4604), 401 M Street SW. Washington, DC 20460, telephone (202) 260–7595. Supporting documents for this rulemaking are available for review at EPA's Water Docket; 401 M Street, SW. Washington, DC 20460. For access to the Docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment.

SUPPLEMENTARY INFORMATION: On June 7, 1991, the United States Environmental Protection Agency promulgated maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWRs) for lead and copper ("lead and copper rule") (56 FR 26460). Subsequently, EPA published two technical amendments to the lead and copper rule correcting typographical errors and clarifying the Agency's intent (56 FR 32113, July 15, 1991; 57 FR 28785, June 19, 1992).

Today's action corrects errors in the lead and copper regulations and the preamble discussion of the copper health effects, and clarifies the intent of the regulatory requirements in cases where the language was confusing. Today's action also reinstates special primacy condition language in the rule that was inadvertently deleted when a section of another rulemaking action (the Agency's "Phase II rule") became effective on July 30, 1992.

Sections 553(b)(3)(B) and (d)(3) of the APA, 5 U.S.C. 553, provide that when an Agency finds good cause to exist, it may issue a rule without first providing notice and comment and make the rule immediately effective. Under the APA, good cause for not receiving public comment is present where notice and comment is impracticable, unnecessary or contrary to the public interest. Today's action corrects errors and omissions in 40 CFR parts 141 and 142. These technical revisions are minor and do not impact any substantive obligations of public water systems or States. The Agency therefore finds that neither comment nor a delayed effective date is necessary or in the public interest. Accordingly, EPA finds that there is good cause not to solicit comment on this notice and to have the revisions effective immediately.

A. Clarification and Update to Preamble Explanation of Copper MCLG

The preamble to the final lead/copper NPDWR in the **Federal Register** contained EPA's rationale for setting the Maximum Contaminant Level Goal (MCLG) for copper at 1.3 milligrams per liter (mg/L). In referencing the medical and epidemiological literature regarding health risks posed by copper, EPA provided an incomplete discussion that is corrected.

On 56 FR 26471, it is stated that: "This MCLG of 1.3 mg/L is based on a Lowest Observed Adverse Health Effect Level (LOAEL) of 5.3 mg/day from human clinical case studies in which 5.3 mg was the lowest acute oral dose at which gastrointestinal effects were seen (Chuttani et al., 1965)."

Chuttani et al. described the clinical course and treatment of patients who were hospitalized after suicidal ingestion of large quantities of copper sulfate (>250 mg). In fact, the 5.3 mg/day LOAEL was derived in EPA's Drinking Water Criteria Document for copper (EPA, 1987; p.VIII–10) from analysis of a number of studies, briefly summarized here, in which individuals developed gastrointestinal illnesses after ingesting much lower levels of copper than in the Chuttani et al. study.

Wyllie (1957) treated nurses for acute effects of copper poisoning (nausea, diarrhea, vomiting) caused by the dissolution of copper contained in a cocktail shaker. Analysis of cocktail fluid prepared in the shaker allowed an estimate of the amounts of copper ingested (5.3–32 mg copper; EPA, 1987, p. VI–6). The following day, 10 of the 15 nurses were still too ill to resume their duties and suffered from weakness, abdominal cramps, dizziness, and headaches.

Similar findings cited in the Criteria Document were reported among British workers who experienced nausea, diarrhea, and vomiting after ingesting single dosages of approximately 7–10 mg copper in their tea (EPA, 1987, p. VIII–9; Semple et al., 1960; Nicholas and Brist, 1968).

Spitalny et al. (1984) reported that one adult and two children, ages 5 and 7, of a Vermont family had recurrent episodes of vomiting and gastrointestinal pain after drinking water in a newly built home which contained 2.8 to 8 mg/L copper. In addition, the Centers for Disease Control reported 112 cases of copper intoxication between 1977 and 1982. The majority of cases involved leaching of copper into drinking water from plumbing with reported copper levels ranging from 4.0–70 mg/L (CDC, 1977–1982; EPA, 1987, p. VIII–8).

Several other epidemiological and controlled exposure studies, cited in the 1987 Criteria Document, have found acute copper intoxication associated with higher exposure levels among a wide variety of populations. Based on a review of human and animal toxicity, including the studies summarized above, the Criteria Document concluded (p. VIII–15):

"A level of 1.3 mg/L is recommended to be the basis for the drinking water standard for the following reasons: 1) this level would satisfy the nutritional requirements for copper: the National Academy of Sciences (NAS, 1980) estimated that "an adequate and safe" intake of 2–3 mg copper in a 70 kg adult and 1.5–2.5 mg/day for children will satisfy nutritional requirements and be protective of human health; and 2) assuming consumption of 2 L of water per day, 1.3 mg/L copper in the drinking water would result in a daily intake of less than the lowest levels that were seen to result in gastrointestinal effects in humans (5.3 mg/day, 3–8 mg/L). This value would thus be protective against acute toxic effects in humans. This value is not protective against copper toxicity in sensitive members of the population, such as those rare individuals with Wilson's disease. These individuals would have to further limit their intake of copper from all sources."

B. Amendments to Regulatory Language

The amendments to regulatory language included in this action are described below.

Questions have been raised by some States as to how the Agency intended to regulate small-size water systems (those serving 3,300 or fewer people) and medium-size water systems (those serving between 3,301 and 50,000 people) that meet the lead and copper action levels during the first two monitoring periods (and therefore are

deemed to have optimized corrosion control), but that exceed one of the action levels in a subsequent monitoring period. As discussed below, it was clearly the Agency's intent in promulgating this rule to require these systems (where exceedance of one of the action levels indicates that they may not have optimized corrosion control) to implement the rules' corrosion control treatment requirements as long as they exceed the action level.

Section 141.81(b)(1) specifies that small- and medium-size water systems are deemed to have optimized corrosion control once they meet both the lead and copper action levels for two consecutive six-month monitoring periods conducted in accordance with § 141.86. Sections 141.81(a)(2) and 141.81(c) specify that such systems may forego (or cease) completion of the corrosion control treatment steps specified in § 141.81(e). This language is consistent with EPA's intent, as discussed in the preamble to the final rule (56 FR 26490–26497), that small- and medium-size water systems not be required to conduct corrosion control studies and install additional treatment as long as they meet both the lead and copper action levels because the action levels reflect optimal corrosion control treatment for these systems.

Section 141.81(e)(1) requires that small- and medium-size systems conduct tap sampling for lead and copper until the system becomes eligible for reduced monitoring (because it has met the action levels during the requisite number of monitoring periods) or the system exceeds the action level. If such a system exceeds the action level, it is then required to begin the corrosion control treatment steps within a certain period of time of the exceedance. Thus, under the current rule, a system that meets the action levels during the first two monitoring periods (and any number of subsequent monitoring periods) is triggered into the corrosion control treatment requirements if it at any time exceeds the lead or copper action level.

Notwithstanding this provision, some States have apparently been confused by the language in § 141.81(c) of the rule, which addresses small and medium-size systems that initially exceed one of the action levels, but subsequently reduce their levels to below the action levels and are therefore deemed to have optimized corrosion control. With regard to these systems, the second sentence of § 141.81(c) states:

"If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the State, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. * * *"

Some parties have apparently questioned whether the phrase "any *such* water system" (emphasis added) could be read to exclude small- and medium-size water systems meeting § 141.81(b)(1) criteria during the initial two six-month monitoring periods from having to begin implementing the corrosion control treatment steps.

As evident from the language in § 141.81(e) of the rule, this was not EPA's intent. To clarify this point, EPA has added a sentence at the end of § 141.81(c) stating: "The requirement for any small- or medium-size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(1) of this section) is triggered whenever any small- or medium-size system exceeds the lead or copper action level."

Section 141.87 contains the monitoring requirements for water quality parameters. The introductory text in the section states that, "[a]ll large water systems and all small and medium-size water systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section." As written, this sentence could be read to mean that only large water systems exceeding the lead or copper action level must collect water quality parameter samples. This interpretation is not consistent with the intent of the final regulation. EPA's intent is clear in the preamble of the final rule (56 FR 26526 bottom of middle column) which contains the same sentence, with a comma after the phrase "all large systems". EPA's intent is to require all large water systems to install optimal corrosion control treatment regardless of lead and copper tap water levels. Because the lead and copper action levels are not surrogate measures of optimal corrosion control treatment for large water systems, these systems must collect water quality parameter samples to determine if optimal treatment has been installed, and to establish baseline parameters for continued compliance. The State must evaluate the water quality data submitted by each water system and establish enforceable parameters that the system must maintain to remain in compliance with the rule. EPA is correcting the regulatory language by adding a comma after the phrase, "all large systems" so that it is clear that all large systems must conduct water quality parameter monitoring, regardless of whether they exceed the lead or copper action level.

The chart entitled "Analytical Methods" in § 141.89(a) contains typographical errors in the methodology listing for orthophosphate. The chart was printed correctly in the preamble (56 FR 26510). The corrected chart is included in this notice. In addition, EPA is updating the chart to refer to methods at § 141.89(a) which are contained in the current editions of (1) EPA drinking water methods manuals, (2) Standard Methods, and (3) the American Society for Testing and Materials (ASTM) Annual Book of Standards. Compared to the earlier version of a method, the version now cited at § 141.89(a) is the same. EPA method 300.0, which had been published individually, is now reprinted in a manual issued by EPA in 1993. EPA methods 200.7, 200.8, and 200.9 are now reprinted in a manual published in 1991. The EPA methods, the methods in the 18th edition of Standard Methods, and in the 1993 ASTM book contain changes to the previous versions that are typographical, grammatical, or editorial in nature.

The inclusion or republication of methods in new manuals or books requires the following changes to footnotes at § 141.89(a). Footnote 1 is updated to include the NTIS order number. Footnotes 2 and 3 are updated to the 18th edition of Standard Methods and the 1993 ASTM book, and are renumbered as footnotes 3 and 4. The methods in footnotes 5, 6, and 7 are contained in the manual cited at the new footnote 2. Footnote 6, which explains when to digest water samples for total metals, is revised slightly to be identical to the same explanatory footnote for other metals, which is found at § 141.23(k). Footnote 9 has also been renumbered as footnote 6. Footnote 8 has been revised to cite the manual which now contains Method 300.0. Footnotes 7, 9 and 10 are reserved. Footnote 11 has been added because that method is now found in a different reference.

The Practical Quantitation Levels (PQLs) for lead and copper are defined in § 141.89(a). EPA has received input from State drinking water programs and laboratories that the value of these PQLs are not clearly stated in § 141.89(a)(1)(ii) and that it is unclear whether the numbers in paragraphs 141.89(a)(3) and 141.89(a)(4) refer to the PQL or one-half the PQL. The PQLs are 0.005 mg/L for lead and 0.050 mg/L for copper. The basis for these PQLs is discussed in the preamble to the final rule (56 FR 26511) EPA is revising § 141.89(a)(1)(ii) to

clearly reflect the PQL of 0.005 mg/L for lead in subparagraph (A) and the PQL of 0.050 mg/L for copper in subparagraph (B). In addition, EPA is revising § 141.89(a)(3) to consolidate §§ 141.89 (3) and (4) and to reference the lead and copper PQLs defined in § 141.89(a)(1)(ii).

Section 141.90(g) requires that any monitoring data collected in addition to that required by 40 CFR part 141, subpart I (The Lead and Copper Rule) be submitted by the end of the reporting period. This could be construed as inconsistent with the other paragraphs of § 141.90, which require that monitoring data be submitted within ten days of the end of the monitoring period. The ten-day delay is allowed for processing, collating and reporting of data. EPA did not intend this inconsistency. To make § 141.90(g) consistent with other reporting requirements in § 141.90, EPA is amending § 141.90(g) to allow ten days for submittal of additional data.

Section 142.16(d) was reserved effective July 30, 1992, but should contain the special primacy requirements specific to the lead and copper rule that States are required to adopt in addition to meeting basic primacy requirements. As explained in the July 15, 1991 (56 FR 32112) technical correction, EPA intended the lead and copper special primacy requirements to take effect July 7, 1991. On July 30, 1992, changes to § 142.16 promulgated as part of the Phase II rulemaking (56 FR 3526, January 30, 1991) took effect. The Phase II regulations made changes to § 142.16, reserved paragraph (d) and added paragraph (e). These changes to § 142.16 had the unintended effect of deleting paragraph (d). The Agency did not intend to delete the lead and copper special primacy requirements. Rather, the Agency's intent in reserving paragraph (d) as a part of the Phase II rulemaking was to establish a placeholder for lead and copper special primacy requirements when the lead and copper regulations were promulgated. EPA is therefore repromulgating § 142.16(d) without revisions to restore the special primacy requirements initially promulgated in the final lead and copper rule.

Section 142.62(g)(2) contains a typographical error in the reference to regulations pertaining to maximum contaminant levels (MCLs) and quality limits for bottled water. "21 CFR 102.35" should be "21 CFR 103.35". EPA is correcting this error in today's action.

C. References

The following references are referred to in this notice and are included in the public docket. The public docket is available as described at the beginning of this notice.

Centers for Disease Control. Centers for Disease Control: Water-Related Disease Outbreaks (1977–1982). [CDC, 1977–1982]

Chuttani, H.K., Gupta, P.S., Gulati, S., and Gupta, D.N. Acute Copper Sulphate Poisoning. American Journal of Medicine. Vol. 39 (November 1965), 849–854. [Chuttani et al., 1965]

Federal Register. Vol. 56, No. 20. National Primary Drinking Water Regulations—Synthetic Organic Chemicals and Inorganic Chemicals; Monitoring for Unregulated Contaminants; National Primary Drinking Water Regulations Implementation; National Secondary Drinking Water Regulations: Final Rule. (Wed. Jan. 30, 1991), 3526–3614. [56 FR 3526]

Federal Register. Vol. 56, No. 110. Drinking Water Regulations—Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule. (Fri. Jun. 7, 1991), 26460–26564). [56 FR 26460]

Federal Register. Vol. 56, No. 135. Drinking Water Regulation; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correction. (Mon. Jul. 15, 1991), 32113. [56 FR 32113]

Federal Register. Vol. 57, No. 125. Drinking Water Regulations: Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correcting Amendments. (Mon. Jun. 29, 1992), 28785–28789. [57 FR 28785]

National Academy of Sciences. Drinking Water and Health. Vol. 3 (1980), 25–67, 312–320. [NAS, 1980]

Nicholas, P.O., and Brist, M.B. Food Poisoning Due to Copper in the Morning Tea. Lancet. Vol. 2 (1968), 40–42. [Nicholas and Brist, 1968].

Semple, A.B., Parry, W.H., and Phillips, D.E. Acute Copper Poisoning: An Outbreak traced to Contaminated Water from a Corroded Geyser. Lancet. Vol. 2 (1960), 700–701. [Semple et al., 1960]

Spitalny, K.C., Brondum, J., Vogt, R.L., Sargent, H.E., and Kappel, S. Drinking Water Induced Copper Intoxication in a Vermont Family. Pediatrics. Vol. 74 (1984), 1103–1106. [Spitalny et al., 1984]

U.S. Environmental Protection Agency. Drinking Water Criteria Document of Copper. Office of Health and Environmental Assessment. (Feb. 1987). [EPA, 1987]

Wyllie, J. Copper Poisoning at a Cocktail Party. American Journal of Public Health. Vol. 47 (1957), 617. [Wyllie, 1957].

List of Subjects in 40 CFR Parts 141 and 142

Environmental protection, Administrative practice and procedure, Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: June 23, 1994.

Robert Perciasepe,

Assistant Administrator for Water.

For the reasons set forth in the preamble, parts 141 and 142 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

2. Section 141.81 is amended by adding a sentence at the end of paragraph (c) to read as follows:

§ 141.81 Applicability of corrosion control treatment steps to small- medium-size and large water systems.

* * * * *

(c) * * * The requirement for any small- or medium-size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(1) of this section) is triggered whenever any small- or medium-size system exceeds the lead or copper action level.

* * * * *

3. Section 141.87 is amended by revising the introductory text to read as follows:

§ 141.87 Monitoring requirements for water quality parameters.

All large water systems, and all small- and medium-size systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section. The requirements of this section are summarized in the table at the end of this section.

* * * * *

4. Section 141.89 is amended by revising paragraph (a) introductory text and chart, and revising paragraphs

(a)(1)(ii) and (a)(3) to read as follows and by removing paragraph (a)(4):

§ 141.89 Analytical methods.

(a) Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica and temperature shall be conducted using the following methods:

ANALYTICAL METHODS

Contaminant	Methodology	Reference (method No.)			
		EPA	ASTM[3]	SM[4]	USGS[5]
Lead[6]	Atomic absorption; furnace technique	[1]239.2	D3559–90D	3113 B	
	Inductively-coupled plasma; mass spectrometry	[2]200.8			
	Atomic absorption; platform furnace technique	[2]200.9			
Copper[6]	Atomic absorption; furnace technique	[1]220.2	D1688–90C	3113 B	
	Atomic absorption; direct aspiration	[1]220.1	D1688–90A	3111 B	
	Inductively-coupled plasma	[2]200.7		3120 B	
	Inductively-coupled plasma; mass spectrometry	[2]200.8			
	Atomic absorption; platform furnace	[2]200.9			
pH	Electrometric	[1]150.1	D1293–84B	4500–H + B	
		[1]150.2			
Conductivity	Conductance	[1]120.1	D1125–91A	2510 B	
Calcium[6]	EDTA titrimetric	[1]215.2	D511–92A	3500–Ca D	
	Atomic absorption; direct aspiration	[1]215.1	D511–92B	3111 B	
	Inductively-coupled plasma	[2]200.7		3120 B	
Alkalinity	Titrimetric	[1]310.1	D1067–92B	2320 B	
	Electrometric titration	.....			I–1030–85
Orthophosphate (unfiltered, no digestion or hydrolosis).	Colorimetric, automated, ascorbic acid colorimetric, ascorbic acid, two reagent.	[8]365.1		4500–P F	
		[1]365.3			
	Colorimetric, ascorbic acid, single reagent	[1]365.2	D515–88A	4500–P E	
	Colorimetric, phosphomolybdate; automated-segmented flow; automated discrete.	.....			I–1601–85
					I–2601–90[11]
					I–2598–85
	Ion Chromatography	[8]300.0	D4327–91	4110	
Silica	Colorimetric, molybdate blue; automated-segmented flow	.....			I–1700–85
					I–2700–85
	Colorometric	[1]370.1	D859–88		
	Molybdosilicate	.....		4500–Si D	
	Heteropoly blue	.....		4500–Si E	
	Automated method for molybdate-reactive silica	.....		4500–Si F	
	Inductively-coupled plasma[6]	[2]200.7		3120 B	
Temperature	Thermometric	.....		2550 B	

Notes:

[1] "Methods for Chemical Analysis of Water and Wastes," EPA–600/4–79–020, March 1983. Available at NTIS as PB84–128677.

[2] "Methods for the Determination of Metals in Environmental Samples." EPA–600/4–91–010, June 1991. Available at NTIS as PB91–231498.

[3] *Annual Book of ASTM Standards*, Vol. 11.01, American Society for Testing and Materials, 1993, 1916 Race Street, Philadelphia, PA 19103.

[4] 18th edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

[5] *Techniques of Water Resources Investigations of the U.S. Geological Survey*, Book 5, Chapter A–1. Third Edition, 1989. "Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments", Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[6] Samples may not be filtered. Samples that contain less than 1 NTU(nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH<2) may be analyzed directly (without digestion) for total metals, otherwise, digestion is required. Turbidity must be measured on the preserved samples just prior to the initiation of metal analysis. When digestion is required, the total recoverable technique as defined in the method must be used.

[7] [Reserved]

[8] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R–93/100, August 1993, Available at NTIS as PB94–121811.

[9] [Reserved]

[10] [Reserved]

[11] *Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments*, Open File Report 93–125, Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(1) * * *

(ii) Achieve quantitative acceptance limits as follows:

(A) For lead: ±30 percent of the actual amount in the Performance Evaluation sample when the actual amount is greater than or equal to 0.005 mg/L. The Practical Quantitation Level, or PQL for lead is 0.005 mg/L.

(B) For Copper: ±10 percent of the actual amount in the Performance Evaluation sample when the actual amount is greater than or equal to 0.050 mg/L. The Practical Quantitation Level, or PQL for copper is 0.050 mg/L;

* * * * *

(3) All lead and copper levels measured between the PQL and MDL must be either reported as measured or they can be reported as one-half the PQL specified for lead and copper in paragraph (a)(1)(ii) of this section. All levels below the lead and copper MDLs must be reported as zero.

* * * * *

5. Section 141.90 is amended by revising paragraph (g) to read as follows:

§ 141.90 Reporting requirements.

* * * * *

(g) *Reporting of additional monitoring data.* Any system which collects sampling data in addition to that required by this subpart shall report the results to the State within the first ten days following the end of the applicable monitoring period under §§ 141.86, 141.87 and 141.88 during which the samples are collected.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

6. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

7. Section 142.16 is amended by adding paragraph (d), currently listed as reserved, to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(d) Requirements for States to adopt 40 CFR part 141, Subpart I—Control of Lead and Copper. An application for approval of a State program revision which adopts the requirements specified in 40 CFR part 141, subpart I, must contain (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the federal requirements) a description of how the State will accomplish the following program requirements:

(1) Sections 141.82(d), 141.82(f), 141.82(h)—Designating optimal corrosion control treatment methods, optimal water quality parameters and modifications thereto.

(2) Sections 141.83(b)(2) and 141.83(b)(4)—Designating source water treatment methods, maximum permissible source water levels for lead and copper and modifications thereto.

(3) Section 141.90(e)—Verifying compliance with lead service line replacement schedules and of PWS demonstrations of limited control over lead service lines.

* * * * *

8. Section 142.62 is amended by revising the first sentence of paragraph (g)(2) to read as follows:

§ 142.62 Variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals.

* * * * *

(g) * * *

(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g) (1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, part 110, and part 129.

* * *

* * * * *

[FR Doc. 94–15983 Filed 6–29–94; 8:45 am]
BILLING CODE 6560–50–P

Federal Register

Thursday
June 30, 1994

Part VI

Department of Housing and Urban Development

24 CFR Part 135 and Subtitle A et al.
Economic Opportunities for Low and Very Low Income Persons; Interim and Final Rules

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 135

[Docket No. R–94–1677; FR–2898–I–02]

RIN 2529–AA49

Economic Opportunities for Low- and Very Low-Income Persons

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule amends part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

DATES: Effective date: August 1, 1994, through June 30, 1995.

Comments due date: August 29, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Office of General Counsel, Rules Docket Clerk, 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 on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Office of Economic Opportunity, Room 5232, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2251 (voice/TDD). (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this interim rule have been reviewed by the Office of Management and Budget for review under the Paperwork Reduction Act of 1980, and assigned OMB control number 2529–0043.

II. Procedural Information

The regulations contained in this interim rule are based on the proposed rule published on October 8, 1993, and take into consideration public comment received on the proposed rule. The Department has made a number of changes to the section 3 regulations in response to public comment. Because of the changes made to the October 8, 1993 proposed rule, the Department is publishing the new section 3 regulations as an interim rule, rather than a final rule. Although the interim rule will be effective 30 days from the date of publication, as would a final rule, the Department solicits additional public comment, and public comment will be taken into consideration in development of the final rule.

Elsewhere in today's edition of the **Federal Register**, the Department has published a final rule that makes conforming amendments to several parts in title 24 of the Code of Federal Regulations that include reference, or should include reference, to the part 135 regulations. The section 3 "conforming amendments" proposed rule was published in the **Federal Register** on October 8, 1993. No comments were received on that proposed rule, and no additional comments are solicited. Accordingly, the conforming amendments rule is published as a final rule.

In accordance with the Department's policy on interim rules, the amendments made to part 135 by this interim rule will expire on the twelve-month anniversary date of publication of this interim rule unless extended by notice published in the **Federal Register** or adopted by a final rule published on or before the twelve-month anniversary date of publication of the interim rule.

III. Background—Proposed Rule

On October 8, 1993 (58 FR 52534), the Department published a proposed rule that would implement section 3 of the Housing and Urban Development Act of 1968 (section 3) (12 U.S.C. 1701u), as amended by the Housing and Community Development Act of 1992 (1992 Act).

Since its enactment, section 3 has been a statutory basis for promoting the award of jobs and contracts, generated from projects receiving HUD financial assistance, to, respectively, low-income residents and businesses of the areas where the projects to be assisted are located. Although the 1992 Act significantly revised section 3, it did not alter the objective of section 3—to provide economic opportunities to low-income persons. The 1992 Act strengthens the section 3 mandate by clarifying the types of HUD financial assistance, activities, and recipients subject to the requirements of section 3; identifying the specific individuals and businesses who are the intended beneficiaries of the economic opportunities generated from HUD-assisted activities; and establishing the order of priority in which these individuals and businesses should be recruited and solicited for the employment and other economic opportunities generated from HUD-assisted activities.

Consistent with the comprehensive changes made to section 3 by the 1992 Act, the October 8, 1993 rule proposed to amend part 135 in its entirety. The October 8, 1993 proposed rule provided for implementation of section 3 in each of HUD's three principal program areas: (1) Public and Indian housing; (2) housing; and (3) community development. The proposed rule specified the types of efforts to be undertaken in these three programs to comply with the training, employment and contracting preferences required by section 3, and the responsibilities imposed on recipients to ensure compliance with the section 3 requirements in their own operations and the operations of their contractors and subcontractors.

The comment period for the October 8, 1993 proposed rule expired on December 8, 1993, but comments were accepted through December 31, 1993. By this date, 63 comments were received. The commenters included housing authorities, units of government of State and local jurisdictions, non-profit organizations, legal organizations, and organizations representing public housing residents and other low-income persons.

The majority of the commenters were critical of one or more aspects of the rule. Housing authorities and State and local jurisdictions criticized the rule for being overly burdensome, and for failing to appreciate the administrative time and cost involved in undertaking the efforts required to provide training, employment and contracting opportunities to low-income persons. Legal organizations and other organizations representing low-income residents stated that the rule failed to provide clear standards and requirements by which recipients and contractors could achieve compliance with section 3, and as a result, economic opportunities would not be directed to low- and very low-income persons as

required by section 3. Several commenters submitted lengthy comments on the proposed rule. Almost all commenters offered suggestions and recommendations on how implementation of section 3 should be conducted. The suggestions, recommendations, issues and questions submitted by commenters are discussed in Sections V and VI of the preamble.

IV. Clarification of Purpose and Applicability of Section 3—Providing Preference When Economic Opportunities Are Generated

Before discussion of the issues and suggestions raised by commenters, the Department wants to clarify the purpose and applicability of section 3. Certain questions and issues raised by several commenters made the Department aware that there is some confusion about the purpose of section 3 and when the training, employment and contracting preferences of section 3 are applicable.

Several commenters stated that they did not have the funds to initiate job training and apprenticeship programs, and they did not need to employ additional personnel or contract for work. Section 3 does not require the creation of economic opportunities for low- and very low-income persons, or for anyone, simply for the sake of creating economic opportunities. Section 3 requires that when employment or contract opportunities are generated because a project or activity undertaken by a recipient of HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts for work, the recipient must give preference in hiring to low- and very low-income persons, and must give preference in contracting to businesses owned by these persons or that substantially employ low- and very low-income persons.

When the need to employ additional personnel or to contract for work occurs (which is frequently the case when HUD financial assistance is expended), the recipient or contractor will be recruiting individuals, and soliciting contractors, for these economic opportunities. Section 3 requires that recipients not only include low- and very low-income persons in these recruitment and solicitation efforts, but that, in fact, extra or greater efforts be undertaken to make these persons aware of the existence of the economic opportunities, encourage their application for these opportunities, and facilitate the employment of, or award of contracts to, these persons.

If, however, the section 3 covered assistance is awarded and the recipient has no need for additional employees or trainees, or the recipient has no need to contract for work, then the section 3 preference requirements are not triggered because the recipient is not recruiting any individuals for jobs, or soliciting any business concerns for contracts. Again, the section 3 preference requirements are triggered by the need for new hires (whether individual employees or contractors or subcontractors) for work on a project or activity assisted by HUD financial assistance covered by section 3.

V. Overview of the Interim Rule and Discussion of Public Comments

This section of the preamble provides a summary of the significant changes made to the October 8, 1993 proposed rule by this interim rule in response to public comment, and discusses the public comments that prompted these changes. This section also discusses those provisions of the proposed rule for which substantial comments were received requesting change, and for which the Department declined to adopt the recommended change.

Simplification of Rule

Several commenters stated that the rule was unnecessarily lengthy and complex, and contained sections and subparts that seemed simply to duplicate the same information. Other commenters stated that one of the reasons for the complexity of the rule was that uniform standards were not applied to all recipients and contractors. The commenters stated that, under the October 8, 1993 proposed rule, the standards imposed on recipients and contractors depended upon the program source of HUD funds received. These commenters stated that the distinction of effort required to be undertaken by recipients on the basis of the source of the HUD financial assistance was inappropriate, and that all HUD recipients and contractors should be required, as the statute mandates, to provide, to the greatest extent feasible, economic opportunities to low- and very low-income persons. Other commenters stated that the rule was lengthened by the long list of examples of efforts that recipients may, but were not required to, undertake to comply with the section 3 preference requirements. The commenters stated that the rule should provide for the minimum requirements that recipients and contractors must meet, and that options, suggestions, and recommendations should be provided in a notice, handbook, or other form of guidance, but not in the rule. The Department agrees with all of the above commenters, and has made changes to the proposed section 3 regulations in response to these comments.

Consolidation of Rule Sections

The Department has eliminated the separate subparts for implementing section 3 in public and Indian housing programs, housing programs, and community development programs. The Department agrees with the commenters that much of the information in these three subparts was duplicative. The interim rule provides one subpart that addresses the implementation of section 3 in all covered programs, and this subpart makes distinctions for individual program features or requirements where such distinctions are necessary.

Application of One "Effort" Standard to All Recipients and Contractors

The interim rule requires the same level of effort to be undertaken by all recipients and contractors, regardless of the source of HUD financial assistance, to comply with the section 3 preference requirements. That level of effort is one consistent with the statute's "to the greatest extent feasible" requirement.

The distinction in effort in the proposed rule imposed on public and Indian housing recipients on the one hand, and recipients of funds from "other" programs (i.e., housing and community development programs) on the other hand, was based on statutory terminology. The Congress used two different terms in describing the level of effort to be undertaken in each of these two broad categories of HUD programs. The Congress used the term "best efforts" in connection with the efforts required of public and Indian housing authorities, and "greatest extent feasible" in connection with the efforts required of recipients of "other program" assistance. The different use of terms raised a presumption that the terms have different meanings. However, on further consideration, the Department recognizes that there is very little difference in the common meaning of these terms. Additionally, the Department determined that the statute contemplates that every recipient and contractor that generates economic opportunities from the expenditure of section 3 covered assistance, regardless of the HUD program from which the assistance is derived, must provide these economic opportunities to low- and very low-income persons to the greatest extent feasible.

Removal of Examples of "Best Efforts" and "Good Faith Efforts"

Because the list of efforts in each of the three subparts in the proposed rule were examples of efforts that could be undertaken by a recipient or contractor to comply with section 3, and not efforts required to be undertaken, the Department has removed these efforts from the interim rule. The Department agrees that the inclusion of these efforts added to the length of the interim rule and gave the appearance that the regulations are more cumbersome than they are. The list of efforts has been moved to an appendix that accompanies the interim rule, and therefore remain an available source of guidance to those recipients and contractors that found the list of efforts helpful.

Several commenters provided examples of additional activities that may be helpful in soliciting the participation of low- and very low-income persons in the job application and procurement processes, and these activities have been included in the appendix to part 135. A few commenters stated that as certain efforts or activities undertaken by recipients, and not currently included in the list of examples, prove to be successful, the Department should add the activity or activities to the list of examples. The Department will amend the appendix from time to time to include additional activities, or publish a notice in the **Federal Register** or in an industry trade periodical to advise of activities that a recipient or recipients have determined to be successful in encouraging and facilitating the participation of low- and very low-income persons in the job application or procurement process.

Removal of Procurement Procedures Required of Housing Authorities (HAs)

In addition to removal of the list of efforts that may be undertaken by recipients and contractors, the interim rule removes the provision in the proposed rule concerning procurement procedures that HAs were *required* to follow in implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d). As will be discussed in more detail later in this preamble, the Department has moved from a "process" oriented rule to a "results" oriented rule. That is, the Department is more concerned with the results of a recipient's efforts to comply with the section 3 preference requirements than with each specific effort undertaken to achieve those results.

The procurement procedures set forth in the proposed rule are included in the appendix to the interim rule, and thus remain an option that HAs may use if they find these procedures helpful. Because of the removal of the required procurement procedures from the rule, the concerns and issues raised by several housing authority commenters about negotiation of best efforts before the award of a contract, and other issues that were specific to the procurement procedures set forth in the proposed rule are no longer relevant, and need not be addressed. However, the Department emphasizes that the removal of the procurement procedures from the text of the rule does not relieve recipients and contractors (regardless of the type of section 3 covered assistance involved, i.e., public or Indian housing assistance, community development assistance, etc.) of the responsibility to ensure that, to the greatest extent feasible, the procurement practices selected to award contracts provide for preference for section 3 business concerns.

Retention of Tiers of Low-Income Persons and Business Concerns To Which Preference Is To Be Given

A few commenters stated that the multi-tier preference categories for residents and business concerns create an overly complex system, and should be removed from the rule. The multi-tier preference categories are established by statute, and the regulation reflects the statutory requirement to provide preference for low-income persons and business concerns in the order set forth in the statute. In recruiting low- and very low-income persons, the Congress was very clear that in directing economic opportunities to low- and very low-income persons, recipients are to target first those low- and very low-income persons residing in public housing developments (when public and Indian housing assistance is involved) or those residing closest to the project (in the service area or neighborhood) for which the section 3 covered assistance is expended (when housing assistance and community development assistance are involved).

In contrast to commenters requesting removal of the tiers of preference categories were commenters that sought to increase the numbers of preference categories. With respect to the preference categories for individuals, two commenters suggested dividing the tiers to provide preference first to very low-income persons in each of the categories provided by statute, followed by low-income persons. Other commenters suggested including preferences for welfare recipients, JTPA graduates, and women and minorities who are low- and very low-income persons before other low- and very low-income persons. With respect to the preference categories for business concerns, the commenters suggested providing preference for resident-owned businesses owned by women or minorities, or providing preference for resident-owned businesses outside the metropolitan area or non-metropolitan county before opening up competition to all businesses, when there are no eligible resident-owned businesses within the metropolitan area or non-metropolitan county. The statute provides no authority for the Department to adopt additional preference categories.

Results Oriented Rule: The Establishment of Numerical Goals

The interim rule provides for numerical hiring and contracting goals to demonstrate compliance with section 3. As discussed in this section, the numerical standards constitute a "safe harbor" for compliance with section 3 and are not absolute numerical requirements.

The Department acknowledges that in the preamble to the proposed rule, the Department specifically declined to adopt numerical goals despite suggestions from members of the public to the contrary. The suggestions to adopt numerical goals were made at meetings held at HUD Headquarters before publication of the proposed rule. As part of development of the proposed rule, the Department held two meetings on section 3 at HUD Headquarters, and invited to these meetings various housing authorities, industry groups, representatives of public housing residents and other low-income residents. (These meetings and the listing of some of the individuals and groups that attended these meetings were discussed in the preamble to the proposed rule at 58 FR 52535–52536.) At these meetings, several of the meeting participants suggested, as did commenters on the proposed rule, that the section 3 rule provide for numerical goals as goals that recipients and contractors should strive to meet, and as a means of measuring compliance with section 3.

In the proposed rule, the Department declined to adopt numerical goals stating that the establishment of numerical goals was not consistent with the objectives of section 3. The Department stated:

> Section 3 provides that to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, economic opportunities generated by the

expenditure of HUD financial assistance should be given to low- and very low-income persons. This means that, if feasible and if consistent with existing Federal, State and local laws and regulations, all economic opportunities generated by HUD financial assistance must be given to low- and very low-income persons. Generally, however, this will not be feasible in every case. For example, with respect to employment opportunities, it is unlikely that in every hiring situation low- and very low-income persons will be qualified for every job opportunity generated from the expenditure of HUD financial assistance. Therefore, it is not possible to measure compliance with section 3 in terms of a numerical result, because numerical results will vary dependent upon the circumstances of the hiring, e.g., the types of jobs offered, the skills required for these jobs, and the qualifications of the low- and very low-income persons (residing within the metropolitan area, or non-metropolitan county) to fill these jobs. Although every job may not be filled by a low-or a very low-income person, section 3 requires that efforts must be made to hire as many low- and very low-income persons to the greatest extent feasible. (58 FR 52536)

While the Department continues to recognize that numerical results will vary depending upon the circumstances surrounding the hiring or contract award, the Department was persuaded by comments on the proposed rule that broadly established numerical "goals" (i.e., hiring or contracting levels likely to be achieved in most employment and contracting situations) better serve the objectives of section 3, and better assist recipients and contractors in complying with section 3, than a listing of various types of outreach efforts that recipients and contractors may undertake.

The commenters on the proposed rule expressed concern about the number of low- and very low-income persons hired, and the numbers of contracts awarded to section 3 business concerns that would be considered by the Department to be in compliance with section 3. The commenters stated that the proposed rule required recipients to report annually on the numbers of training and employment opportunities provided to low- and very low-income persons, and the number of contracting opportunities awarded to section 3 business concerns, but failed to provide any indication about what hiring and contracting results would be considered in compliance with section 3. A few commenters stated that a focus on efforts, and not results, would make recipients overly concerned with the process, and not with the outcome of the process; that is, recipients would be too concerned whether efforts undertaken matched those in the regulation, without serious analysis of whether those efforts were appropriate for achieving the desired results. In a similar vein, a few commenters stated that the Department's role was to focus on the results, and the role of the recipients and contractors is to determine how best to achieve those results.

In response to these comments, § 135.30 of the interim rule establishes numerical goals (stated in terms of percentages) for training and employment, and for contracting. The Department will not repeat in the preamble, the entire text of this section, but will note some key features of this section.

The goals in § 135.30 apply to the entire amount of the section 3 covered assistance awarded to a recipient in any Federal Fiscal Year commencing with the first Federal Fiscal Year (FY) following the effective date of this rule.

The goals in § 135.30 apply to "new hires" (i.e., that is person in new employment opportunities generated from the expenditure of section 3 covered assistance). The interim rule defines "new hires" to mean full-time positions that are permanent, temporary or seasonal. The interim rule makes clear that the employment opportunities with which the numerical goal concept is concerned are those full-time positions generated from the expenditure of section 3 covered assistance. The Department recognizes that the expenditure of section 3 covered assistance may generate part-time employment opportunities, either of a permanent, temporary or seasonal nature, and these opportunities are addressed in § 135.40, entitled "Providing Other Economic Opportunities."

Section 135.30 provides for the goals to increase in percentage over a period of three years. For example, for FY 1995, recipients of section 3 covered public and Indian housing assistance must commit to employ low- and very low-income persons as 10 percent of the aggregate number of new hires they make. This percentage increases to 20 percent in FY 1996, and to 30 percent in FY 1997 and thereafter.

Section 135.30 also provides that a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements, absent evidence to the contrary. The following provides an example of how a recipient may meet the minimum numerical goals, but found not to be in compliance with the section 3 preference requirements. A recipient meets the 10 percent minimum goals by employing section 3 residents in new entry level positions that the recipient has available in connection with work on a section 3 covered project. However, the recipient made no effort to employ, and does not employ, section 3 residents in more skilled positions that the recipient also had available. That is, the recipient made no effort to make section 3 residents aware that these positions were available, or to encourage section 3 residents to apply for these positions. Again, section 3 requires that, to the greatest extent feasible, recipients and contractors will give *all* employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents.

The efforts to employ section 3 residents applies to all new employment opportunities, at all levels. The efforts to award contracts to section 3 business concerns applies to all contracts to be awarded. In the example provided above, if the recipient that met the 10 percent numerical goal, strived, to the greatest extent feasible, to provide all available employment opportunities to section 3 residents, and if the skills, previous work experience, or education of the those residents who applied for the jobs only met the qualifications for entry-level positions, then there is no evidence contradicting that the recipient is in compliance with section 3.

Section 135.30 also provides that in evaluating compliance with section 3 as provided in subpart D (which addresses both the Department's compliance reviews, and complaints filed by section 3 residents or section 3 business concerns), a recipient that has not met the numerical goals has the burden of demonstrating why it was not feasible to meet the goals. Such justification would include not only a description of actions taken to hire or contract with low- and very low-income persons, but also impediments encountered despite efforts undertaken. In demonstrating why it was not feasible to meet the numerical goals, a recipient or contractor also can indicate other economic opportunities provided to section 3 residents or section 3 business concerns, as addressed in § 135.40 (other economic opportunities provided to residents and business concerns in an effort to comply with section 3 and the requirements of this part).

The inclusion of numerical goals, and the removal of the various types of best effort and good faith effort activities from the rule, respond to commenters' concerns about little flexibility in implementation of section 3, and the uncertainty about what constitutes compliance with section 3. The interim rule increases flexibility by allowing

recipients and contractors to determine the procedures, efforts and activities that work for them in meeting the section 3 preference requirements. The interim rule reduces uncertainty about what constitutes compliance with section 3 by providing recipients and contractors with safe harbor levels.

The Department emphasizes that the numerical goals in the interim rule are exactly that—"goals" that recipients and contractors should strive to reach. The goals are not to be construed as requirements, quotas, set-asides or a cap on hiring or contracting with low- and very low-income persons (e.g., recipients and contractors are not to set aside or reserve ten percent of available jobs for low- and very low-income persons). Consistent with the greatest extent feasible requirement, the Department hopes that recipients and contractors will exceed these goals. The goals, if met, constitute a safe harbor for recipients and contractors on the issue of compliance with section 3 (absent evidence to the contrary, as discussed above). The goals, if not met, do not automatically trigger sanctions against the recipient or contractor. However, if challenged on the issue of compliance with section 3, the recipient or contractor should be ready to demonstrate that it strived, but was unable, to reach the safe harbor levels.

The establishment of numerical goals is the principal reason that the Department is issuing this rule as an interim rule. The Department believes that the low percentage goals that are targets to be met for FY 1995 are achievable by the majority of recipients that will undertake hiring or contracting as a result of the expenditure of section 3 covered assistance.

The final section 3 rule, which will be based on additional public comment, will be issued before the goals for FY 1996 are applicable. The Department specifically requests comment from the public on the numerical goals set forth in § 135.30.

Retention of Thresholds for Recipients of Section 3 Covered Housing or Community Development Assistance; Increased Threshold Amounts; Removal of HUD Share and Project Cost

In addition to promoting one "effort" standard that would be applicable to all recipients, several commenters stated that the issue of thresholds also should be treated uniformly. The commenters stated that the thresholds should be applied to all recipients and contractors, or none at all. Eight commenters stated that a threshold requirement is inconsistent with the statute's "greatest extent feasible" requirement. Seven commenters stated that a dollar threshold for housing authorities is *not* inconsistent with a greatest extent feasible requirement. Nine commenters representing units of local government stated that the dollar threshold for recipients of housing and community development assistance was too low, and should be raised. Other commenters stated that in lieu of a dollar threshold, the rule should establish a population threshold so that small and rural communities which sustain few businesses, and must advertise regionally (rather than locally) to fill economic opportunities, would be exempt from compliance with section 3.

The Department carefully considered all comments on the issue of thresholds, and determined to retain the proposed rule's position on this issue, which is to provide no dollar thresholds for HAs and their contractors and subcontractors, and to provide dollar thresholds for recipients of housing or community development, and their contractors and subcontractors.

No Thresholds for HAs, and Their Contractors and Subcontractors

The Department continues to maintain that a dollar threshold in section 3 covered public and Indian housing programs is not consistent with the statute. Section 3 applies to public and Indian housing operating assistance, development assistance and modernization assistance, which covers virtually all HA projects and activities. Additionally, the statute is very specific about the residents and business concerns to which HAs and their contractors and subcontractors must give preference. These residents and business concerns are tied to the housing development for which the assistance is expended, or another development owned by the HA. The Department believes that the statute's expansive coverage of public and Indian housing projects and activities indicates that any attempt to diminish the coverage would be inconsistent with the statute.

Thresholds for Other Recipients and Their Contractors and Subcontractors

In contrast to public and Indian housing programs, section 3 coverage in housing and community development programs is limited to housing and community development assistance expended for housing rehabilitation, housing construction and other public construction. The Department continues to maintain that the limited section 3 coverage in housing and community development programs makes thresholds in housing and community development programs acceptable, and not inconsistent with the statute. Additionally, on further consideration, and as discussed below in the section on "HUD share," the Department has determined to raise the thresholds to twice the amount set forth in the proposed rule.

Removal of HUD Share and Project Cost

Related to the issue of thresholds is the concept of "HUD share" because, under the proposed rule, the threshold was based on the HUD share of project cost.

The commenters were divided on the issue of HUD share. Eight commenters stated that in determining whether the dollar threshold is met, the entire project and total dollar amount should be considered, and not solely the HUD share of this total dollar amount. These commenters stated that the use of HUD share creates excessive paperwork. Ten commenters stated that using HUD share to determine the dollar threshold was correct. These commenters stated that to peg the threshold to total development cost would not appropriately tie section 3 responsibility to Federal assistance.

The Department agreed with the commenters who stated that the use of HUD share and calculation of the project cost makes the rule cumbersome, and creates additional paperwork. Accordingly, the interim rule provides for the threshold to be based on the amount of the award of assistance—an amount by which responsibility to comply with the section 3 preference requirements is more easily determined. Because the interim rule removes the HUD share and project cost calculations for determining the threshold (a process which excluded certain costs of the recipient), the Department determined that it is appropriate to raise the dollar thresholds.

The interim rule provides that the requirements of part 135 apply to recipients of covered section 3 housing and community development assistance for which the amount of the assistance exceeds $200,000; and these requirements apply to contractors and subcontractors performing work on projects funded by housing and community development assistance for which the recipient's award exceeds $200,000, and the contract or subcontract exceeds $100,000. If the recipient's award of assistance exceeds $200,000, but the contracts and subcontracts do not exceed $100,000, then only the recipient is subject to the section 3 preference requirements. The recipient's responsibility includes awarding contracts, to the greatest

extent feasible, to section 3 business concerns.

Clarification of Range of Economic Opportunities "Arising in Connection With" Section 3 Covered Housing and Community Development Assistance

When the Congress amended section 3, it narrowed the type of activity to which the statute would apply in housing and community development programs to three types of construction projects: housing rehabilitation (including reduction and abatement of lead-based paint hazards); housing construction; and other public construction projects. A few commenters stated that the proposed rule's implication that "covered opportunities" in housing and community development programs were limited to construction-type jobs (e.g., heavy labor, trade jobs) was incorrect. The commenters stated that the statute applies to employment and training opportunities "arising in connection with" these three types of construction projects, and that jobs arising in connection with these projects are not only the construction jobs, but also, management, maintenance, clerical and administrative jobs that come into existence because of the construction project.

The commenters are correct that management, maintenance and administrative jobs created to undertake work in connection with the construction or rehabilitation project are covered by section 3, and the interim rule clarifies this coverage. However, management, maintenance or administrative jobs generated from the expenditure of housing assistance (excluding public and Indian housing assistance) or community development assistance, but which assistance is not expended for rehabilitation, construction, or other public construction (and thus is not section 3 covered assistance), are not subject to the section 3 preference requirements.

To determine whether employment opportunities generated from the expenditure of HUD financial assistance are subject to the section 3 preference requirements, a determination must first be made if the HUD assistance is covered by section 3. As discussed previously, section 3 applies to the following public and Indian housing assistance: operating assistance, development assistance, and modernization assistance. All employment opportunities generated by the expenditure of this assistance are subject to the section 3 preference requirements. With respect to assistance other than public and Indian housing assistance, section 3 applies to housing assistance and community development assistance expended for housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction or other public construction project. Thus, the section 3 preference requirements only apply to employment opportunities "arising in connection with" housing rehabilitation, housing construction or other public construction project.

Therefore, HUD housing assistance that is expended for project operations (i.e., assistance that is operating assistance, but not operating assistance pursuant to section 9 of the 1937 Act) is not covered by section 3. Accordingly, a maintenance supervisory position that becomes available as a result of the expenditure of this assistance is not subject to the section 3 preference requirements. A maintenance supervisory position that becomes available as a result of work in connection with housing rehabilitation is subject to the section 3 preference requirements.

Defining "Employment Opportunities Generated From Section 3 Covered Assistance"

The interim rule provides a definition of "employment generated by section 3 covered assistance" to address the various types of employment opportunities that may arise in connection with the expenditure of section 3 covered assistance.

Defining "Other HUD Programs"

Additionally, the interim rule provides a definition of "other HUD programs" to distinguish between HUD public and Indian housing programs covered by section 3 and other HUD programs covered by section 3. The other HUD programs covered by section 3 are those that provide housing or community development assistance for housing rehabilitation, housing construction, or other public construction project.

Clarification That in Covered Housing and Community Development Programs, "Housing Rehabilitation" Does Not Include Routine Maintenance and Repair

In addition to clarifying the types of jobs that are covered by the statutory phrase "arising in connection with," the interim rule also clarifies what constitutes "housing rehabilitation." Routine maintenance and repair do not constitute "housing rehabilitation." The parenthetical statement in the statute which follows the term "housing rehabilitation" provides that housing rehabilitation includes reduction and abatement of lead-based paint hazards This language indicates that something more than routine maintenance and repair or replacement is contemplated by the term "housing rehabilitation." As discussed in the preceding section, the Department notes that maintenance and repair undertaken in connection with housing rehabilitation (e.g., clean-up after rehabilitation has been performed) are covered by section 3.

Clarification of Range of Economic Opportunities That May Be Generated by Section 3 Covered Public and Indian Housing Assistance

A few commenters stated that the proposed rule placed a heavy emphasis on construction jobs, which may be appropriate in the context of housing and community development assistance (given the limited section 3 coverage), but is inappropriate in the context of section 3 covered public and Indian housing assistance. The commenters stated that, in public and Indian housing programs, the statute covers opportunities generated by development assistance, modernization, and operating assistance, and that all jobs generated from the expenditure of these major sources of funding for HAs should be covered.

The commenters are correct that all jobs, whether administrative, clerical, managerial, or construction related, generated from the expenditure of operating assistance, development assistance or modernization assistance are subject to the section 3 preference requirements and the interim rule makes this clarification.

Clarification That Section 3 Applies to Section 8 Project-Based Assistance in Limited Circumstances

A few commenters stated that the Department erred in its broad exclusion of section 8 assistance from section 3 coverage. The commenters are correct with respect to section 8 project-based assistance. Although section 8 project-based assistance currently does not often finance rehabilitation and construction projects, where section 8 project-based assistance is expended for housing rehabilitation or construction, the assistance is covered by section 3.

Retention of Proposed Rule's Interpretation of "Section 3 Covered Contract"

Thirteen commenters stated that the Department should interpret "section 3 covered contracts" to include contracts for the purchase of materials, supplies, or equipment, where no installation is involved.

Exclusion of Contracts for the Purchase of Materials and Supplies

The Department declines to adopt this interpretation. The Department believes that the phrase "for work" which accompanies the term "contract" throughout the statute indicates that the requirements of section 3 were not intended to apply to contractors who only furnish materials or supplies, and do not undertake work, as in the installation of the material or equipment. The Department, however, encourages the purchase of materials and supplies from section 3 business concerns as a means of providing economic opportunities other than those connected with section 3 covered assistance (see § 135.40).

Coverage or Professional Service Contracts

The term "section 3 covered contract" however does include professional service contracts provided that the work to be performed by the professionals is for work generated by the expenditure of section 3 covered public and Indian housing assistance, or for work arising in connection with a section 3 covered project (i.e., housing rehabilitation, housing construction, or other public construction project).

Clarification of Exclusion of HUD Procurement Contracts

The interim rule also clarifies that "section 3 covered contracts" do not include contracts awarded under HUD's procurement programs. These contracts are governed by the Federal Acquisition Regulation System.

Continuation of Extension of Section 3 Coverage to Private, For-Profit Businesses Receiving HUD Assistance

In the proposed rule, the Department defined "section 3 covered project" to clarify that "other public construction project" included buildings or improvements, regardless of ownership, assisted with housing or community development assistance. The Department specifically requested comment from the public on this proposal to extend section 3 coverage though the definition of "section 3 covered project" to all private, for-profit entities that receive HUD housing or community development assistance for a section 3 covered project, including private, for-profit businesses receiving Community Development Block Grant (CDBG) funding for economic development projects. Fifteen commenters supported this proposal, stating that it was important that section 3 apply to private, for-profit entities receiving HUD financial assistance. Six commenters opposed the proposal, stating that the Economic Development portion of the CDBG program is already designed to hire low- and very low-income persons, and to extend section 3 coverage to economic development projects is redundant and confusing.

The Department was not persuaded by the commenters in opposition to the proposal. Although the Economic Development portion of the CDBG program supports the employment of low- and very low-income persons, the employment of these persons is not triggered in the same manner as provided by section 3. For example, an economic development project may involve the building of a widget factory. When construction of the factory is complete, there is a commitment to employ a certain percentage of low- and very low-income persons as factory workers. However, there is no requirement for the developer or builder of the factory to employ low- or very low-income persons in the construction of the factory. Section 3 would cover the job opportunities created at this stage of the economic development project.

Introduction of New Term—"Section 3 Residents"

Using "Section 3 Residents" to Refer Collectively to "Low-Income and Very Low-Income Persons." Several commenters expressed their dissatisfaction with the proposed rule's use of "low-income person" to refer to both "low- and very low-income persons." The commenters expressed concern that the use of "low-income persons" to refer to both low- and very low-income persons would result in oversight of the need to direct recruitment and solicitation efforts to very low-income persons. Instead of selecting one of the statutory terms to refer to both income groups, the interim rule uses the term "section 3 residents" to refer to both low- and very low-income residents.

Clarification That "Section 3 Resident" Includes Public Housing Residents. A few commenters stated that some public housing residents do not meet the low-income or very low-income qualifications established by section 3, but noted that the statute indicates that all public housing residents are eligible for the priority consideration established by section 3 for public housing resident in employment and training opportunities. The commenters requested that the Department resolve this contradiction by explicitly including public housing residents in the definition of "section 3 resident." The Department agrees with the commenters that the definition of "section 3 resident" should include all public housing residents. Section 915 of the 1992 Act (the section that amended section 3), provides that it is "the policy of the Congress and the purpose of section 3" that economic opportunities generated by HUD financial assistance be directed toward low- and very low-income persons, "particularly [to] those who are recipients of government assistance for housing." The inclusion of "public housing resident" in the definition of "section 3 resident" is consistent with Congressional policy and statutory intent.

Definitions of Low-Income and Very Low-Income Are Statutory. Many commenters suggested alternative definitions for low-income person and very low-income person. The commenters wanted the definitions to specifically include participants in programs under the Job Training Partnership Act (JTPA), welfare recipients, and welfare eligible applicants, or to base the income level on household income, not individual income, or to base the income level on a percentage of the median of the majority income, and not an all inclusive median income. Section 915 of the 1992 Act, which amended section 3, specifically provides that "low-income person" and "very low-income person" shall have the meanings provided these terms in section 3(b)(2) of the U.S. Housing Act of 1937 (1937 Act). Accordingly, the definitions are taken from this section of the 1937 Act.

Proof of Status as Section 3 Resident Is the Responsibility of the Individual. A few commenters raised questions concerning the form of certification or other evidence they were required to obtain or accept from individuals to verify their status as a section 3 resident. A few other commenters stated that questions about a person's income were an invasion of privacy.

The interim rule does not mandate (nor did the proposed rule) that the recipient, contractor or subcontractor require certification or evidence of a person's section 3 status. However, if verification of status is requested, it is the responsibility of the individual seeking the preference in employment provided by section 3, to present evidence that the person is a low-income or very low-income person. The Department does not prescribe any special form of certification. Acceptable documentation or evidence may include evidence of a person's residency in a public housing development, or evidence of section 8 certificate or voucher assistance, or other evidence of participation in a HUD or other Federally assisted program such as

JTPA, AFDC, or JOBS, or evidence of participation in a State or local assistance program, or receipt of welfare assistance.

On the subject of invasion of privacy, one commenter stated that an individual who applies for a job should not have to disclose his or her income. If an individual wants to take advantage of the preference provided by section 3, the individual must be willing to make such disclosure, or as noted earlier, present other evidence of participation in a program that assists low- or very low-income persons. It is not unusual for programs that provide preference for certain groups (e.g., elderly persons, young persons of a certain age group, minorities) to require the persons claiming the preference to support eligibility for the preference.

Revision to the Definition of "Section 3 Business Concern"

Several commenters suggested alternative definitions for "section 3 business concern." The proposed rule defined a section 3 business concern three different ways. To be eligible for the section 3 preference, a business concern would only have to meet one of the three definitions.

First Definition Is Unchanged. Four commenters criticized the first definition, which requires 51 percent or more ownership of the business by low- or very low-income persons. The commenters stated that this definition was totally unrealistic. The commenters stated that if a business concern is sufficiently capitalized to bid on construction projects of substantial size and complexity, then in all likelihood the owners were not low-income or very low-income persons.

The first definition is derived from the statute which calls for majority ownership by low-income or very low-income persons. The Department acknowledges that there is a small percentage of these types of business concerns. These business concerns exist primarily in public housing developments, and therefore are business concerns to which housing authorities have access for contract work.

In several public housing developments across the nation, residents have organized to form small businesses that are engaged in lawn care, building maintenance, and even small manufacturing work, and provide these services for the development in which they reside or for other developments owned by the housing authority. The commenters are correct that generally resident-owned businesses are not the business concerns that are capable of bidding and performing work as the primary contractor for a major construction or rehabilitation project. Nevertheless, because this definition is statutory, and has meaning within the public housing industry, the first definition is retained by the interim rule, and remains unchanged from the definition in the proposed rule.

Some Revision to Second Definition. The second definition in the proposed rule, which is also derived from the statute, provided that a section 3 business concern also includes a business concern that employs a substantial number of section 3 residents for the type of activity in which the business concern is engaged. Commenters stated that this definition was more realistic than the first definition, but requested that the rule provide more guidance about the meaning of "substantial." Several commenters suggested that this term be quantified, and submitted suggestions ranging from 20 percent to 75 percent of the employees of the business.

In response to public comment, the second definition has been revised in the interim rule to mean a "business concern whose permanent, full-time employees consist of persons, at least 30 percent of whom are section 3 residents" (or who were section 3 residents at the time of their initial employment.) The Department believes that the 30 percent figure represents a reasonable interpretation of "substantial" in this context. A figure of 30 percent is not so high as to significantly limit the number of business concerns that could meet this standard, nor so low as to make the preference for a business concern that employs a substantial number of low- or very low-income persons to be irrelevant.

In response to several commenters who stated that employers should receive credit for hiring persons who were formerly low-income or very low-income persons, this second definition of "section 3 business concern" provides for this credit. This second definition of section 3 business concern provides that in determining which business concerns meet this second definition, consideration is give to business concerns that employ a substantial number (30 percent) of low or very low-income persons who were low- or very low-income persons at the time the persons were employed by the business, but whose incomes now exceed the income level of a low- or very low-income person, and the date of first employment by the business concern has not exceeded a period of three years. The Department wants to give preference to business concerns who employed low- and very low-income persons, and provided for their advancement from that income level.

New Third Definition. In the proposed rule, the third definition for "section 3 business concern" referred to a business concern that is substantially owned, but less than 51 percent owned, by low-income persons or very low-income persons and employs these persons in key management positions. This definition was soundly criticized by a number of commenters as being unrealistic, and promoting fraud and abuse by allowing less than 51 percent ownership by low- and very low-income persons.

In response to public comment, this definition has been removed in the interim rule and replaced with the following: "a business concern that provides evidence of a commitment to subcontract, in excess of 25 percent of the dollar amount of all subcontracts to be awarded, to business concerns that meet either the first or second definition of section 3 business concern." Through this definition, a preference in contracting will be provided to business concerns that are neither owned by low- or very low-income persons, nor employ (as their own employees) a substantial number (30 percent) of low- or very low-income persons, but that actively seek and award subcontracts to businesses owned by low- or very low-income persons, or businesses that substantially employ low- and very low-income persons. The purpose of this definition is to provide a preference to primary contractors that have a successful record of subcontracting with section 3 business concerns.

Proof of Status as Section 3 Business Concern Is the Responsibility of the Business Concern. A few commenters raised questions about verifying the status of a section 3 business concern. Again, verification or certification is not mandated by this interim rule. If requested, it is the responsibility of the business concern that wants to take advantage of the preference provided by section 3 to produce acceptable support or documentation that it qualifies as a section 3 business concern.

Revision to NOFA and Bonus Points Provision

The Department received many comments on the proposal in the October 8, 1993 rule to provide in a notice of funding availability (NOFA) for the award of bonus points to applicants who have past experience and achievements in providing

economic opportunities to low- and very low-income persons.

A few commenters stated that the award of bonus points for applicants who have successfully complied with section 3 was a good idea, but that the rule should place a limit on the number of points to be awarded to avoid abuse. Other commenters stated that bonus points should be awarded for past performance only if the applicant's current proposal, submitted in response to the NOFA, demonstrates a commitment to undertake section 3 efforts consistent with past performance. Two commenters stated that bonus points should be awarded on the basis of efforts made, and not results achieved, because many recipients make good faith efforts without achieving significant results. Three commenters stated that the proposal favored large housing authorities (over small housing authorities) that have active resident management corporations and resident councils. The commenters stated that as a result of these active resident groups, large housing authorities would more often be eligible for the bonus points and edge out small housing authorities for awards made under a NOFA. Six commenters stated that the bonus points proposal was inappropriate, and should be removed because it is unrelated to funding need, and further stated that it would be difficult for the Department to verify "claimed" past success under section 3.

In response to these comments, the Department revised this regulatory section. Section 135.9 of the interim rule, which addresses this issue, provides the following. First, for competitively awarded assistance in which the grants are for activities administered by an HA, and those activities as described in the NOFA are anticipated by the Department to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting, and other economic opportunities generated from the expenditure of this assistance to section 3 residents and section 3 business concerns. Second, this same statement must be included in NOFAs for competitively awarded assistance involving housing rehabilitation, housing construction, or other public construction, where the amount of the award to the applicant is anticipated to exceed $200,000. Third, this section provides that in the evaluation of applications for the award of assistance under the NOFAs discussed above, consideration will be given to the extent to which the applicant demonstrates that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the project/activity assisted. The evaluation criteria to be utilized and the rating points to be assigned will be specified in the NOFA.

Absence of Listing of Existing Federal, State, and Local Laws and Regulations That Are Inconsistent or in Conflict With Section 3

Several commenters raised questions about the statutory requirement that implementation of section 3 (i.e., compliance with the preference requirements) must be consistent with existing Federal, State and local laws and regulations that are inconsistent with section 3. A few of the commenters requested that the rule provide a list of all existing laws and regulations that are inconsistent with section 3. Other commenters stated that the rule should expressly provide for the preemption of other laws that are inconsistent with section 3. Another commenter asked that the rule clarify who will make the determination of whether there is a conflict between section 3 and an existing Federal, State or local law. As discussed in this section, the Department does not agree that there is a need for a list of other laws and regulations inconsistent with section 3, or that there is a need to expressly preempt inconsistent laws.

Other Laws that Provide Preference. The section 3 preference in hiring for low- and very low-income persons, and in contracting for businesses owned by these persons was not created by the 1992 Act. Section 3, when originally enacted in 1968, provided for this preference. The 1992 Act amends section 3 to require that in providing preference to low and very low-income persons, recipients, contractors, and subcontractors must first target for job opportunities smaller groups within the broad category of low-income persons, such as public housing residents. Since its enactment in 1968, the Department is not aware, or has not been made aware of any existing Federal, State, or local law or regulation that is expressly in conflict with the section 3 preference requirements.

The rule of statutory construction is to interpret statutes to give meaning to all and to avoid conflicts. For example, section 7(b) of the Indian Self-Determination and Educational Assistance Act provides a preference for training and employment opportunities and contracting for Native Americans. Where both the preference for Native Americans and the section 3 preference for local residents cannot be met, the preference for Native Americans takes priority. However, it is possible that the two preferences can work together so that the intent of both statutes is met.

The consideration given to utilization of women's business enterprises (WBEs) and minority business enterprises (MBEs) in HUD programs is also not necessarily at odds with the section 3 preference, as believed by some commenters. The preference required by section 3 is neither gender specific nor race, nor ethnic origin specific. The preference required by section 3 is one of income (to be eligible for the preference, the person's income may not exceed a certain level) and one of location (the preference is for low-income and very low-income persons residing in proximity to the project or activity where the HUD financial assistance is being expended). This is a very broad preference category, and can encompass preferences promoted by other statutes and regulations, such as preferences for WBEs, MBEs, and other socially and economically disadvantaged businesses (i.e., business for which are 51 percent or more owned by socially and economically disadvantaged individuals). The Department anticipates that section 3 and similar preference laws will serve to support, rather than obstruct, the preferences specified by each.

Preemption. On the issue of preemption, generally, Federal law may preempt the enforcement of a State or local law if: (1) The Federal statute expressly preempts State or local law; (2) the Federal statute does not contain an express preemption provision, but it is clear that the Congress intended to preempt by occupying an entire field of regulation, and has thereby left no room for the State to supplement Federal law; or (3) compliance with both Federal and State law is impossible, or State law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of the Congress. Under the third test, Federal preemption must reflect a reasonable accommodation of conflicting policies that were committed to the agency's care by statute. (*See Capital Cities Cable, Inc. v. Crisp, 467 U.S. 691, 699 (1984).*

The first two tests do not apply because section 3 contains no express preemption provision, and there is no clear indication of Congressional intent to preempt. In fact, the statute specifically provides that a recipient's

efforts to employ section 3 residents and award contracts to section 3 business concerns shall be "consistent with existing Federal, State, and local laws and regulations." Therefore, any claim of Federal preemption would have to be based on the third test, and the Department would have to determine that compliance with both section 3 and State or local law is impossible, or that State or local law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of section 3.

The inclusion of the phrase "consistent with existing Federal, State, and local laws and regulations" indicates that the Congress did not envision that State or local law would make compliance with Section 3 impossible or that State or local law would be an obstacle to compliance with section 3. Again, as discussed earlier in this preamble, the preference provided by section 3 is sufficiently broad that there should be little conflict with State or local laws. However, the section 3 preference requirements would prevail over a permissive (not mandatory) State or local law provision that has the potential to conflict with section 3.

Determining if There Is a Conflict in Laws. The issue of conflict between part 135 and an existing Federal, State, or local law would only arise if a recipient or contractor failed to comply with the requirements of part 135, and asserted the position that the failure was based upon conflicting Federal, State, or local law. The Department would consider the recipient's assertion of conflicting laws (e.g., a local legal opinion) when the Department determined that the recipient or contractor failed to meet the requirements of part 135 and that there was a reasonable basis for the Department to take sanctions based on that failure. (The Department notes that some program statutes or regulations (e.g., the Community Development Block Grant and HOME Investment Partnership programs) may require notice and opportunity for a hearing before an administrative law judge before sanctions are imposed. Accordingly, the Department would have to convince the administrative law judge of the Department's determination regarding failure to comply with section 3, including the Department's determination regarding the conflict of other law with part 135.)

New Section on Compliance With Other Applicable Laws

On the subject of the relationship of section 3 to other related laws, the interim rule contains a new section (§ 135.11) that references other laws that are applicable to job training, employment, and contracting. These laws include program statutes that require payment of prevailing wages determined under the Davis-Bacon Act or (in the case of public and Indian housing) determined by HUD to be prevailing. These laws also include reference to Executive Order 11246 (which requires affirmative action to ensure that employees or applicants are treated without regard to their race, color, religion, sex, or national origin), and regulations governing approved apprenticeship programs. This section also references the procurement procedures of 24 CFR 85.36.

A few commenters raised questions about the relationship of the procurement procedures of 24 CFR 85.36 to section 3. The requirements in § 85.36 are not inconsistent with part 135. Rather provisions in § 85.36 can facilitate actions by the recipients to meet part 135. For example, § 85.36(c)(2) expressly prohibits the use of local geographic preferences in the evaluation of bids or proposals, except in the cases where applicable Federal statutes expressly mandate or encourage geographic preference. Section 3 is such a statute encouraging geographic preference. Additionally, the Department notes that neither the section 3 statute nor the part 135 interim rule supersedes the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner.

Reduced Monitoring Responsibilities of Recipients

Several housing authority commenters objected to the requirement in the rule that they must monitor the operations of their contractors and subcontractors to ensure compliance with section 3. They stated that this requirement imposes a significant administrative burden on recipients, and the rule provided no guidance on how recipients should undertake this monitoring function.

The interim rule removes the provision in the proposed rule that required recipients to "monitor" the operations of their contractors and subcontractors to ensure compliance with section 3. While the interim rule continues to require that recipients "ensure" that their contractors and subcontractors comply with section 3, the rule (see § 135.32) clarifies that this responsibility to "ensure compliance" means that a recipient: (1) Should refrain from contracting with contractors for which the recipient has received notice or has knowledge that the contractor has been found in violation of the regulations in part 135; (2) should respond to complaints made to the recipient by section 3 residents or section 3 business concerns that a contractor or subcontractor is not in compliance with the part 135 regulations; and (3) must cooperate with the Department in obtaining the compliance of contractors and subcontractors when allegations are made and supported that the recipient's contractors and subcontractors are not in compliance with the regulations of part 135.

Revisions to Enforcement Section

Several commenters criticized the enforcement provisions in the proposed rule. The commenters either found the enforcement provisions too weak, or too severe for a statute that requires recipients, contractors, and subcontractors to make a good faith effort to employ section 3 residents, and contract with section 3 business concerns.

The Department believes that the interim rule provides for an enforcement process that promotes compliance with section 3, provides relief to complainants where appropriate, encourages resolution at the lowest possible level (i.e., resolutions among the parties involved in the complaint), strives for an informal resolution whenever possible, and when necessary, provides for the Assistant Secretary for Fair Housing and Equal Opportunity to impose a resolution on the parties involved, which resolution will be effective unless it is appealed within 15 days of notice of the imposed resolution. The interim rule continues to provide for the referral of the complaint for resolution under the procedures and sanctions provided in the regulations governing the section 3 covered assistance.

Reduced Recordkeeping Requirements

The majority of the commenters complained that the proposed rule was unduly burdensome with respect to recordkeeping requirements. As discussed in this section, the interim rule substantially reduces those requirements.

For HAs, the interim rule removes the regulatory provision that required HAs to undertake specific procurement procedures which required the recipient to negotiate and agree upon, and to document the "best efforts" to be undertaken by a contractor before the award of the contract to the contractor. For HAs, the interim rule removes the requirement to amend HA personnel policies to include a statement that the

HA's personnel practices provide preference for low- and very low-income persons in training and employment opportunities. For all recipients, the interim rule removes the requirement to amend any written procurement policies to include a statement that the recipient's procurement practices provide preference for section 3 business concerns. For all recipients, the interim rule also removes the requirement to document the mechanism by which the recipient ensured that its contractors and subcontractors complied with the section 3 preference requirements.

Additionally, the information that the Department does require is largely information that the recipient, contractor, or subcontractor already maintains. Recipients, contractors, and subcontractors engaged in hiring, or in contracting are already required by other statutes and regulations to maintain information on the number of new hires, the names and addresses of these employees, the race, ethnic origin and gender of the employees, and the positions for which they were employed, and the salary provided. For contracts, the number of contracts awarded, the party to whom the contract was awarded, the nature of the contract and dollar value are data recorded by the recipient or contractor. The additional information that this interim rule requires is the income level of the employees hired (this information is needed to determine if they are section 3 residents) and the status of the business concern as a section 3 business concern. The income level of the employees is information that the Department must have to fulfill its responsibilities under section 3. The statute requires the Secretary of HUD to ensure that economic opportunities are being directed to low- and very low-income persons.

Solicitation of Additional Public Comment

The foregoing presents the significant changes made to the October 8, 1993 proposed rule by this interim rule. The Department solicits comments on these changes, additional suggestions for implementation of section 3, and such other issues as the commenters believe that the Department should consider before publication of the final rule.

VI. Discussion of Additional Public Comments

This section discusses additional issues raised by the commenters, and the Department's response to these issues. These comments may have prompted additional, but less significant, changes to the rule. The discussion begins with comments of general applicability, and is followed by a discussion of comments received on specific sections of the rule. This section does not discuss comments that were either generally laudatory or generally critical of the proposed rule, either of style or substantive comment, or that offered editorial suggestions, or suggestions regarding format that would not affect the meaning of the regulatory provisions.

General Comments

Comment. One commenter stated that the proposed rulemaking procedure did not provide adequate participation by residents and resident organizations, that the informal meetings held at the Department in March were strictly for the benefit of industry associations.

Response. Residents and resident organizations were invited, and attended the two informal meetings held in March 1993. The preamble to the proposed rule did not include a complete listing of all individuals and organizations attending the March meetings. Individuals and organizations representing residents and other low- and very low-income persons that attended these meetings included the National Housing Law Project, the Kenilworth Parkside Resident Management Corporation, the National Association of Resident Management Corporations, and Bromley Heath Tenant Management Corporation.

Comment. Three commenters asked why section 3 is administered by the Office of Fair Housing and Equal Opportunity. The commenters stated that since section 3 is actually implemented in public and Indian housing, and housing, and community development programs, it should be administered by the offices for these programs.

Response. The Secretary has delegated the functions and responsibilities of the Secretary under section 3 to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO). The delegation of authority to the Assistant Secretary for FHEO dates back to the issuance of the first regulations for part 135 in 1973. One of the reasons for delegating responsibility to the Assistant Secretary for FHEO is that, nationally, a disproportionate number of low- and very low-income persons residing in family public housing developments, and in neighborhoods receiving housing and community development assistance, are racial and ethnic minorities, a group that has been subject to discrimination in employment, housing, financing and other areas. Since section 3 specifically pertains to matters of employment (whether individual hiring or through the award of contracts) FHEO is the office with expertise in addressing matters of discrimination in employment. This expertise will be beneficial in addressing complaints of recipient or contractor noncompliance with section 3.

Comment. Twenty-eight commenters stated that the rule imposes a tremendous administrative burden on recipients and a costly one. The commenters stated that additional Federal funding is needed to undertake the monitoring and reporting and recordkeeping required by the rule.

Response. The Department acknowledges that compliance with section 3 is not without cost or burden to recipients and contractors, but that burden, in large part, is imposed by statute. The statute requires recipients, their contractors, and subcontractors, to provide, to the greatest extent feasible, economic opportunities to low- and very low-income persons. To meet this statutory requirement, recipients, contractors, and subcontractors must undertake certain actions and efforts to make low- and very low-income persons aware of economic opportunities generated from the expenditure of HUD financial assistance, and to encourage their application for these opportunities. The statute requires the Secretary of HUD to ensure that economic opportunities generated from the expenditure of HUD financial assistance are being directed, to the greatest extent feasible, to low- and very low-income persons. To meet this statutory requirement, the Secretary of HUD must solicit certain information from recipients to ensure that they are undertaking the actions and efforts required by statute. The Department, however, has made every effort to minimize the burden on recipients and contractors.

In response to comments on the proposed rule, staff from the Office of Fair Housing and Equal Opportunity invited various groups representative of recipients, contractors, and residents for an informal meeting held at HUD Headquarters on February 23, 1994, to discuss the monitoring, reporting and recordkeeping requirements proposed to be imposed on recipients by the October 8, 1993 rule. (A summary of the meeting's discussion, and a list of the attendees at the meeting is part of the docket file for this rule.) Following consideration of comments at this meeting, in addition to comments received on the proposed rule, the Department has revised the rule. The

interim rule reduces, to the greatest extent possible, the administrative burden on recipients from that set forth in the October 8, 1993 proposed rule. The ways in which the administrative burden has been reduced were discussed in Section V of the preamble.

Comment. A few commenters stated that the Department must commit to working closely with housing authorities to implement and comply with the new section 3 regulations.

Response. The Office of Fair Housing and Equal Opportunity (FHEO) has announced a 30-site technical assistance initiative beginning in FY 1995 to help recipients understand their section 3 responsibilities and to help them design and implement effective programs and procedures to make training, employment and contracts available to section 3 residents. FHEO is planning to provide further guidance through participation in conferences with associations representing recipients and contractors. With support from the private sector, FHEO is developing detailed guidance material that will assist recipients and residents with understanding section 3, and the responsibilities imposed on recipients. Additionally, the FY 1995 legislative proposal would make expenses associated with implementation of section 3 eligible costs under section 3 covered programs. Further, the FY 1995 Budget includes a request for funding to establish "economic opportunity centers" that will link low-income persons with jobs and contracts generated by HUD-assisted projects and activities. These centers will provide technical and financial assistance to qualified residents, as well as assistance to HUD recipients in recruiting, training and hiring of low-income persons.

Comment. Other commenters stated that the rule should require recipients to provide training and other supportive services to low- and very low-income persons to ensure that these persons will be qualified for employment opportunities that become available through section 3 efforts.

Response. As stated in Section V of this preamble, section 3 does not require recipients or contractors to create training programs for low- and very low-income persons, or to create or provide any other services to low- and very low-income persons solely for the sake of providing opportunity programs for low- or very low-income persons. Section 3 requires that where section 3 covered assistance will generate economic opportunities (i.e., not out of necessity to serve low- or very low-income persons, but out of necessity to serve the employment or contracting needs of the recipient or contractor), these opportunities must be directed to section 3 residents and section 3 business concerns.

Comment. Several commenters offered suggestions on implementation of section 3, including establishing section 3 target zones in which individuals residing in those zones would be given the section 3 preference; maintaining the affirmative action plan that is currently required in the codified part 135 regulations; providing a financial reward to recipients and contractors that exceed minimum section 3 requirements; providing for "first source" agreements with resident councils and community organizations; and establishing permanent section 3 committees in each jurisdiction to oversee the planning and implementation of section 3 within the jurisdiction.

Response. The Department is appreciative of all these suggestions and others that were offered by commenters. The statute does not permit the Department to adopt many of the suggestions made by the commenters. The Department believes that the streamlined procedures and increased flexibility provided in the interim rule will make for effective implementation of section 3.

Assistance/Program Covered

Comment. One commenter stated that section 3 should apply to programs that serve purposes similar to programs funded by sections 5, 9, and 14 of the U.S. Housing Act of 1937. The commenter specifically cited the Urban Revitalization Demonstration Program, which is similar to the section 14 modernization grant program.

Response. Although the statute is very specific concerning the types of public and Indian housing assistance covered by section 3, to the extent that any HUD housing or community development assistance is expended for housing rehabilitation, housing construction or other public construction, the HUD assistance is covered by section 3, and that would include assistance provided under the Urban Revitalization Demonstration Program.

Comment. One commenter stated that section 3 should apply to housing and community development programs administered by other Federal Agencies. The commenter noted that the Department of Agriculture has not only the Farmers Home Administration rental and homeownership programs for low-income people, but water and sewer community development programs, and the Department of Commerce administers a number of programs designed to stimulate small businesses and other investments that promote the development of communities.

Response. The statute is very clear that application of section 3 only extends to HUD housing and community development programs.

Comment. A few commenters requested that the rule include a list of HUD programs to which section 3 applies.

Response. Because programs to which section 3 applies may change over time (new programs are created, existing programs are terminated), the Department declines to include in the regulation a list of section 3 covered programs. HUD programs that are covered by section 3 will contain reference to applicability of section 3 in their program regulations, guidelines, or notices of funding availability. Additionally, FHEO will attempt to publish annually, at the beginning of each Federal Fiscal Year, a notice in the **Federal Register** of HUD programs subject to section 3.

Comment. One commenter asked that the rule clarify the relationship between part 135 and part 963.

Response. Part 963 entitled "Contracting with Resident-Owned Businesses" was created before the recent amendments to section 3 by the 1992 Act. Section 3, before the 1992 amendments, while providing a preference for low-income persons, did not give priority consideration to residents of public housing, or to businesses owned by residents of public housing. Accordingly, the purpose of the part 963 program, at the time of creation, was to encourage (not require) PHAs, in their contracting, to award contracts to section 3 business concerns.

To a large extent, the new section 3 regulations supersede part 963. Part 135 requires (consistent with section 3) that PHAs give preference in contracting to resident-owned businesses. Part 963 does not require preference in contracting with resident-owned businesses because part 963 is not based on statutory authority that mandates this preference. Part 963 is totally voluntary. Part 963 imposes a monetary cap on the amount of contract that can be awarded to a resident-owned business. (This amount is being increased from $500,000 to $1,000,000 in the conforming amendment rule being published under a separate rule in this edition of the **Federal Register**.) No monetary cap is imposed by part 135. Contracts covered by part 963 include contracts for the purchase of materials and supplies. Covered contracts under part 135, as discussed earlier in this preamble, do not include contracts for

the purchase of materials and supplies because the section 3 statute uses the term "contract for work." Part 963 complements section 3, and provides an effective means by which the section 3 contracting preference can be implemented.

Definitions

Comment. One commenter stated that the definition of "business concern" should include nonprofit enterprises. The commenter stated that nonprofit enterprises frequently are major sources of employment for low-income persons, particularly public housing residents.

Response. The Department believes that one of the principal purposes of section 3 is to promote the growth of "profit-making" enterprises owned by low-income persons, and that substantially employ low-income persons, and to encourage business concerns that are not major sources of employment for low-income persons to increase their employment of these persons.

Comment. One commenter stated that the definition of "contractor" was not consistent with the statutory language. The commenter stated that section 915 of the 1992 Act makes clear that section 3 covered contractors are contractors employed by public and Indian housing authorities and by units of local government receiving Federal financial assistance. The commenter stated that the definition for this term should be revised to state that a contractor "is any entity employed by a public housing authority or a unit of local government to perform work on a section 3 covered project."

Response. The Department declines to adopt the change recommended by the commenter. The statute does not limit contractors to those employed by HAs or units of local government. The requirements of section 3 attach to covered HUD assistance. The definition for "contractor" provided in the rule is consistent with the statute.

Comment. One commenter stated that the definition of metropolitan area is too geographically broad and will impede the effectiveness of section 3.

Response. The definition of "metropolitan area" is the standard definition for this term used in all, or if not all, the majority of Federal regulations. The statute recognized that "metropolitan area" covers a broad geographical area, which is why the statute directs recipients to first give preferences to low- and very low-income residents and businesses within smaller geographical areas. For HAs, these smaller geographical areas are housing developments; and for other recipients, these smaller geographical areas are the service area or neighborhood in which the section 3 covered project is located.

Comment. Four commenters objected to the inclusion of "soft costs" in the definition of "project cost." Soft costs are costs associated with the financing and development of the project and relocation costs and land acquisition costs. The commenters stated that these costs which refer to costs such as accounting, architectural, and engineering are "unrealistic."

Response. The definition of "project cost" is no longer in the regulation. By "unrealistic," the Department assumes that the commenters mean that recipients or contractors will be unable to identify section 3 residents or section 3 business concerns that have skills in the areas of accounting, architecture, engineering, and related professions (professional opportunities that may be covered by section 3 depending upon the project or activity for which section 3 covered assistance is expended). The recent closing of military bases, and factories, and major industry plants have left many skilled professionals unemployed. Therefore, it is not totally unrealistic that low- or very low-income persons may have skills in the professions identified above.

Comment. Four commenters stated that the definition of "service area" covered too broad a geographical area, and should be limited.

Response. The proposed rule defined "service area" to mean the geographical area in which the persons benefitting from the section 3 covered project reside, but which shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. The Department recognizes that this definition allows recipients to define the service area narrowly or broadly. The Department prefers to give recipients the flexibility to define the applicable service area, and declines at this stage to impose further limitations on recipients' assessment of the applicable service area. The Department anticipates that recipients will make a good faith effort to determine a realistic service area.

Section 3 Clause

Comment. Several commenters submitted comments on the section 3 clause. One commenter requested that the clause be eliminated. Another commenter requested that the clause be used as model or advisory language, but not made mandatory for all section 3 covered contracts. A few commenters stated that the clause should include the penalties to be imposed for violation of the part 135 regulations, or it should list the minimum efforts to be undertaken by contractors. Other commenters offered a number of editorial suggestions.

Response. The Department declines to eliminate the clause or to make it only advisory. The Department has made a number of editorial changes, but the clause is substantially the same as that set forth in the October 8, 1993 proposed rule.

Apprenticeship Programs

Comment. A few commenters expressed concern about language in the proposed rule that stated that participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of part 135. The commenters stated that such language may discourage HAs from investing the time necessary to set up apprenticeship programs.

Response. The Department's intent was not to discourage participation by HAs in establishing apprenticeship programs, but to advise that participation in training programs in which the extent of an HA's participation is limited to referral of residents to the training program does not constitute compliance with section 3. The HA's participation must be more active, and provide for training and employment.

Comment. Nine commenters stated that the rule does not address Davis-Bacon wage rate requirements or how to obtain exemptions from these requirements.

Response. The interim rule addresses the Davis-Bacon wage rate requirements, but not exemptions from these requirements. Section 3 does not provide a legal basis for exemption from Davis-Bacon requirements where they are otherwise applicable to section 3 covered projects.

Employment Opportunities

Comment. Two commenters asked whether residents that are already in the employ of the HA may participate in decisions on the employment of, or award of contracts to, other residents.

Response. This decision is one that rests with the housing authority. The housing authority, however, should take measures to ensure that there is no conflict of interest in hiring decisions and in the award of contracts involving other residents. For example, a resident employed by the PHA and that has a financial interest in a resident-owned business should not be involved in the

HA's decisions awarding contracts to resident-owned businesses.

Comment. One commenter asked how an HA, in employing a public housing resident, will deal with issues such as workers' compensation insurance.

Response. The Department expects an HA to address this issue as it would in employing anyone, whether the individual is a public housing resident or not. Most individuals do not seek employment with workers' compensation already in place.

Comment. Four commenters stated that efforts to recruit low- and very low-income residents should be required to be undertaken in languages other than English as appropriate for the community served by the HA.

Response. The Department declines to impose this as a requirement on HAs, but notes that HAs that serve populations that contain substantial numbers of persons for whom English is not their first language have been sensitive to providing information in languages other than English.

Comment. One commenter asked that an HA that works with other organizations to assist residents in locating job opportunities or improving their job opportunities should be found to be in compliance with section 3.

Response. An HA that undertakes such action, which is commendable, may very well be in compliance with section 3. The Department emphasizes, however, that the requirements of section 3 are triggered by economic opportunities generated by the expenditure of certain HUD assistance. A housing authority that uses funds, other than section 3 covered assistance, to improve the economic situation of their residents deserves commendation and credit. However, the fact that the HA may be locating economic opportunities for their residents through such means, does not relieve the HA of the responsibility imposed by section 3 to recruit low- and very low-income residents, or to solicit section 3 business concerns for economic opportunities arising from the expenditure of section 3 covered activity. The fact that economic opportunities are generated from section 3 covered assistance triggers the applicability of section 3.

Comment. One commenter stated that the rule should require recipients and contractors to provide long-term employment opportunities, and not simply seasonal or temporary employment.

Response. The Department cannot dictate the types of jobs for which recipients and contractors must give preference to low-income and very low-income persons. Again, section 3 is not a job creation program. The economic opportunities that are available to low and very low-income persons are those that the recipient or contractor has determined are necessary for the project or activity funded by section 3 covered assistance and that would be available on the job or contract market with or without section 3. However, the objective of section 3 is to provide low- and very low-income persons, especially those on government assistance, with the types of economic opportunities that will allow them to become self-sufficient.

Comment. A few commenters stated that the rule should emphasize that section 3 does not mandate the employment of any low-income person who is not qualified for job for which he or she applied.

Response. This statement is made in the text of the regulation, and the Department believes this statement clarifies this point without further elaboration.

Monitoring by Recipients

Comment. A majority of the commenters raised objections to the requirement in the proposed rule that recipients must monitor the operations of their contractors and subcontractors to ensure compliance with the regulations of part 135, and questioned how recipients were to perform this monitoring function.

Response. As discussed in the response to the fourth comment under the "General Comments" section, while the interim rule continues to require recipients to ensure that their contractors and subcontractors are in compliance with section 3, this responsibility is not the same as the "monitoring" responsibility imposed on recipients by the proposed rule.

VII. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) at the time of development of the proposed rule. This Finding remains applicable to this interim rule, and 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.

Executive Order 12866

This interim rule was reviewed by the Office of Management and Budget under Executive Order 12866 as a significant regulatory action. Any changes made in this interim rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the Office of HUD's Rules Docket Clerk, Room 10276, 451 Seventh St. SW, Washington, DC.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule, and, in so doing, certifies that the interim rule would not have a significant economic impact on a substantial number of small entities. Recipients and contractors that receive HUD financial assistance subject to the requirements are currently required, to the greatest extent feasible, to give economic opportunities generated by such assistance to low-income persons, and to businesses owned by or that substantially employ low-income persons. This interim rule, which implements the amendments made to section 3 by the 1992 Act, provides greater guidance on how the requirements of section 3 may be met, and decreases the administrative burden on recipients from that contained in the existing part 135 regulations. The interim rule eliminates much of the recordkeeping and reporting requirements in the proposed rule, and provides recipients and contractors with greater flexibility in complying with section 3.

While the Department anticipates that the interim rule will increase the number of small businesses that will benefit from the implementation of amended section 3, the Department also anticipates that the lower dollar threshold in HUD's housing and community development programs (lower than that provided in the previous codified part 135 regulations), and the absence of a dollar threshold in HUD's public and Indian housing programs, may increase the number of small business concerns that will be subject to compliance with the part 135 regulations. However, as with those small businesses expected to benefit from the revised part 135 regulations, the increase in the number of small businesses that may be made subject to compliance with part 135 is not considered so great as to constitute a significant economic impact on a substantial number of small entities.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federalism*, has determined that this interim rule would not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. The interim rule provides, consistent with section 3, that the preference requirements of section 3 are to be carried out consistent with existing Federal, State, and local laws and regulations.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the interim rule may have the potential to promote family formation, maintenance, and general well-being. If the revised part 135 regulations, implemented by this interim rule, contribute to successful implementation of section 3, an increased number of low-income persons will be employed which may promote family unification and general well-being. Since the impact of this interim rule is anticipated to be beneficial, no further review under the Order is necessary.

Regulatory Agenda

This interim rule was listed as sequence number 1669 in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20466), under Executive Order 12826 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 135

Administrative practice and procedure, Community development, Equal employment opportunity, Government contracts, Grant programs—housing and community development, Housing, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 24 CFR part 135, consisting of §§ 135.1 through 135.92 and Appendix to part 135, is revised to read as follows:

PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

Subpart A—General Provisions

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

Subpart C—[Reserved]

Subpart D—Complaint and Compliance Review

Subpart E—Reporting and Recordkeeping

Appendix to Part 135

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 135.1 Purpose.

(a) *Section 3.* The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

(b) *Part 135.* The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

§ 135.2 Effective date of regulation.

The regulations of this part will expire on June 30, 1995, unless adopted by a final rule published on or before this date.

§ 135.3 Applicability.

(a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) *Public and Indian housing assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) *Housing and community development assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects;

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

(3) *Thresholds*—(i) *No thresholds for section 3 covered public and Indian housing assistance.* The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) *Thresholds for section 3 covered housing and community development assistance*—(A) *Recipient thresholds.* The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds $200,000.

(B) *Contractor and subcontractor thresholds.* The requirements of this

part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds $200,000; and the contract or subcontract exceeds $100,000.

(C) *Threshold met for recipients, but not contractors or subcontractors.* If a recipient receives section 3 covered housing or community development assistance in excess of $200,000, but no contract exceeds $100,000, the section 3 preference requirements only apply to the recipient.

(b) *Applicability of section 3 to entire project or activity funded with section 3 assistance.* The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) *Applicability to Indian housing authorities and Indian tribes.* Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) *Other HUD assistance and other Federal assistance.* Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low-income persons, or which employ low- and very low-income persons.

§ 135.5 Definitions.

As used in this part:

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

Applicant means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Business concern that provides economic opportunities for low- and very low-income persons. See definition of "section 3 business concern" in this section.

Contract. See the definition of "section 3 covered contract" in this section.

Contractor means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

Department or *HUD* means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing authority (HA) means, collectively, public housing agency and Indian housing authority.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

Indian housing authority (IHA) has the meaning given this term in 24 CFR part 905.

Indian tribes shall have the meaning given this term in 24 CFR part 571.

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income person. See the definition of "section 3 resident" in this section.

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood area means:

(1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

(2) For HUD community development programs, see the definition, if provided, in the regulations for the

applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Nonmetropolitan county means any county outside of a metropolitan area.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for "section 3 covered projects," as defined in this section.

Public housing agency (PHA) has the meaning given this term in 24 CFR part 941.

Public housing resident has the meaning given this term in 24 CFR part 963.

Recipient means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors.

Secretary means the Secretary of Housing and Urban Development.

Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means a business concern, as defined in this section—

(1) That is 51 percent or more owned by section 3 residents; or

(2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or

(3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

Section 3 clause means the contract provisions set forth in § 135.38.

Section 3 covered activity means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance means:

(1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;

(2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act;

(3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act;

(4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; or

(iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 joint venture. See § 135.40.

Section 3 resident means: (1) A public housing resident; or

(2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:

(i) *A low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

(ii) *A very low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Section 8 assistance means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

Service area means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

Subcontractor means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

Very low-income person. See the definition of "section 3 resident" in this section.

Youthbuild programs. See the definition of "HUD Youthbuild programs" in this section.

§ 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; *provided however*, that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.

(a) *Certification of compliance with part 135.* All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) *Statement of purpose in NOFAs.* (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed $200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) *Section 3 as NOFA evaluation criteria.* Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

§ 135.11 Other laws governing training, employment, and contracting.

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) *Procurement standards for States and local governments (24 CFR 85.36)*—(1) *General.* Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) *Flexible Subsidy Program.* Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) *Procurement standards for other recipients (OMB Circular No. A–110).* Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A–110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) *Federal labor standards provisions.* Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a–7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs," as described in paragraph (d) of this section.

(d) *Approved apprenticeship and trainee programs.* Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) *Compliance with Executive Order 11246.* Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.

(a) *General.* (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(4) The numerical goals established in this section represent minimum numerical targets.

(b) *Training and employment.* The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels.

(1) *Numerical goals for section 3 covered public and Indian housing programs.* Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996;

(iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.

(2) *Numerical goals for other HUD programs covered by section 3.* (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project;

(ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

(A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) *Contracts.* Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) *Safe harbor and compliance determinations.* (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

§ 135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30;

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this

part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

§ 135.34 Preference for section 3 residents in training and employment opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);

(iv) Other section 3 residents.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

(iv) Other section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

(b) *Eligibility for preference.* A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(c) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

§ 135.36 Preference for section 3 business concerns in contracting opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

(b) *Eligibility for preference.* A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) *Ability to complete contract.* A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with

public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

§ 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) *Other business related economic opportunities.* (1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A *section 3 joint venture* means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C—[Reserved]

Subpart D—Complaint and Compliance Review

§ 135.70 General.

(a) *Purpose.* The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) *Definitions.* For purposes of this subpart:

(1) *Complaint* means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) *Complainant* means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) *Noncompliance with section 3* means failure by a recipient or contractor to comply with the requirements of this part.

(4) *Respondent* means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in § 135.7, which includes PHA and IHA.

§ 135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3

compliance reviews, in investigations of allegations of noncompliance made under § 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

§ 135.74 Section 3 compliance review procedures.

(a) *Compliance reviews by Assistant Secretary.* The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) *Form of compliance review.* A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) *Where compliance review reveals noncompliance with section 3 by recipient or contractor.* Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) *Continuing noncompliance by recipient or contractor.* A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Debarment, suspension and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.

(e) *Conducting compliance review before the award of assistance.* Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) *Consideration of complaints during compliance review.* Complaints alleging noncompliance with section 3, as provided in § 135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

§ 135.76 Filing and processing complaints.

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents;

(2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C., 20410.

(c) *Time of filing.* (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint*—(1) *Written complaints.* Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) *Amendment of complaint.* Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to, amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient.* (1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with

section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is reserved to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary*—(1) *Dismissal of complaint.* Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the complaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures. (Approved by the Office of Management and Budget under control number 2529–0043.)

Subpart E—Reporting and Recordkeeping

§ 135.90 Reporting.

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public. (Approved by the Office of Management and Budget under control number 2529–0043.)

§ 135.92 Recordkeeping and access to records.

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

Appendix to Part 135

I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents

(1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.

(2) Sponsoring a HUD-certified "Step-Up" employment and training program for section 3 residents.

(3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

(4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in § 135.34) reside.

(5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

(6) Contacting resident councils, resident management corporations, or other resident

organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.

(9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

(10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the HA's or contractor's training and employment positions.

(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and § 905.201(a)(6).)

(16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.

(17) Undertaking job counseling, education and related programs in association with local educational institutions.

(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

II. Examples of Efforts To Award Contracts to Section 3 Business Concerns

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or proposals for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

(10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

(11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.

(12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

(13) Contacting agencies administering HUD-Youthbuild programs, and notifying these agencies of the contracting opportunities.

(14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Developing a list of eligible section 3 business concerns.

(16) For HAs, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR part 963.

(17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.

(18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(21) Actively supporting joint ventures with section 3 business concerns.

(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than $25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner

of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

—the section 3 covered contract to be awarded with sufficient specificity;
—the time within which quotations must be submitted; and
—the information that must be submitted with each quotation.

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) *Award.* (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

(B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid—

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

(B) is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

	x=lesser of:
When the lowest responsive bid is less than $100,000	10% of that bid or $9,000.
When the lowest responsive bid is:	
At least $100,000, but less than $200,000	9% of that bid, or $16,000.
At least $200,000, but less than $300,000	8% of that bid, or $21,000.
At least $300,000, but less than $400,000	7% of that bid, or $24,000.
At least $400,000, but less than $500,000	6% of that bid, or $25,000
At least $500,000, but less than $1 million	5% of that bid, or $40,000.
At least $1 million, but less than $2 million	4% of that bid, or $60,000.
At least $2 million, but less than $4 million	3% of that bid, or $80,000.
At least $4 million, but less than $7 million	2% of that bid, or $105,000.
$7 million or more	1½% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) *Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)).* (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Dated: June 27, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–15951 Filed 6–29–94; 8:45 am]

BILLING CODE 4210–28–P

Office of the Secretary

24 CFR Subtitle A and Parts 92, 219, 280, 570, 572, 574, 576, 583, 882, 889, 890, 905, 961, and 963

[Docket No. R–94–1678; FR–3536–F–01]

RIN 2501–AB64

Economic Opportunities for Low- and Very Low-Income Persons—Conforming Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: Section 3 of the Housing and Urban Development Act of 1968 (section 3), as amended by the Housing and Community Development Act of 1992, requires that economic opportunities generated by HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Elsewhere in today's edition of the **Federal Register**, the Department has published an interim rule that makes comprehensive amendments to HUD's section 3 regulations at 24 CFR part 135 to bring these regulations into conformity with the changes made to section 3 by the Housing and Community Development Act of 1992. The section 3 (part 135) interim rule is based on the proposed rule published on October 8, 1993, and takes into consideration public comment received on the proposed rule.

This final rule makes conforming amendments to several parts in title 24 of the Code of Federal Regulations that include reference, or should include reference, to the part 135 regulations.

EFFECTIVE DATE: August 1, 1994.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Office of Economic Opportunity, Room 5232, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2251 (voice/TDD). (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background—Conforming Amendments Proposed Rule

Since its enactment, section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) has been a statutory basis for promoting the award of jobs and contracts, generated from projects receiving HUD financial assistance, to, respectively, low-income residents and businesses of the areas where the projects to be assisted are located. Section 3 was recently amended, in its entirety, by section 915 of the Housing and Community Development Act of 1992 (Pub.L. 102–550, approved October 28, 1992) (the 1992 Act). Although the 1992 Act significantly revised section 3, it did not alter the objective of section 3—to provide economic opportunities to low-income persons. The 1992 Act, in fact, strengthens the section 3 mandate by: clarifying the types of HUD financial assistance, activities, and recipients subject to the requirements of section 3; identifying the specific individuals and businesses who are the intended beneficiaries of the economic opportunities generated from HUD-assisted activities; and establishing the order of priority in which these individuals and businesses should be recruited and solicited for the employment and other economic opportunities generated from HUD-assisted activities.

Elsewhere in today's edition of the **Federal Register**, the Department has published an interim rule which makes comprehensive amendments to HUD's section 3 regulations at 24 CFR part 135 to bring these regulations into conformity with the changes made to section 3 by the Housing and Community Development Act of 1992. The section 3 (part 135) interim rule is based on the proposed rule published on October 8, 1993, and takes into consideration public comment received on the proposed rule.

This rule makes final a conforming amendments proposed rule published on October 8, 1993, and which was a companion rule to the section 3 (part 135) proposed rule also published on October 8, 1993. The October 8, 1993 "conforming amendments rule" proposed to make conforming amendments to several parts in title 24 of the Code of Regulations to include reference to the applicability of the part 135 regulations to the HUD program addressed by these parts.

Several HUD programs, particularly new HUD programs, include in their program requirements the applicability of section 3 to the program, but do not require compliance with the part 135 regulations. (See, for example, 24 CFR parts 576, 583, 700.) Compliance with the part 135 regulations was not included because the part 135 regulations had not been updated to reflect statutory amendments. (The part 135 regulations have not been amended substantively since their original adoption in 1973, although statutory amendments were made to section 3 in 1974 and 1980.) Additionally, several parts in 24 CFR currently refer to the part 135 regulations, but include reference to the former statutory language of section 3 (i.e., before its amendment by section 915 of the 1992 Act, the title of section 3 was "Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects"). The Department notes, however, that not all parts in 24 CFR which reference section 3 and the part 135 regulations require conforming amendments. (For example, see 24 CFR 941.208(a).)

The October 8, 1993 conforming amendments rule also proposed to amend 24 CFR part 963—Contracting with Resident-Owned Businesses—to raise the dollar contract limit from $500,000 to $1,000,000. The purpose of the alternative procurement process provided by part 963 is to encourage PHAs to contract with resident-owned businesses for public housing services, supplies, or construction. The increase in the dollar contract limit is directed to encouraging additional contract opportunities for resident-owned businesses, which is consistent with the objectives of section 3.

II. Conforming Amendments Final Rule

No public comments were received on the October 8, 1993 conforming amendments proposed rule. Accordingly, the Department, through this rule, adopts, as final, the conforming amendments set forth in the October 8, 1993 proposed rule, with some additional changes as described in this section.

Revision to Conforming Amendment to Part 219

The October 8, 1993 conforming amendments proposed rule included a conforming amendment to 24 CFR part 219 which contains the regulations for the Flexible Subsidy Program. However, the October 8, 1993 conforming amendment made reference to the $7,500 threshold which is no longer applicable, because it has been removed by the section 3 (part 135) interim rule, published elsewhere in today's edition of the **Federal Register**. The section 3 interim rule provides one set of thresholds applicable to all HUD housing and community development programs.

Additionally, on December 6, 1993, the Department published a final rule that amended 24 CFR part 219 to implement the changes made to the Flexible Subsidy Program by the 1992 Act (58 FR 64138). This December 6, 1993 final rule included references to the applicability of section 3 and the regulations of part 135 to the Flexible Subsidy Program.

This conforming amendments final rule makes two changes to the amendments made by the December 6, 1939 final rule. The December 6, 1993 final rule included a reference to section 3 and the regulations in part 135 under the requirements applicable to Flexible Subsidy operating assistance. However, section 3, as amended by the 1992 Act, is no longer applicable to Flexible Subsidy operating assistance. Therefore this conforming amendments rule removes this reference. In addition, this conforming amendments rule makes a minor change to the reference to section 3 and the regulations in part 135 under the capital improvement requirements. Section 3 and the regulations in part 135 are applicable to capital improvement assistance, but as the section 3 (part 135) rule provides, this applicability is limited to housing rehabilitation, housing construction and other public construction projects as provided in part 135, and subject to the thresholds provided in part 135. This conforming

amendments final rule clarifies the limited applicability of section 3.

Addition of Conforming Amendment to Part 280

The October 8, 1993 conforming amendment proposed rule inadvertently omitted a conforming amendment to 24 CFR part 280 (Nehemiah Housing Opportunity Grants). Section 280.207 of this part currently contains a reference to section 3 and the part 135 regulations. However, the reference section 3 includes statutory language that has been removed from the 1992 Act amendment to section 3. The conforming amendment made to part 280 by this final rule removes the outdated statutory language.

Removal of Conforming Amendment to Port 700

The October 8, 1993 conforming amendment proposed rule included a conforming amendment for 24 CFR part 700 (Congregate Housing Services Program). This program currently does not provide assistance for housing rehabilitation, housing construction or other public construction projects, which would be extent of coverage by section 3 and the regulations in part 135 for this Housing program. Accordingly, the conforming amendment to part 700 is removed by this final rule. If and when the Congregate Housing Services Program provides assistance for these three types of section 3 covered projects, the regulations in part 700 will be amended to include reference to the applicability of section 3 and the regulations in part 135.

Addition of Conforming Amendment to Part 882, Subpart G

This final rule also includes a conforming amendment to 24 CFR part 882, subpart G. As discussed in the section 3 (part 135) interim rule, the Department has determined that section 3 and the regulations in part 135 are applicable to section 8 project-based assistance that is expended for housing rehabilitation, housing construction, or other public construction project.

Addition of Section Conforming Amendment to Port 905

The October 8, 1993 proposed rule included a conforming amendment to 24 CFR part 905 (Indian Housing Programs), but only in the section of the rule (§ 905.165) which addresses the subject of Indian preference in employment and contracting. The October 8, 1993 inadvertently failed to include a reference to section 3 and the regulations of part 135 in § 905.120, which lists other applicable Federal requirements. This conforming amendments final rule corrects this error.

Section 3 (Part 135) Interim Rule

The Department again points out that the section 3 (part 135) rule published elsewhere in today's edition of the **Federal Register** is being published as an interim rule. The Department received substantial comment on the October 8, 1993 section 3 proposed rule, has made a number of changes to the section 3 regulations as a result of public comment, and seeks additional public comment on the section 3 rule.

III. Other Matters

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and, in so doing, certifies that the rule would not have a significant economic impact on a substantial number of small entities. This final rule makes conforming amendments to various parts in title 24 of the Code of Federal Regulations that include reference (and thus update this reference), or that should include reference to the part 135 regulations.

Environmental Impact

In connection with the development of the section 3 (part 135) proposed rule, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). That Finding of No Significant Impact was applicable to the October 8, 1993 conforming amendments proposed rule, and remains applicable to the section 3 (part 135) interim rule and this conforming amendments final rule. The Finding remains available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Federolism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federolism*, has determined that this rule would not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. The rule simply makes conforming amendments to various parts in 24 CFR that include reference (and thus update this reference), or that should include reference to the part 135 regulations. The part 135 interim rule, published elsewhere in today's **Federal Register** provides, consistent with the section 915 of the 1992 Act, that the preference requirements of section 3 are to be carried out consistent with existing Federal, State, and local laws and regulations.

Impact on the Fomily

The General Counsel, as the Designated Official under Executive Order 12606, *The Fomily*, has determined that this final rule does not have the potential to promote family formation, maintenance, and general well-being, and thus is not subject to review under the order. This final rule simply makes conforming amendments to several parts in 24 CFR to update reference, or include reference to the part 135 regulations. No change in existing HUD policies or programs will result from promulgation of this proposed rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as sequence number 1542 in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20438) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 219

Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 280

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community

development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 574

Community facilities, Disabled, Emergency shelter, Grant programs—health programs, Grant programs—housing and community development, Grant programs—social programs, HIV/AIDS, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 576

Community facilities, Emergency shelter grants, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements.

24 CFR Part 583

Community facilities, Employment, Grant programs—housing and community development, Grant programs—social programs, Handicapped, Homeless, Indians, Mental health programs, Nonprofit organizations, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 882

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 889

Aged, Capital advance programs, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 890

Civil rights, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mental health programs, Reporting and recordkeeping requirements.

24 CFR Part 905

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Lead poisoning, Loan programs—housing and community development, Loan programs—Indians, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 961

Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 963

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, and under the authority of 42 U.S.C. 3535(d), subtitle A and parts 92, 219, 280, 570, 572, 574, 576, 583, 882, 889, 890, 905, 961, and 963 of title 24 of the Code of Federal Regulations, are amended as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. In § 92.350, paragraph (a)(4) introductory text is revised to read as follows:

§ 92.350 Equal opportunity and fair housing.

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135;

* * * * *

3. In § 92.631, a new paragraph (c)(5) is added to read as follows:

§ 92.631 Indian preference.

* * * * *

(c) * * *

(5) *Local area residents.* In accordance with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135, tribes, their contractors and subcontractors, shall make best efforts, consistent with existing Federal, State, and local laws and regulations (including section 7(b) of the Indian Self-Determination and Education Assistance Act), to give low- and very low-income persons the training and employment opportunities generated by section 3 covered assistance (as this term is defined in 24 CFR 135.7), and to give section 3 business concerns the contracting opportunities generated by section 3 covered assistance.

* * * * *

4. Appendix A to subtitle A, is amended by revising the first sentence of paragraph (c)(1) in section 505, to read as follows:

Appendix A to Subtitle A—Hope for Public and Indian Housing Homeownership Program

* * * * *

V. Other Requirements.

* * * * *

Section 505. Nondiscrimination and equal opportunity.

* * * * *

(c) *Employment opportunities.* (1) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C 1701u), and the implementing regulations in 24 CFR part 135 shall apply. * * *

* * * * *

5. Appendix B. to subtitle A is amended by revising the first sentence of paragraph (c)(1) in section 505 to read as follows:

Appendix B to Subtitle A—Hope for Homeownership of Multifamily Units Program

* * * * *

V. Other Requirements.

* * * * *

Section 505. Nondiscrimination and equal opportunity.

* * * * *

(c) *Employment opportunities.* (1) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C 1701u), and the implementing regulations in 24 CFR part 135 shall apply as provided in part 135. * * *

* * * * *

PART 219—FLEXIBLE SUBSIDY PROGRAM FOR TROUBLED PROJECTS

6. The authority citation for part 219 continues to read as follows:

Authority: 12 U.S.C. 1715z-1a; 42 U.S.C. 3535(d).

7. In § 219.210, paragraph (c)(3) is revised to read as follows:

§ 219.210 Application.

* * * * *

(c) * * *

(3) Certification that the applicant will comply with the provisions of the Fair Housing Act (42 U.S.C. 3601–3619), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Executive Orders 11063 (3 CFR, 1958–1963 Comp., p. 652, and 3 CFR, 1980 Comp., p. 307) and 11246 (3 CFR, 1964–1965 Comp., p. 339), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107), and all regulations issued in accordance with these authorities;

* * * * *

8. In § 219.310, paragraph (c)(3) is revised to read as follows:

§ 219.310 Application.

* * * * *

(c) * * *

(3) Certification that the applicant will comply with the provisions of the Fair Housing Act (42 U.S.C. 3601–3619), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Executive Orders 11063 (3 CFR, 1958–1963 Comp., p. 652, and 3 CFR, 1980 Comp., p. 307) and 11246 (3 CFR, 1964–1965 Comp., p. 339), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107), and all regulations issued in accordance with these authorities; and also with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135, as provided in part 135.

* * * * *

PART 280—NEHEMIAH HOUSING OPPORTUNITY GRANTS PROGRAM

9. The authority citation for part 280 continues to read as follows:

Authority: 12 U.S.C. 1715*l* note; 42 U.S.C. 3535(d).

10. In § 280.207, paragraph (a)(4) is revised to read as follows:

§ 280.207 Other Federal requirements.

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701) and the implementing regulations in 24 CFR part 135 shall apply as provided in part 135;

* * * * *

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

11. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300–5320.

12. In § 570.487, a new paragraph (d) is added to read as follows:

§ 570.487 Other applicable laws and related program requirements.

* * * * *

(d) States shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

13. In § 570.607, paragraph (b) is revised to read as follows:

§ 570.607 Employment and contracting opportunities.

* * * * *

(b) Grantees shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

14. The authority citation for part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

15. In § 572.405, paragraph (c)(1) is revised to read as follows:

§ 572.405 Nondiscrimination and equal opportunity requirements.

* * * * *

(c) *Employment opportunities.* (1) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135 shall apply as provided in part 135; and Executive Order 11246 (3 CFR, 1964–1965 Comp., p. 339) (Equal Employment Opportunity) and implementing regulations at 41 CFR part 60.

* * * * *

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

16. The authority citation for part 574 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 12901–12912.

17. In § 574.600, paragraph (c) is revised to read as follows:

§ 574.600 Nondiscrimination and equal opportunity.

* * * * *

(c) *Employment opportunities.* Grantees and project sponsors shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135. Section 3 requires that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

* * * * *

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

18. The authority citation for part 576 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11376.

19. In § 576.79, paragraph (a)(4) is revised to read as follows:

§ 576.79 Other Federal requirements.

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135.

* * * * *

PART 583—SUPPORTIVE HOUSING PROGRAM

20. The authority citation for part 583 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 11389.

21. In § 583.325, paragraph (b)(4) is revised to read as follows:

§ 583.325 Nondiscrimination and equal opportunity requirements.

* * * * *

(b) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135.

* * * * *

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

22. The authority citation for part 882 is revised to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d). Subpart H is also issued under 42 U.S.C. 11361 and 11401.

23. In § 882.713, a new paragraph (c)(11) is added to read as follows:

§ 882.713 Other Federal requirements.

* * * * *

(c) * * *

(11) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135.

* * * * *

PART 889—SUPPORTIVE HOUSING FOR THE ELDERLY

24. The authority citation for part 889 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 3535(d).

25. In § 889.265, paragraph (a)(4) is revised to read as follows:

§ 889.265 Other Federal requirements.

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135 shall apply as provided in part 135.

* * * * *

PART 890—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

26. The authority citation for part 890 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8013.

27. In § 890.260, paragraph (a)(4) is revised to read as follows:

§ 890.260 Other Federal requirements.

(a) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in 24 CFR part 135 shall apply as provided in part 135.

* * * * *

PART 905—INDIAN HOUSING PROGRAMS

28. The authority citation for part 905 is revised to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437a, 1437aa, 1437bb, 1437cc, 1437ee, and 3535(d).

29. In § 905.120, a new paragraph (j) is added to read as follows:

§ 905.120 Compliance with other Federal requirements.

* * * * *

(j) *Economic opportunities for low- and very low-income persons.* IHAs shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the regulations in part 135, as provided in part 135, to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See also 24 CFR 905.165(c)(5).)

30. In § 905.165, paragraph (c)(5) is revised to read as follows:

§ 905.165 Indian preference.

* * * * *

(c) * * *

(5) *Local area residents.* In accordance with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135, IHAs, their contractors and subcontractors, shall make best efforts, consistent with existing Federal, State, and local laws and regulations (including section 7(b) of the Indian Self-Determination and Education Assistance Act), to give low- and very low-income persons the training and employment opportunities generated by section 3 covered assistance (as this term is defined in 24 CFR 135.7) and to give section 3 business concerns the contracting opportunities generated by section 3 covered assistance.

* * * * *

PART 961—PUBLIC HOUSING DRUG ELIMINATION PROGRAM

31. The authority citation for part 961 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 11901 *et seq.*

32. In § 961.29, paragraph (b)(4) is revised to read as follows:

§ 961.29 Other Federal requirements.

* * * * *

(b) * * *

(4) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations in 24 CFR part 135; and

* * * * *

PART 963—PUBLIC HOUSING—CONTRACTING WITH RESIDENT-OWNED BUSINESSES

33. The authority citation for part 963 is revised to read as follows:

Authority: 42 U.S.C. 1437 and 3535(d).

34. In § 963.3, the second sentence is revised to read as follows:

§ 963.3 Applicability.

* * * Public housing contracts eligible to be awarded under the alternative procurement process provided by this part are limited to individual contracts that do not exceed $1,000,000. * * *

35. In § 963.10, paragraph (d) is revised to read as follows:

§ 963.10 Eligible resident-owned businesses.

* * * * *

(d) *Limitation on alternative procurement contract awards.* The business shall submit a certification as to the number of contracts awarded, and the dollar amount of each contract award received, under the alternative procurement process provided by this part. A resident-owned business is not eligible to participate in the alternative procurement process provided by this part if the resident-owned business has received under this process one or more contracts with a total combined dollar value of $1,000,000.

Dated: June 27, 1994.

Henry G. Cisneros,

Secretary.

[FR Doc. 94–15949 Filed 6–29–94; 8:45 am]

BILLING CODE 4210–32–P

Reader Aids

Federal Register

Vol. 59, No. 125

Thursday, June 30, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. 202–275–0920

FAX-ON-DEMAND

The daily Federal Register Table of Contents and the list of documents on public inspection are available on the National Archives fax-on-demand system. You must call from a fax machine. There is no charge for the service except for long distance telephone charges. 301–713–6905

FEDERAL REGISTER PAGES AND DATES, JUNE

28207–28458.....1
28459–28758.....2
28759–29184.....3
29185–29350.....6
29351–29534.....7
29535–29710.....8
29711–29936.....9
29937–30276.....10
30277–30500.....13
30501–30662.....14
30663–30862.....15
30863–31106.....16
31107–31502.....17
31503–31916.....20
31917–32074.....21
32075–32308.....22
32309–32646.....23
32647–32870.....24
32871–33192.....27
33193–33412.....28
33413–33640.....29
33641–33896.....30

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6695.....28459
6696.....28461
6697.....28463
6698.....28757
6699.....30663
6700.....30665
6701.....31101
6702.....32309
6703.....32543

Administrative Orders:
Memorandums:
June 20, 1994.....33413
Presidential Determinations:
No. 94–24 of May 16, 1994.....28759
No. 94–26 of June 2, 1994.....31103
No. 94–27 of June 2, 1994.....31105
No. 94–28 of June 6, 1994.....31107

Executive Orders:
3406 (Revoked in part by PLO 7048).....29661
4257 (Revoked in part by PLO 7056).....29206
8248 (Superseded or revoked in part by EO 12919).....29525
10222 (Superseded or revoked by EO 12919).....29525
10480 (Superseded or revoked by EO 12919).....29525
10647 (Superseded or revoked by EO 12919).....29525
10789 (Amended by EO 12919).....29525
11179 (Superseded or revoked by EO 12919).....29525
11355 (Superseded or revoked by EO 12919).....29525
11790 (Amended by EO 12919).....29525
11912 (Superseded or revoked in part by EO 12919).....29525
11988 (See HUD final rule of June 20).....33198
12148 (Superseded or revoked in part by EO 12919).....29525
12521 (Superseded or revoked by EO 12919).....29525
12649 (Superseded or revoked by EO 12919).....29525
12773 (Superseded or revoked in part by EO 12919).....29525
12775 (See EO 12920 and 12922).....30501, 32645
12779 (See EO 12920 and 12922).....30501, 32645
12853 (See EO 12922).....32645
12864 (Amended by EO 12921).....30667
12872 (See EO 12922).....32645
12914 (See EO 12920 and 12922).....30501, 32645
12914 (See DOT notice of June 24).....32744
12917 (See EO 12920).....30501
12918 (See State Dept. notice of May 27).....28583
12919.....29525
12920 (See EO 12922).....30501, 32645
12921.....30667
12922.....32645

5 CFR

330.....32871
332.....32871
351.....32871
532.....30503
550.....33415
591.....29351
1201.....30863, 31109
1209.....31109
2100.....30669
Ch. XIV.....30503

Proposed Rules:
300.....30717, 32042
532.....30533
870.....31171
871.....31171
872.....31171
873.....31171
874.....31171
890.....31171
1320.....29738

7 CFR

2.....31917
51.....31503
271.....29711
272.....29711, 30864
273.....29711, 30864
275.....29711
276.....29711
278.....29711
279.....29711

658.....31110
723.....28207
801.....31505
911.....29535
915.....30866, 33417
916.....31118
917.....31118
922.....30672
923.....31917
926.....30872
932.....30873
944.....30866
1040.....33418
1627.....33641
1735.....29536
1753.....31120
1755.....30505, 31120
1980.....28465

Proposed Rules:

0.....32138
1.....32138
6.....28495
7.....32138
47.....32138
50.....32138
51.....32138
52.....32138
53.....32138
54.....32138
180.....32138
210.....30218
220.....30218
246.....29549
301.....31561
319.....29557
372.....28814
400.....30533
406.....30536
457.....30537
920.....33451
944.....33451
980.....33451
1137.....33455
1208.....33400
1250.....31174
1530.....28286
1710.....28495
1726.....28924
1942.....30717
1948.....30717
1951.....30717
1980.....30717, 32660

8 CFR

103.....30516

Proposed Rules:

1.....29386
3.....29386
103.....29386
208.....29386
242.....29386

9 CFR

77.....29185, 31921
78.....31922
92.....28214, 29186, 31923
94.....28216, 28218
317.....30875
318.....33641
319.....33641
325.....33641
381.....30875, 33641

Proposed Rules:

53.....33214
71.....33214
82.....33214
91.....31956
92.....33214
94.....31957, 33214
161.....33214
202.....32138
391.....32940

10 CFR

2.....29187
40.....28220

Proposed Rules:

9.....30308
20.....30724
30.....32138
35.....30724
40.....32138
52.....29965
70.....32138
72.....28496, 32138

11 CFR

8.....32311
102.....33643
107.....33606
114.....33606
9008.....33606

12 CFR

27.....31924
34.....29482
201.....29537
208.....28761
225.....29482
323.....29482
327.....29714
412.....31136
545.....29482
563.....29482
564.....29482
574.....28468
701.....29066, 33420
741.....33420

Proposed Rules:

26.....29740
203.....30310
304.....29965
327.....29965
333.....30316
362.....29559
366.....32661
563b.....29480, 29975
567.....30538, 32143
575.....29480, 29975
617.....31562
708.....33702

13 CFR

107.....28471
121.....28231

Proposed Rules:

123.....33456

14 CFR

25.....28234, 28762, 29538, 32050
29.....32050
39.....28475, 28763, 29351, 29353, 29354, 29355, 29540, 30277, 30278, 30282, 30283, 30285, 30673, 31507, 31508, 31512, 31516, 31517, 32325, 32327, 32329, 32331, 32647, 32874, 32875, 32877, 32879, 32881, 32882, 33643, 33644, 33646, 33650
71.....28245, 28449, 28476, 28477, 28478, 29189, 29190, 29542, 29937, 29938, 29939, 29944, 29945, 29946, 29947, 29948, 29949, 30288, 30832, 31518, 32075, 32076, 33421, 33652
91.....29716, 32050
97.....28479, 30675, 30676, 30680, 33422, 33424, 33428
121.....32050
125.....32050
135.....32050, 33602

Proposed Rules:

Ch. I.....29210, 29561, 32668, 32941, 33457
13.....29880
16.....29800
23.....33822
27.....29976
29.....29976, 33598
39.....29210, 29212, 29391, 29744, 29745, 30543, 32144, 33233, 33704
71.....28498, 28499, 29213, 29215, 29562, 30832, 32146, 32669, 33235
91.....31098, 31886
135.....31886
187.....33832
189.....29934

15 CFR

770.....30682
771.....30682, 30684
773.....30684
775.....30682
779.....30684
785.....30684
786.....30684
799.....30684

Proposed Rules:

990.....32148

16 CFR

1014.....32077
1610.....33193

Proposed Rules:

423.....30733
600.....31176
803.....30545
1640.....30735

17 CFR

Proposed Rules:

1.....30885
240.....29393, 29398, 33236
249.....29393, 29398
270.....28286
402.....32155
404.....32155

18 CFR

161.....32885
250.....32884, 32885
284.....29716, 32885

Proposed Rules:

35.....28297
803.....29563
804.....29563
805.....29563

19 CFR

10.....30289
12.....31519, 32902
101.....30289
111.....30289
123.....30289
128.....30289
141.....30289
143.....30289
145.....30289
148.....30289
159.....30289

Proposed Rules:

141.....32942
177.....32942
191.....31177

20 CFR

200.....28764
404.....30389

21 CFR

5.....31138, 33430
16.....29950
73.....28765
101.....28480
131.....32078
176.....33194
178.....33195
270.....29950
341.....29172
346.....28766
347.....28767
510.....28768, 31138, 31139, 33196, 33197
520.....28768, 33196, 33198
522.....31139, 33197
524.....28768, 33196
529.....31139
558.....33196, 33198
821.....31138
1270.....29950
1306.....30832

Proposed Rules:

Ch. I.....29977
333.....31402
352.....29706
369.....31402
600.....28821
601.....28821
606.....28822
607.....28822
610.....28821
640.....28822
660.....28822
810.....30556, 32489
1301.....30555, 30738

22 CFR

123.....29950
124.....29950
126.....29950
220.....28769
222.....28769

23 CFR

657.....30392
658.....30392
660.....30296
710.....30302
712.....30302
713.....30302
720.....30302
1260.....30695

24 CFR

Ch. I.....33362
9.....31036
42.....29326
55.....33198
92.....33890

135.....33866
200.....31521
207.....28246, 31140
213.....28246, 31140
215.....29326, 32648
219.....33890
220.....28246
221.....28246, 29326, 31140
232.....28246
236.....29326, 32648
241.....28246
242.....28246, 31140
244.....28246
280.....33890
291.....29506
510.....29326
570.....33890
572.....33890
574.....33890
576.....33890
583.....33890
813.....32648
850.....29326
881.....29326
882.....29326, 33890
883.....29326
884.....29326
889.....33890
890.....33890
900.....29326
905.....31521, 31927, 33890
913.....32648
941.....29326, 31521
961.....33890
963.....33890
965.....31927
968.....30472, 31521
990.....33652

Proposed Rules:

880.....30557
881.....30557
883.....30557
884.....30557
886.....30557
888.....32492

25 CFR

Proposed Rules:

Ch. I.....33236
256.....30276

26 CFR

1.....30100, 32078, 32903, 32911, 33199, 33431
20.....30100
25.....30100
48.....33656
301.....29356, 29359
602.....29359, 30100, 32078, 33431

Proposed Rules:

1.....30180, 32160, 32670
20.....30180
25.....30180

27 CFR

70.....29366

Proposed Rules:

4.....30560
6.....29215
8.....29215
10.....29215
11.....29215

28 CFR

0.....29717
16.....29717
65.....30520
549.....31882
552.....30468

Proposed Rules:

9.....33457
16.....29747
35.....31808
36.....31808
37.....31808

29 CFR

0.....32610
70.....29900
1910.....33658
1952.....32649
2619.....30698
2647.....33664
2676.....30698
2509.....32606

Proposed Rules:

103.....28501
417.....31056
452.....30834
1910.....28594, 30389, 30560
1915.....30560
1917.....28594, 30389
1918.....28594, 30389
1926.....30560, 32943
1928.....30560
2609.....29661

30 CFR

756.....29719
901.....33664
906.....28248
914.....30875
916.....28769
920.....33666
950.....33669

Proposed Rules:

Ch. II.....28304, 32944
206.....32943
701.....28744
773.....28744
785.....28744
816.....28744
817.....28744
901.....28302
917.....28823
920.....32388
935.....29748
938.....33236
943.....33705

31 CFR

10.....31523
205.....28260
356.....28773
515.....31142
550.....31143

32 CFR

251.....29368
367.....29952
379.....33672
393.....33674
552.....31144
701.....29721
706.....32333, 32334

Proposed Rules:

199.....33465
241.....32670
701.....28304

33 CFR

100.....28775, 30523, 30832, 31529, 31530, 31531, 32650, 33433, 33434, 33674
117.....28776, 28778, 30524, 31931, 32652, 33675
165.....28262, 28263, 28778, 28780, 29368, 29369, 29370, 29371, 30523, 31532, 31533, 31534, 31535, 31536, 31537, 31932, 31933, 31933, 31934, 31935, 31936, 31937, 32652, 32654, 32655, 33200, 33434, 33435, 33678
167.....28499
209.....31146

Proposed Rules:

100.....29403, 31567
117.....28324, 29405, 29406
151.....31959
165.....28824, 30389

34 CFR

21.....32656
75.....30258, 32656
81.....32656
219.....32656
232.....32656
303.....32656
346.....32656
347.....32656
354.....32656
355.....32656
356.....32656
357.....32656
358.....32656
359.....32656
360.....32656
363.....32656
369.....32656
371.....32656
373.....32656, 33679
374.....32656
375.....32656
376.....32656
377.....32656
378.....32656
379.....32656, 33679
380.....32656
381.....32656, 33679
385.....32656, 33679
386.....31060
387.....32656
389.....32656
390.....32656
462.....32656
472.....32656
600.....32081, 32656, 33680
602.....32656
608.....32656
609.....32656
610.....32656
614.....32656
631.....32656
632.....32656
633.....32656
634.....32656
635.....32656
636.....32656
642.....32656
643.....32656
644.....32656
645.....32656
646.....32656, 33680
648.....32656
649.....32656
650.....32656
653.....32656
654.....32656
655.....32656
656.....32656
657.....32656
658.....32656
660.....32656
661.....32656
667.....32656
668.....32656, 33681
669.....32656
671.....32656
674.....32656, 33681
675.....32656, 33681
676.....32656, 33681
682.....32656, 32862, 32922, 33334, 33580, 33681, 33682
685.....32656, 33681
690.....32656, 33681
692.....32656, 33680
693.....32656
698.....32656
776.....32656
777.....32656
778.....32656
779.....32656
785.....32656
786.....32656
787.....32656

Proposed Rules:

Ch. VI.....28502
668.....32264
674.....32264
675.....32264
676.....32264

36 CFR

242.....28922, 29032, 32923
261.....31146
290.....31146
292.....30492
1191.....31676, 32751
1220.....28781
1252.....29191
1254.....29191
1260.....29191

Proposed Rules:

1.....31886
2.....31886
3.....31886
4.....31886
5.....31886
6.....31886
7.....31886

37 CFR

1.....32658
201.....33201
253.....33201
255.....33201
259.....33201

Proposed Rules:

1.....33707
10.....33707

38 CFR

3.....29723, 32658
17.....28264

Proposed Rules:

21.....32671

39 CFR

111.....30701, 32335, 32336
233.....31154
241.....29724
946.....29372
953.....31538

Proposed Rules
Ch. I.....31178
111.....31178, 32165
262.....30739
266.....30739

40 CFR
9.....31306, 31540, 32082, 32339, 32340, 32341
51.....32343
52.....28785, 29730, 29731, 29732, 29953, 29956, 29957, 30302, 30702, 31154, 31544, 31548, 32343, 32353, 32354, 32355, 32360, 32362, 32365, 32370, 33202, 33683
60.....32340
61.....31157
63.....29196
79.....33042
81.....28326, 28480
89.....31306
141.....33860
142.....33860
144.....29958
170.....30264
180.....28482, 29543, 32083, 32084, 33204, 33436, 33437
185.....33684, 33694
260.....28484
261.....31551
264.....29958
268.....31551
270.....29372
271.....29734, 30525, 32377, 32489
272.....30528
280.....29958
281.....29201
302.....31551
372.....33205
710.....30652
721.....29202, 29203, 29204
761.....33696
763.....33208
799.....33184

Proposed Rules:
Ch. I.....29750, 32389
51.....33237
52.....28503, 29977, 30326, 30562, 30564, 30741, 30742, 31568, 31962, 32390, 32392, 32395, 32397, 33240, 33709, 33718
55.....33719
63.....29196, 29750, 32165
70.....31183
81.....29977, 30326, 32397
124.....28680
180.....29576, 30746, 30748, 30750, 32167, 32169, 32170, 32172, 32173, 33240, 33723
185.....32172
260.....31568
261.....31568
262.....31568
264.....28504, 31568
265.....28504, 31568
266.....31964
268.....31568
270.....28504, 28680, 31568
271.....28504
273.....31568
280.....30448
281.....30448
300.....30752, 32673
372.....29252
435.....31186
455.....30753
721.....29255, 29258
799.....33187

41 CFR
128–1.....33439

Proposed Rules:
101–6.....33724

42 CFR
405.....32086
412.....30389, 32378
489.....32086
1003.....32086

Proposed Rules:
50.....33242
410.....32754
412.....31303
413.....29578, 31303
414.....32754
435.....31569
436.....31569
482.....31303
485.....31303
489.....31303

43 CFR
1720.....29205
2070.....29205
2510.....29205
4700.....28275
8350.....29205

Proposed Rules:
11.....32175
426.....33251

Public Land Orders:
1800 (Revoked in part by PLO 7062).....28791
7048.....29661
7056.....29206
7057.....28788
7058.....28789
7059.....28789
7060.....28790
7061.....29545
7062.....28791
7063.....29544
7066.....33697

Proposed Rules:
3160.....29407

44 CFR
64.....30705
65.....28484, 28485, 32127, 32128, 33439, 33441
67.....32130, 33442

Proposed Rules
67.....28505

45 CFR
46.....28276
95.....30707
205.....30707
2525.....30709
2526.....30709
2527.....30709
2528.....30709
2529.....30709

Proposed Rules:
94.....33242
1607.....30885

46 CFR
12.....28791
16.....28791

Proposed Rules:
40.....29259
67.....31580
154.....29259
502.....31584
540.....30567

47 CFR
0.....30984, 32131
1.....30984, 31009, 32489
2.....32830
15.....32830
24.....32830
61.....32925
64.....32925
69.....32925
73.....29272, 29273, 31161, 31162, 31552, 32133
74.....31552
90.....30304, 31557

Proposed Rules:
Ch. I.....33483
2.....31966
22.....30890, 31186
61.....30754
64.....30754
69.....30754
73.....29408, 30331, 30891, 32176, 32177, 32945

48 CFR
516.....32383
533.....29480
552.....32383
701.....33444
702.....33444
703.....33444
706.....33444
710.....33444
715.....33444
724.....33444
725.....33444
728.....33444
737.....33444
749.....33444
750.....33444
752.....33444
753.....33444
Appendix H.....33444
1501.....32133
1801.....29960
1802.....29960
1804.....29960
1805.....29960
1807.....29960, 29962
1809.....29960
1810.....29962
1815.....29960
1822.....29960
1823.....29960
1825.....29960
1839.....29960
1843.....29963
1852.....29960, 29963

Proposed Rules:
7.....29696
10.....29696
37.....29696
211.....31584, 33253
215.....31189
227.....31584, 33253
245.....28327
252.....28327, 31584, 33253
546.....32405
552.....32405
1601.....28487
1602.....28487
1609.....28487
1615.....28487
1632.....28487
1642.....28487
1646.....28487
1652.....28487
1831.....33254
1852.....33254

49 CFR
1.....32134
107.....30530, 32930
171.....28487
172.....28487, 30530, 31822
173.....28487
174.....28487
176.....30530
178.....28487
179.....28487
195.....29379, 33388
214.....30879
541.....31162
591.....31558
592.....31558
826.....30531

Proposed Rules:
27.....31818
37.....31818
192.....30567
194.....30755, 32178
195.....30567
571.....30756
575.....33254
1002.....29586
1023.....32178

50 CFR
14.....33211
17.....30254, 31094, 32932
100.....28922, 29032
216.....30305, 31165
217.....29545
222.....31094
226.....28793, 30715
227.....29545, 33447, 33697
229.....31165
301.....29207, 30307, 33699, 33700
625.....28809, 29207
630.....32136
638.....32938
649.....31938
651.....32134
661.....31170
663.....29736, 33700
671.....28276
672.....28811, 29208, 29548, 33212
675.....28811, 29208, 29737, 29964, 30307, 32385, 32386
676.....28281
678.....33450
685.....28499

Proposed Rules:
Ch. II.....28838
15.....28826
17.....28328, 28329, 28508, 29778, 31620, 31970, 32178, 32946, 33484, 33724
20.....29700
22.....30892
285.....30896, 31621
630.....29779
641.....30389

642.....28330
644.....30903
671 28827
672.....28827
675.....28827
676.....28827, 31189, 33272

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 21, 1994

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example*:

A renewal notice will be sent approximately 90 days before this date.

```
AFR  SMITH212J                DEC94 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20747
```

A renewal notice will be sent approximately 90 days before this date.

```
AFRDO  SMITH212J              DEC94 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20747
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9375.

To order a new subscription: Please use the order form provided below.

Order Processing Code: * 5468

Superintendent of Documents Subscription Order Form

Charge your order. It's easy!

To fax your orders (202) 512–2233

☐ **YES,** please enter my subscriptions as follows:

____ subscriptions to **Federal Register** (FR); *including* the daily Federal Register, monthly Index and LSA List of Code of Federal Regulations Sections Affected, at $490 ($612.50 foreign) each per year.

____ subscriptions to **Federal Register,** *daily only* (FRDO), at $444 ($555 foreign) each per year.

The total cost of my order is $_____. (Includes regular shipping and handling.) Price subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, Zip code

Daytime phone including area code

Purchase order number (optional)

For privacy, check box below:
☐ Do not make my name available to other mailers

Check method of payment:
☐ Check payable to Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard ☐☐☐☐ (expiration date)

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

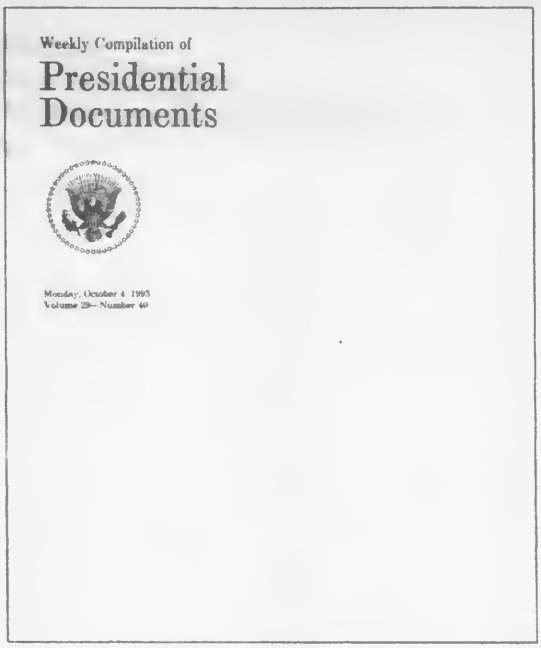
Thank you for your order!

Authorizing signature 1/94

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published periodically. Other features include lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents Subscription Order Form

Order Processing Code:
* **5420**

Charge your order. It's easy!

To fax your orders (202) 512–2233

☐ **YES,** please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

❑ $103 First Class Mail ❑ $65 Regular Mail

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change. International customers please add 25%.

_____
(Company or personal name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, Zip code)

_____
(Daytime phone including area code)

_____
(Purchase order no.)

For privacy, check box below:
❑ Do not make my name available to other mailers

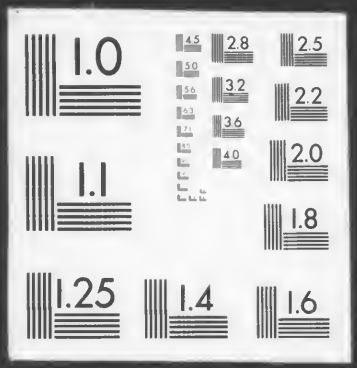
Check method of payment:
❑ Check payable to Superintendent of Documents
❑ GPO Deposit Account ☐☐☐☐☐☐☐–☐
❑ VISA ❑ MasterCard ☐☐☐☐ (expiration)
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Authorizing signature) 1/94

Thank you for your order!

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Printed on recycled paper


1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0
5.6
6.3
7.1
8.0
9.0