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Vol. 56 No. 208

federal register

Monday
October 28, 1991

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

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.

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Problems with Federal agency subscriptions	523–5243

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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

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

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to northwest corner of 11th and L Streets

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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.

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.

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Presidential Documents

Title 3—

The President

Proclamation 6363 of October 23, 1991

Community Center Month, 1991

By the President of the United States of America

A Proclamation

During the travels that inspired his acclaimed work, *Democracy in America*, Alexis de Tocqueville was deeply impressed by the American tradition of neighbor helping neighbor. "What political power," he asked admiringly, "could ever carry on the vast multitude of lesser undertakings which the American citizens perform every day, with the assistance of the principle of association?" More than a tribute to the generosity of this country's people, his words also contained a telling observation about the blessings of freedom—including our freedom of assembly.

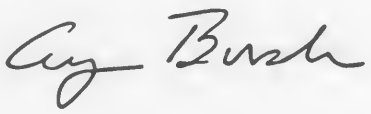
The American traditions of voluntary association and service continue to thrive today. In many ways, they are embodied by this Nation's bustling community centers. Offering a wide range of cultural, social, and recreational activities and services, these local institutions have been gathering places for people of all ages and all walks of life. By the turn of this century, community centers had become a haven for thousands of immigrants, who sought help learning English and adjusting to life in the United States. Now in their second century of service, community centers continue to offer the American people valuable assistance programs as well as rewarding opportunities for personal enrichment.

This month, as we recognize the importance of our Nation's community centers, we also salute the many dedicated professionals and volunteers who make them work. These Americans are brilliant Points of Light whose efforts are making a real difference in the neighborhoods, cities, and towns in which they live.

The Congress, by Public Law 101–587, has designated the month of October 1991 as "Community Center Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 1991 as Community Center Month. I invite all Americans to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91–26055
Filed 10–24–91; 2:23 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 6364 of October 24, 1991

National Breast Cancer Awareness Month, 1991

By the President of the United States of America

A Proclamation

Despite all we have learned about prevention, despite all of the advances that have been made in its diagnosis and treatment, breast cancer continues to kill thousands of American women each year. Stopping this tragic loss of life will require continued research as well as the sustained cooperation of scientists, health care professionals, educators, insurance providers, individual women, and other concerned Americans.

According to the American Cancer Society, women in the United States have never been at greater risk for breast cancer: an estimated one in nine women will develop the disease at some point in their lives. Fortunately, however, scientists across the country also note that much progress has been made in controlling breast cancer. Better and earlier treatment has helped more and more women who have contracted breast cancer to survive the disease.

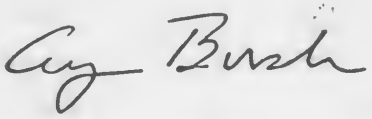
Today we continue to rely on basic research to identify and develop improved means of preventing, diagnosing, and treating breast cancer. However, the knowledge yielded by basic research is only as helpful as our willingness and our ability to use it. If women are to benefit from advances in the diagnosis of breast cancer—and if physicians are to succeed with early intervention and treatment—then regular screenings for the disease are vital. Some scientists estimate that mortality from breast cancer could be reduced by almost one-third if women obtained mammograms as often as recommended by the National Cancer Institute. Women between the ages of 40 and 50 should have a mammogram every 1 to 2 years, and women over the age of 50 should have a mammogram annually. Screening mammography helps doctors to detect breast cancer at its earliest and most treatable stages. Women whose breast cancer is detected early also have more options to choose from when making crucial decisions about treatment.

During the past decade, we have welcomed many advances in the treatment of breast cancer, and more are on the horizon. The National Cancer Institute alone is supporting more than 70 breast cancer treatment studies at hospitals across the country. Pharmaceutical companies, academic institutions, and other organizations are funding additional studies. This month, we recognize the many dedicated women and men who are using their knowledge and skills to enhance our understanding of breast cancer; we salute the business owners who have provided breast cancer screening for employees; and we applaud the courage of the many women who have made public their experiences in dealing with breast cancer, thereby helping other victims.

To enhance public awareness of breast cancer and the importance of regular screenings for the disease, the Congress, by Senate Joint Resolution 95, has designated the month of October 1991 as "National Breast Cancer Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1991 as National Breast Cancer Awareness Month. I also ask health care professionals, insurance providers, and employers—indeed, all Americans—to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-26106
Filed 10-25-91; 10:35 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 56, No. 208
Monday, October 28, 1991

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 841

Federal Employees Retirement System—General Administration; Government Costs

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is updating the table of normal cost percentages that Federal agencies pay to finance the Federal Employees Retirement System (FERS). This regulation is necessary for the table to reflect the changes in the rates that are effective in October 1991.

EFFECTIVE DATE: November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On August 31, 1990, OPM published in the Federal Register a notice changing the normal cost percentages effective in October 1991. Subpart D of part 841 of title 5, Code of Federal Regulations, contains the methodology that OPM uses to determine the rates that agencies must pay to fund the cost of the Federal Employees Retirement System (FERS) and the procedures that OPM must follow to change the rates. Under those procedures, OPM must publish a notice of changes in the rates at least 3 months before the beginning of the fiscal year in which the new rates become effective.

Appendix A to subpart D of part 841 contains a table of the normal cost percentages. This table has no regulatory effect. It merely provides information about the rates. This final rule amends that table to reflect the rates that will become effective in October 1991.

Under section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. Notice of proposed rulemaking is unnecessary because this final rule merely provides information and has no regulatory effect.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only provides information about the rate of payment by Federal agencies to OPM for the normal cost of their employees' FERS benefits.

List of Subjects in 5 CFR Part 841

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending part 841 of title 5, Code of Federal Regulations, as follows.

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

1. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106, also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; § 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; subpart H also issued under 5 U.S.C. 1104.

Subpart D—Government Costs

2. Appendix A to subpart D of part 841 is revised to read as follows:

APPENDIX A TO SUBPART D OF PART 841—TABLE OF NORMAL COST PERCENTAGES

Category of employees	Government-wide normal cost percentages effective at the beginning of the first pay period commencing on or after—		
	January 1, 1987 (percent)	October 1, 1987 (percent)	October 1, 1991 (percent)
Members	23.5	20.9	20.8
Congressional employees	23.8	20.2	20.1
Law enforcement officers, firefighters, and employees under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees	31.2	26.7	28.6
Air traffic controllers	33.3	28.4	26.2
Military reserve technicians	16.0	13.7	13.3
Employees under section 303 of the Central Intelligence Agency Act of 1964 for Certain Employees when serving abroad	22.8	19.0	19.1
All other employees	16.1	13.8	13.7

All normal cost percentages in the above table include employee contributions.

[FR Doc. 91-25801 Filed 10-25-91; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221, and 224

Regulations G, T, U, and X; Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is comprised of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) represents foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to or deletions from the previous OTC List and deletions from the previous Foreign List. Both Lists were published on July 29, 1991 (56 FR 35805) and effective on August 12, 1991.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to or deletions from the OTC List. This supersedes the last OTC List which was effective August 12, 1991. Additions and deletions to the OTC List were last published on July 29, 1991 (56 FR 35805). A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated under a Securities and Exchange Commission (SEC) rule as qualified for trading in the national market system (NMS security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the Board and the SEC and will be incorporated into the Board's next quarterly publication of the OTC List.

Also listed below is the one deletion from the Foreign List. There are no new additions to the Board's Foreign List, which was last published July 29, 1991 (56 FR 35805) and effective August 12, 1991. Stocks on the Foreign List are eligible for margin treatment at broker-dealers pursuant to a 1990 amendment to Regulation T (12 CFR part 220). The Foreign List includes those stocks that meet the criteria in Regulation T and are eligible for margin at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6 (a) and (b), 220.17 (a), (b), (c), and (d), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6(c) (Regulation G), 12 CFR 220.2(u) and 220.17(e) (Regulation T), and 12 CFR 221.2(j) and 221.7(c) (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List, and the one deletion from the Foreign List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Artel Communications Corporation
Rights (expire 07-25-91)
Bankeast Corporation
$1.00 par common
Cenvest, Inc.
$.01 par common
Checkrobot, Inc.
$.01 par common
Cherne Medical, Inc.
No par common
Child World, Inc.
$.10 par common
City Resources (Canada) Ltd.
No par common
Communications Transmission, Inc.
$.01 par common
Concurrent Computer Corporation
$.01 par common
CPC-Rexcel, Inc.
$.01 par common
Cutco Industries, Inc.
$.10 par common
Damon Group Inc.
$.01 par common
Elcotel, Inc.
$.01 par common

Farm & Home Financial Corporation
13% Series A, cumulative exchangeable preferred
First Financial Management Corp.
7% convertible subordinated debentures
GTE California Inc.
5% cumulative preferred
Guaranty Bancshares Corporation
No par common
Homestead Holding Corporation
$1.00 par common
Insituform Group Limited
Warrants (expire 09–28–91)
Invg Mortgage Securities Corp.
$.01 par common
Invitron Corporation
$.02 par common
Jetborne International, Inc.
$.01 par common
Kinder-Care Learning Centers, Inc.
$.01 par common
Landmark Bank for Savings (Massachusetts)
$.10 par common
Laser Corporation
$.01 par common
Laurel Savings Association (Pennsylvania)
$1.00 par common
LDB Corporation
$5.00 par common
Margo Nursery Farms, Inc.
$0.01 par common
MLX Corp.
$.01 par common
North American Savings Bank (Missouri)
$1.00 par common
Numerica Financial Corporation
$.10 par common
Old Fashion Foods, Inc.
$.20 par common
Perpetual Financial Corporation
$.01 par common, Series A, cumulative convertible preferred
Personal Diagnostics, Inc.
$.01 par common
PSH Master L.P. I
Units of limited partnership interest
Response Technologies, Inc.
Series A, $1.00 par convertible preferred
Robotic Vision Systems, Inc.
$.01 par common
Ross Industries, Inc.
$1.00 par common
Royal Gold, Inc.
$.01 par common
SSMC, Inc. N.V.
15% Series B cumulative preferred
Stake Technology Ltd.
No par common
Suffield Financial Corporation
$1.00 par common
Tinsley Laboratories, Inc.
No par common
Unity Healthcare Holding Co., Inc.
$.01 par common
Victoria Creations, Inc.
No par common
Viejo Bancorporation
No par common
Williams, A.L., Corporation
7.25% convertible subordinated debentures

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

20th Century Industries
No par common
ADT Limited
American Depositary Receipts
Black Industries, Inc.
$1.00 par common
Carrington Laboratories, Inc.
$.01 par common
Cellular Communications, Inc.
$.01 par common
Centurion Gold Ltd.
No par common
Courier Dispatch Group, Inc.
$.001 par common
Del Taco Restaurants, Inc.
$.01 par common
Fabricland, Inc.
No par common
FNW Bancorp, Inc.
No par common
Graphic Scanning Corp.
$.01 par common
Hi-Lo Automotive, Inc.
$.01 par common
Home and City Savings Bank (New York)
$1.00 par common
IMCO Recycling Inc.
$.10 par common
Inacomp Computer Centers, Inc.
$.05 par common
Infotron Systems Corporation
$.01 par common
Intermec Corporation
$.60 par common
Nutmeg Industries, Inc.
$.01 par common
Readicare, Inc.
$.01 par common
Shirt Shed, Inc., The
$.01 par common
Southern National Corporation
$5.00 par common
U.S. Precious Metals, Inc.
No par common
United Healthcare Corporation
$.01 par common
Vanfed Bancorp
$1.00 par common
Vanguard Real Estate Fund I, a Sales Commission-Free Income Properties Fund
Shares of beneficial interest
Vanguard Real Estate Fund II
No par shares of beneficial interest
Ventrex Laboratories, Inc.
$.01 par common
Weigh-Tronix, Inc.
$.01 par common
Ziegler Company, Inc., The
$1.00 par common

Additions to the List of Marginable OTC Stocks

AG Services of America, Inc.
No par common
Alexander Energy Corporation
$.03 par common
Alkermes, Inc.
$.01 par common
American Healthcorp, Inc.
$.001 par common
Amerifed Financial Corporation
$.01 par common
Anergen, Inc.
No par common
Aphton Corp.
No par common
Artisoft, Inc.
$.01 par common
Biomatrix, Inc.
$.001 par common
BMC West Corporation
$.001 par common
Body Drama, Inc.
No par common
Bon-Ton Stores, Inc., The
$.01 par common
CAP RX Ltd.
$.002 par common Class A, warrants (expire 07–17–95)
Capital Bancorporation, Inc. (Missouri)
$.10 par common
Catherines Stores Corporation
$.01 par common
CCC Franchising Corp.
$.01 par common
CE Software Holdings, Inc.
$.02 par common
Cellpro, Incorporated
$.001 par common
Cellular Communications, Inc.
$.01 par redeemable participating convertible preferred
Centigram Communications Corporation
$.001 par common
Charter Golf, Inc.
$.001 par common
Circle Financial Corporation
$1.00 par common
Community Bancorp, Inc. (New York)
$.80 par common
Community Financial Corporation
$.01 par common
Community First Bankshares, Inc. (North Dakota)
$.01 par common
Computer Network Technology Corporation
$.01 par common
Computer Telephone Corp.
Class I, $.01 par common
Cybernetics Products, Inc.
$.01 par common
Dianon Systems, Inc.
$.01 par common

DNA Plant Technology Corporation
$.01 par convertible exchangeable preferred
Electromedics, Inc.
$.05 par common
Environmental Services of America, Inc.
$.02 par common
Executive Telecard, Ltd.
$.001 par common
Ezcorp, Inc.
Class A, non-voting, $.01 par common
Financial Industries Corporation
$1.00 par common
Fisher Imaging Corporation
$.01 par common
Genetic Therapy, Inc.
$.01 par common
Genetics Institute, Inc.
Warrants (expire 05–31–96)
GMIS Inc.
$.01 par common
Government Technology Services, Inc.
$.005 par common
Grand Casinos, Inc.
$.01 par common
Grant Tensor Geophysical Corporation
$.01 par convertible preferred
Great Lakes Bancorp, a Federal Savings Bank (Michigan)
No par convertible preferred
Hauser Chemical Research, Inc.
$.001 par common
Holopak Technologies, Inc.
$.01 par common
Humphrey, Inc.
No par common
Hycor Biomedical, Inc.
Warrants (expire 08–07–98)
IDEC Pharmaceuticals Corporation
No par common
Infrasonics, Inc.
No par common
Intergroup Healthcare Corporation
$.001 par common
Interneuron Pharmaceuticals, Inc.
$.001 par common Class A, warrants (expire 03–08–95)
Interstate Bakeries Corporation
$.01 par common
Irwin Financial Corporation
$5.00 par common
Jean Philippe Fragrances, Inc.
$.001 par common Warrants (expire 01–15–93)
Koll Management Services, Inc.
$.01 par common
Kushner-Locke Company, The
No par common Warrants (expire 03–20–96)
Laser-Pacific Media Corporation
$.0001 par common
Lawyers Title Corporation
No par common
Little Switzerland, Inc.
$.01 par common
Liuski International, Inc.
$.01 par common
Magic Software Enterprises Ltd.
Ordinary shares, NIS .1 par value
Medaphis Corporation
$.01 par common
Medical Dynamics, Inc.
$.001 par common
Medicus Systems Corporation
$.01 par common
Mediplex Group, Inc., The
$.10 par common
Megacards, Inc.
$.01 par common
Meris Laboratories, Inc.
No par common
Michaels Stores, Inc.
$.10 par common
Micronics Computers, Inc.
No par common
Microprose, Inc.
$.001 par common
Mobley Environmental Services, Inc.
Class A, $.01 par common
Moleculon Biotech, Inc.
$.01 par common
Monro Muffler Brake, Inc.
$.01 par common
Mutual Assurance, Inc.
$1.00 par common
NAB Asset Corporation
$.01 par common
NAM TAI Electronics, Inc.
$.02 par common
National Beverage Corporation
$.01 par common
National Pizza Company
Class B, $.01 par common
Newpark Resources, Inc.
$.01 par common
NMR of America, Inc.
$.01 par common
Nutramax Products, Inc.
$.001 par common
Nview Corporation
No par common
OCOM Corporation
$.01 par common
Omni Films International, Inc.
$.01 par common
Osteotech, Inc.
$.01 par common
Oxford Health Plans, Inc.
$.01 par common
Paging Network, Inc.
$.01 par common
Pharmchem Laboratories, Inc.
No par common
Photographic Sciences Corporation
$.01 par common
Progress Software Corporation
$.01 par common
R–TEK Corporation
No par common
Relife, Inc.
Class A, $.01 par common
Right Start, Inc., The
No par common
Ringer Corporation
$.01 par common
Rogers Cantel Mobile Communications Inc.
Class B, no par subordinated voting shares
Royal Appliance Mfg. Co.
No par common
Salton/Maxim Housewares, Inc.
$.01 par common
Scigenics, Inc.
$.01 par callable common
Secom General Corporation
$.10 par common
Sepracor, Inc.
$.10 par common
Siskon Gold Corporation
Class A, $.001 par common
Somatogen, Inc.
$.001 par common
Southwest Securities Group, Inc.
$.10 par common
Special Devices, Incorporated
$.01 par common
State Bancorp, Inc.
$5.00 par common
Stewart Enterprises, Inc.
Class A, no par common
Sun Television & Appliances, Inc.
$.01 par common
Super Rite Corporation
No par common
Sybase, Inc.
$.001 par common
Systemix, Inc.
$.01 par common
Techne Corporation
$.01 par common
Technology Solutions Company
$.01 par common
Tecnol Medical Products, Inc.
$.001 par common
Teknekron Communications Systems, Inc.
$.0067 par common
Treadco, Inc.
$.01 par common
U.S. Robotics, Inc.
$.01 par common
Valley Systems, Inc.
$.01 par common
Vans, Inc.
$.001 par common
Vertex Pharmaceuticals Incorporated
$.01 par common
Video Lottery Technologies, Inc.
$.01 par common
Wellfleet Communications, Inc.
$.01 par common
Whitney Holding Corporation
No par common
With Design in Mind
$.0001 par common
Work Recovery, Inc.
$.004 par common
Zebra Technologies Corporation
Class A, $.01 par common
Zoom Telephonics, Inc.
No par common

Deletion From the List of Foreign Margin Stocks

STC PLC
25 pence par common

By order of the Board of Governors of the Federal Reserve System, acting by its Staff Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), October 22, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-25841 Filed 10-25-91; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 108 and 120

Development Companies and Business Loans

AGENCY: Small Business Administration.

ACTION: Notice of final rulemaking.

SUMMARY: Ordinarily, concerns primarily engaged in financing investments that are neither related nor essential to their operations are ineligible for SBA financial assistance. Thus, as a general rule, a small business concern applicant for assistance which is engaged in owning and leasing or proposing to own or lease real or personal property (holding company) to an otherwise eligible small business concern (operating company) is ineligible. See 13 CFR 120.101-2(e) and 13 CFR 108.8(d). As an exception to that rule, SBA instituted an "alter ego rule." The "alter ego rule" presently permits holding companies to be eligible for SBA assistance if several qualifications are met. Among those qualifications is ownership by the same owners in the same proportion of the ownership interest in the holding company and the operating company.

In 1988, a statutory amendment revised this requirement for complete identity of ownership of the holding company and operating company in cases involving family-owned businesses. See section 114 of Public Law 100-590, November 3, 1988. That amendment relaxed the requirement for identity both as to owners and their proportion of ownership when certain named family members have ownership interests in the operating concern and the holding company. SBA is hereby revising the regulations which implement that statutory amendment.

EFFECTIVE DATE: October 28, 1991. Comments will be accepted following the date of publication of this Notice.

ADDRESSES: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION: Charles R. Hertzberg (202) 205-6497.

SUPPLEMENTARY INFORMATION: Ordinarily, concerns primarily engaged in financing investments that are neither related nor essential to their operations are ineligible for SBA financial assistance. Thus, as a general rule, a small business concern applicant for assistance which is engaged in owning and leasing or proposing to own or lease real or personal property (holding company) to an otherwise eligible small business concern (operating company) is ineligible, and the operating concern is ineligible as well. See 13 CFR 120.101-2(e) and 13 CFR 108.8(d). As an exception to that rule, SBA instituted an "alter ego rule." The "alter ego rule" presently permits a holding company to be eligible for SBA assistance if there is identity of ownership by the same owners in the same proportion of the ownership interest in the holding company and the operating company.

In 1988, a statutory amendment revised this requirement for identity of ownership of the holding company and operating company in cases involving family-owned businesses. See section 114 of Public Law 100-590, November 3, 1988. That amendment relaxed the requirement for identity of interest both as to owners and their proportion of ownership when certain named family members have ownership interests in the operating concern and the holding company. SBA is hereby revising the regulations which implement that statutory amendment.

SBA's present regulation implementing the statutory amendment states in relevant part that:

> SBA shall not decline a loan or a guaranty to an applicant when the ownership interests in the operating small concern and in such applicant holding company are not identical and not in the same proportion solely because one or more of the following members of the same family have such interest or interests in one and/or the other: Father, mother, son, daughter, wife, husband, brother or sister. In each such case, SBA shall make a determination that such ownership, such guaranty and the proceeds of such loan will substantially benefit the operating small concern.

Heretofore, SBA has interpreted this regulatory language to require that the exception be applied to only one person's (a focal point) family members. Thus, we have found identity of ownership to exist if one or more of the stated family members of an individual owner of the operating concern or holding company have all of the remaining ownership interests in the operating concern or holding company. We have been presented with a number of arguments that such a view is too narrow, and therefore does not implement the intent of the statutory exception which is to permit nonidentical ownership in the context of a family-owned business. Those arguments have been based on the position that reference to the family of a single focal point is insufficient to satisfy the statutory intent.

Therefore, on May 3, 1991, SBA by publication of a proposed rule (56 FR 26381), proposed to broaden the scope of its interpretation of the statutory exception. Under this proposal, SBA would have required individual enumerated family members (father, mother, son, daughter, wife, husband, brother or sister) to own no less than 20 percent of the ownership interest in the operating concern, and that these enumerated family members own at least 80 percent of the aggregate ownership of the operating concern. If these requirements were met, any other enumerated family member of those owners could have an ownership interest in the applicant holding company without violating the requirement for identity of ownership. Under this proposal, one or more non-family members could own the remaining 20 percent interest in the applicant concern only if their ownership in the operating concern was identical and in the same proportion. This latter element of the proposal recognized the possibility of ownership by key people in an otherwise family-owned business.

Thus, under the proposed rule, as many as five individual people who are related in the same manner described in the statute could own as little as 20 percent interest each in the operating concern. In that case, any of their enumerated relatives could own interests in the holding company applicant without harming the applicant's eligibility status. In addition, as many as four individuals who are related in the manner described in the statute could own interests of 20 percent in the operating concern, up to 80 percent, and a key person or key people could own the remaining 20 percent interest. So long as statutorily named family members of the 80 percent family owners owned 80 percent of the holding company, and the key person or people owned the remaining 20 percent in the exact same proportions as their ownership in the operating concern, the eligibility of the applicant holding company would not be harmed.

SBA received two comments on this proposal. The comments generally expressed concern that the proposed regulation was too complicated to permit easy interpretation. SBA staff also expressed the same concern. Therefore, SBA is revising the proposal to make it easier to administer. Under the final rule, so long as no less than 80 percent of the holding company is owned by statutorily enumerated relatives in any proportion, and no less than 80 percent of the operating concern is held by their statutorily enumerated relatives in any proportion, and the remaining no more than 20 percent of each is owned by a key person (or persons) in exact proportion, the "alter ego rule" will be satisfied. Thus, under this final rule a key person will be permitted ownership but the ownership must be in exact proportion in each concern.

The following is just one eligible example where the business is owned by enumerated family members and others:

Owner	% of Holding Company		% of Operating
Father	50		0
Mother	0		20
Son 1	15	Any combination	0
Son 2	15		50
Son of Son 2	0		10
Key Manager	15	Mirror Image	15
1st cousin of father	5		5
	100		100

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. SBA certifies that this rule will not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more. While the rule is intended to make eligible for financial assistance more businesses, it is reasonable to assume that SBA will not be requested to process a disproportionate number of additional applications for assistance. In addition, it will partially relieve only one restriction on eligibility. An applicant would still have to comply with all other requirements in order to qualify for assistance.

The rule does not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This rule does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects

13 CFR Part 108

Loan programs—businesses; Loans to State and Local Development Companies.

13 CFR Part 120

Loan programs/businesses; Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends parts 108 and 120, chapter I, title 13, Code of Federal Regulations, as follows:

PART 108—[AMENDED]

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697, 697a, 697b, 697c.

§ 108.8 [Amended]

2. Section 108.8(d)(4) is revised to read as follows:

* * * * *

(d) * * *

(4) The ownership interest(s) in the applicant (holding company) shall be completely identical with and in the same proportion as the ownership interest(s) in such operating small concern, and this identity of interests shall remain unchanged until the section 502 loan or 503/504 loan is repaid in full or if SBA sooner gives approval to a change: *Provided, however,* That SBA shall not decline to issue a guarantee to an applicant when the equitable ownership interests in the operating small concern (whether or not incorporated) and in such applicant are not identical and in the same proportion solely because one or more of the following enumerated members of the same family have such interest or interests in one and [or] the other: father, mother, son, daughter, wife, husband, brother, or sister. In this regard, if enumerated family members hold no less than 80 percent in the aggregate of such ownership interest of the holding company, any enumerated family member of these individuals may be considered an eligible owner of the operating concern under the provision of this section provided that such enumerated family members own no less than 80 percent of the equitable ownership interest of the operating concern: *Provided further, however,* That an unrelated individual (or individuals) who own(s) up to 20 percent of an ownership interest in both the operating small concern and the holding company in the same proportion may also be considered an eligible owner of the applicant. In each case of the application of this exception to the general rule, SBA shall make a determination that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the operating small concern.

* * * * *

PART 120—[AMENDED]

3. The authority citation for part 120 continues to read as follows:

Authority: 5 U.S.C. 634(b)(6) and 636(a) and (h).

§ 120.101-2 [Amended]

4. Section 120.101-2(e)(5) is revised to read as follows:

* * * * *

(e) * * *

(5) The ownership interest(s) in the applicant shall be completely identical with and in the same proportion as the ownership interest(s) in such operating small concern, and this identity of interests shall remain unchanged until the loan is repaid in full or if SBA

sooner gives approval to a change: *Provided, however*, That SBA shall not decline to issue a guarantee to an applicant when the equitable ownership interests in the operating small concern (whether or not incorporated) and in the holding company are not identical and in the same proportion solely because one or more of the following enumerated members of the same family have such interest or interests in one and [or] the other: father, mother, son, daughter, wife, husband, brother, or sister. In this regard, if enumerated family members hold no less than 80 percent in the aggregate, of such ownership interest of the holding company, any other enumerated family member of these individuals may be considered an eligible owner of the operating concern under the provisions of this section provided such enumerated family members own no less than 80 percent of the equitable ownership interest of the operating concern: *Provided further, however*, That an unrelated individual or individuals who own(s) up to 20 percent of an ownership interest in both the operating small concern and the holding company in the same proportion may also be considered an eligible owner of the applicant. In each case of the application of this exception to the general rule, SBA shall make a determination that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the operating small concern.

* * * * *

Dated: September 12, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-25885 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 305

[Docket No. 910922-1222]

Variance in Cost of Grant Projects

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Affirmation of interim rule.

SUMMARY: This rule adopts, as final, the Economic Development Administration's (EDA) interim regulation at 13 CFR 305.89 "Variance in cost of grant projects." This rule conforms language to long-standing grant award terms and conditions to provide that EDA will pay the grant rate percentage or the stated dollar amount, whichever is less, but in no event will the grant rate percentage be exceeded.

EFFECTIVE DATE: November 27, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph M. Levine, Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, room 7001, 14th Street between Constitution and Pennsylvania Avenues, Washington, DC 20230, (202) 377-4687.

SUPPLEMENTARY INFORMATION: On November 27, 1990, EDA published an interim rule on variance in cost of grant projects (55 FR 49251) and allowed interested persons 60 days to comment. No comments were received. EDA is adopting, as a final rule, 13 CFR part 305 "Public Works and Development Facilities Program" at § 305.89 "Variance in cost of grant projects".

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

Since a notice and opportunity for comment are not required to be given for the rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511). This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 13 CFR Part 305

Community development, Community facilities, Grant program—community development, Indians, loan programs—community development.

Under authority of section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, Department of Commerce Organization Order 10-4, as amended (40 FR 56702 as amended), the interim regulation amending 13 CFR part 305 which was published November 27, 1990, (55 FR 49251) is adopted as final without changes.

Dated: October 17, 1991.

Douglas J. Aller,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91-25838 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-41-AD; Amdt. 39-8056; AD 91-21-09]

Airworthiness Directives; Piper Model PA-24-260 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Piper Model PA-24-260 airplanes equipped with nonturbocharged fuel-injected engines. This action supersedes AD 91-02-06, which currently requires the installation of a manually controlled heated alternate air induction system on all Piper Model PA-24-260 airplanes to prevent inadvertent engine stoppage while flying in weather conditions that are conducive to induction system icing. This action will retain the installation required by AD 91-02-06, but would limit applicability to those airplanes that are equipped with nonturbocharged fuel-injected engines.

DATES: Effective November 29, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 1991.

ADDRESSES: Piper Service Bulletin No. 861, dated May 4, 1987, that is discussed in this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper

Drive, Vero Beach, Florida 32960; Telephone (407) 567–4361. Information and parts related to Supplemental Type Certificate SA2694CE may be obtained from the Webco Aircraft Company, 1134 N. Oliver, Newton, Kansas 6711; Telephone (316) 283–7929. The service bulletin and information related to the supplemental type certificate may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Will H. Trammell, Aerospace Engineer, FAA, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Piper Model PA–24–260 airplanes was published in the Federal Register on May 15, 1991 (56 FR 22368). The proposed action would supersede AD 91–02–06, Amendment 6849 (56 FR 634, January 8, 1991), which currently requires the installation of a manually controlled heated alternate air induction system on all Piper Model PA–24–260 airplanes to prevent inadvertent engine stoppage while flying in weather conditions that are conducive to induction system icing. It would retain the installation required by AD 91–02–06, but would only make it applicable to airplanes that are equipped with nonturbocharged fuel-injected engines. The action would be done in accordance with the instructions in Piper Service Bulletin No. 861, dated May 4, 1987.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. Since the publication of the NPRM and the drafting of this final rule, the manufacturer (Piper) has informed the FAA that it only has 6 ship sets of parts in-house and cannot anticipate when additional parts will be available. Supplemental Type Certificate (STC) SA2694CE has been issued to the Webco Aircraft Company. This STC allows for the installation of a manually controlled heated alternate air induction system using parts provided by the Webco Aircraft Company. The FAA has determined that the requirements of this AD may be accomplished by the installation of a manually controlled heated alternate air induction system in accordance with either Piper Service Bulletin No. 861, dated May 4, 1987, or STC SA2694CE. This final rule AD action will include this STC as an acceptable means of compliance.

After careful consideration, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the alternative method described above and minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 732 airplanes in the U.S. registry could have been affected by this AD; however, 252 airplanes have already been modified, which leaves approximately 480 airplanes in the U.S. registry that will be affected by this AD. It will take approximately 7.5 hours per airplane to accomplish the required action, the average labor rate is approximately $55 an hour, and parts will cost approximately $550 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $462,000.

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 responsibility 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 "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91–02–06, Amendment 39–6849 (56 FR 634, January 8, 1991), and adding the following new AD:

AD 91–21–09 Piper Aircraft Corporation: Amendment 39–8056; Docket No. 91–CE–41–AD.

Applicability: Model PA–24–260 airplanes (serial number (S/N) 24–3642, S/N 24–4000 through 24–4255, S/N 24–4257 through 24–4782, and S/N 24–4784 through 24–4803) that are equipped with nonturbocharged fuel-injected engines, certificated in any category.

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

To prevent inadvertent engine stoppage while flying in weather conditions conducive to induction system icing, accomplish the following:

(a) Modify the airplane by installing a manually controlled heated alternate air induction system in accordance with the instructions in either Piper Service Bulletin No. 861, dated May 4, 1987, or Supplemental Type Certificate SA2694CE.

(b) The installation of a manually controlled heated alternate air induction system does not constitute approval for flight in icing conditions.

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

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

(e) The modification required by this AD shall be done in accordance with Piper Service Bulletin No. 861, dated May 4, 1987. 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 of Piper Service Bulletin No. 861, dated May 4, 1987, may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. Copies of the service bulletin 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, 1100 L Street NW.; room 8401, Washington, DC.

This amendment supersedes AD 91–02–06, Amendment 39–6849.

This amendment becomes effective on November 29, 1991.

Issued in Kansas City, Missouri, on September 25, 1991.

Don. C. Jacobsen,

Acting Monager, Small Airplone Directorate, Aircraft Certification Service.

[FR Doc. 91–25727 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 26671; Amdt. No. 366]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATE: EFFECTIVE November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (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. For the same reason, the FAA certifies that this amendment 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 95

Aircraft, Airspace.

Issued in Washington, DC on October 16, 1991.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 u.t.c.:

PART 95—IFR ALTITUDES

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910–13–M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 366 EFFECTIVE DATE, NOVEMBER 14, 1991

FROM	TO	MEA
§95.6002 VOR FEDERAL AIRWAY 2		
IS AMENDED TO READ IN PART		
U S. CANADIAN BORDER	BUFFALO, NY VORTAC	*3000
*2300 - MOCA		
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
TATOOSH, WA VORTAC	JAWBN, WA FIX	5400
JAWBN, WA FIX	LOFAL, WA FIX	*5400
*4300 - MOCA		
LOFAL, WA FIX	*SEATTLE, WA VORTAC	**4000
*5200 - MCA SEATTLE VORTAC, E BND		
**1800 - MOCA		
§95.6023 VOR FEDERAL AIRWAY 23		
IS AMENDED TO READ IN PART		
PAINE, WA VOR/DME	EGRET, WA FIX	*4500
*3400 - MOCA		
EGRET, WA FIX	BELLINGHAM, WA VORTAC	*3500
*3000 - MOCA		
§95.6112 VOR FEDERAL AIRWAY 112		
IS AMENDED TO READ IN PART		
SPOKANE, WA VORTAC	DIANN, WA FIX	
	SW BND	*7000
	NE BND	*11000
*5500 - MOCA		
§95.6165 VOR FEDERAL AIRWAY 165		
IS AMENDED TO READ IN PART		
OLYMPIA, WA VORTAC	CARRO, WA FIX	*3000
*1900 - MOCA		
§95.6287 VOR FEDERAL AIRWAY 287		
IS AMENDED BY ADDING		
PAINE, WA VOR/DME	ISLND, WA FIX	*3000
*1700 - MOCA		

FROM	TO	MEA
§95.6287 VOR FEDERAL AIRWAY 287—Continued		
ISLND, WA FIX	BELLINGHAM WA VORTAC	300
IS AMENDED TO READ IN PART		
OLYMPIA, WA VORTAC	CARRO WA FIX	*3000
*1900 - MOCA		
CARRO, WA FIX	*BREDA WA FIX	**5000
*5500 - MRA		
**3400 - MOCA		
BREDA, WA FIX	*LOFAL WA FIX	**5000
*5000 - MCA LOFAL FIX, S BND		
**3400 - MOCA		
LOFAL, WA FIX	PAINE WA VOR/DME	
	E BND	*3000
	W BND	*4000
*1700 - MOCA		
§95.6290 VOR FEDERAL AIRWAY 290		
IS AMENDED TO READ IN PART		
TAR RIVER, NC VORTAC	PUNGO NC FIX	*4000
*1500 - MOCA		
PUNGO, NC FIX	PAMLICO NC NDB/DME	*2000
*1500 - MOCA		
§95.6349 VOR FEDERAL AIRWAY 349		
IS AMENDED BY ADDING		
SEATTLE, WA VORTAC	LOFAL WA FIX	*4000
*1800 - MOCA		
LOFAL, WA FIX	JAWBN WA FIX	*5400
*4300 - MOCA		
JAWBN, WA FIX	ISLND WA FIX	*5400
*4300 - MOCA		
ISLND, WA FIX	BELLINGHAM, WA VORTAC	3000
§95.6357 VOR FEDERAL AIRWAY 357		
IS AMENDED TO READ IN PART		
MOCHO, AK FIX	GERKS, AK FIX	*7500
*2300 - MOCA		
§95.6495 VOR FEDERAL AIRWAY 495		
IS AMENDED TO READ IN PART		
SEATTLE, WA VORTAC	LOFAL, WA FIX	*4000
*1800 - MOCA		
LOFAL, WA FIX	JAWBN, WA FIX	*5400
*4300 - MOCA		

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-23			
IS AMENDED TO DELETE			
PAINE, WA VOR/DME	BELLINGHAM, WA VORTAC	24	PAINE
V-229			
IS AMENDED BY ADDING			
BRIDGEPORT, CT VOR	HARTFORD, CT VORTAC	19	BRIDGEPORT
V-440			
IS AMENDED TO READ IN PART			
MIDDLETON ISLAND, AK VOR/DME	ANCHORAGE, AK VOR/DME	95	MIDDLETON ISLAND

[FR Doc. 91-25850 Filed 10-25-91; 8:45 am]
BILLING CODE 4910-13-C

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Revisions to Government in the Sunshine Act Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This rule redesignates the positions responsible for handling and determining initial requests and administrative appeals under the Government in the Sunshine Act to reflect TVA organizational changes. This rule was not published in proposed form since it relates to agency organization, procedure, and practice. Since this rule is nonsubstantive, it is being made effective immediately.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: John Doty (615) 632–3570.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy, and Sunshine Act.

For the reasons set forth in the preamble, title 18, chapter XIII, part 1301, of the Code of Federal Regulations is amended as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 continues to read as follows:

Authority: 48 Stat. 58, as amended; 16 U.S.C. 831–831dd, unless otherwise noted.

2. Section 1301.48 is amended by revising paragraph (a), the second sentence of paragraph (b), paragraph (c), and paragraph (d), as follows:

§ 1301.48 Public availability of transcripts and other documents.

(a) Public announcements of meetings pursuant to § 1301.44, written copies of votes to change the subject matter of meetings made pursuant to § 1301.44(c), written copies of votes to close meetings and explanations of such closings made pursuant to § 1301.45(c) and certifications of the General Counsel made pursuant to § 1301.45(d) shall be available for public inspection during regular business hours in the TVA Corporate Library, room WT 2F, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499.

(b) * * * Each request for such material shall be made to the Manager, Media Relations, Tennessee Valley Authority, Knoxville, Tennessee 37902–1499; state that it is a request for records pursuant to the Government in the Sunshine Act and this subpart; and reasonably describe the discussion or item of testimony, and the date of the meeting, with sufficient specificity to permit TVA to identify the item requested.

(c) In the event the person making a request under paragraph (b) of this section has reason to believe that all transcripts, electronic recordings, or minutes or portions thereof requested by that person and required to be made available under paragraph (b) of this section were not made available, the person shall make a written request to the Manager, Media Relations for such additional transcripts, electronic recordings, or minutes or portions thereof as that person believes should have been made available under paragraph (b) of this section and shall set forth in the request the reasons why such additional material is required to be made available with sufficient particularity for the Manager, Media Relations to determine the validity of such request. Promptly after a request pursuant to this paragraph is received, the Manager, Media Relations or his/her designee shall make a determination as to whether to comply with the request, and shall immediately give written notice of the determination to the person making the request. If the determination is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial, a notice of the right of the person making the request to appeal the denial to TVA's Senior Vice President, Communications and Employee Development, and the time limits thereof.

(d) If the determination pursuant to paragraph (c) of this section is to deny the request, the person making the request may appeal such denial to TVA's Senior Vice President, Communications and Employee Development. Such an appeal must be taken within 30 days after the person's receipt of the determination by the Manager, Media Relations and is taken by delivering a written notice of appeal to the Senior Vice President, Communications and Employee Development, Tennessee Valley Authority, Knoxville, Tennessee 37902–1499. Such notice shall include a statement that it is an appeal, from a denial of a request under § 1301.48(c) and the Government in the Sunshine Act and shall indicate the date on which the denial was issued and the date on which the denial was received by the person making the request. Promptly after such an appeal is received, TVA's Senior Vice President, Communications and Employee Development or the Senior Vice President's designee shall make a final determination on the appeal. In making such a determination, TVA will consider whether or not to waive the provisions of any exemption contained in § 1301.46. TVA shall immediately give written notice of the final determination to the person making the request. If the final determination on the appeal is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial and a notice of the person's right to judicial review of the denial.

* * * * *

Mary Cartwright,

Senior Vice President, Communications and Employee Development.

[FR Doc. 91–25632 Filed 10–25–91; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; Suspension and Termination of Supplemental Security Income Benefit Payments—Increase in Benefit Rate for Individuals in Medical Care Facilities; Technical Corrections

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are amending the supplemental security income (SSI) regulations to make a few technical corrections. As a result of a general revision of the SSI eligibility regulations (subpart B), published in the Federal Register on January 22, 1982, 47 FR 3099, a number of cross-reference in the regulations became incorrect. All but two of those cross-references have since been corrected. This final rule corrects those two remaining cross-references contained in subpart M at § 416.1321. Also, as a result of errors made in amendatory language published in the Federal Register on May 4, 1989, 54 FR 19162, language relating to the basic pass along rules in the SSI program was inadvertently deleted from the Code of Federal Regulations (CFR). This final rule officially returns that language to the CFR. These final rules make no changes in policy.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Office of Regulations, Social Security

Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1753.

SUPPLEMENTARY INFORMATION: In these final regulations, we are making technical changes to correct cross-references and to replace erroneously deleted regulatory text. The rules relating to general eligibility for SSI benefits in subpart B of part 416 were revised and reorganized to make them clearer and easier to understand. These revisions were published as final rules on January 22, 1982, 47 FR 3099. As a result of this general reorganization, a number of cross-references to sections within subpart B appearing in other subparts of the SSI regulations became incorrect. All but two of those references have since been corrected. These final regulations correct those two remaining cross-references in subpart M at § 416.1321.

In addition, these final regulations correct the inadvertent removal of text from subpart T. The interim final rules reflecting sections 9113, 9114, and 9119 of Public Law 100–203, the Omnibus Budget Reconciliation Act of 1987, published on May 4, 1989, at 54 FR 19162, contained technically incorrect amendatory language for a section of the rules. The error in the amendatory language resulted in the inadvertent removal from the CFR of text relating to the basic pass along rules described in 20 CFR 416.2096. The amendments published on May 4, 1989, revised the then existing paragraph (a), the introductory text of (b), and (c), and added a new paragraph (d) to reflect the provisions of section 9119(b) of Public Law 100–203. The correct changes were made to these paragraphs and paragraph (d) was added to the regulations. However, the erroneous amendatory language resulted in the inadvertent removal of the text contained in paragraphs (a)(1) (i), (ii), and (iii) and (a)(2). These final regulations return those paragraphs to the regulations.

Justification for Final Rules

The Department generally follows the notice of proposed rulemaking and public comment procedures specified in the Administrative Procedure Act (APA); 5 U.S.C. 553, in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(3)(B), good cause exists for waiver of notice of proposed rulemaking and public comment procedures with respect to these regulations. Opportunity for public comment is unnecessary since these regulations merely correct two erroneous cross-references and return to the regulations material that was inadvertently removed. These changes are technical and do not involve the setting of policy. Therefore, the use of notice and comment rulemaking is unnecessary and these regulations are being issued as final rules.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations make no substantive changes and merely correct erroneous cross-references and return to the regulations inadvertently removed material. They therefore do not meet any of the threshold criteria for a major rule and a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no additional reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: August 5, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: September 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for subpart M is revised to read as follows:

Authority: Secs. 1102, 1611–1615, 1619 and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382–1382d, 1382h, 1383.

2. Section 416.1321 is amended by revising the references in paragraph (c)(1) from § 416.230(c) and § 416.230(d) to § 416.210(c) and § 416.210(e)(2) respectively.

3. The authority citation for subpart T is revised to read as follows:

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; Sec. 212 of Pub. L. 93–66, 87 Stat. 155; sec. 8 of Pub. L. 93–233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93–335, 88 Stat. 291.

4. Section 416.2096 is amended by adding paragraphs (a)(1) (i), (ii), (iii) and (2) to read as follows:

§ 416.2096 Basic passalong rules.

(a) *State agreements to maintain supplementary payment levels.* (1) * * *

(i) The State must agree to continue to make the supplementary payments;

(ii) For months from July 1977 through March 1983, the State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). For months in the period July 1, 1982 through March 31, 1983, a State may elect to maintain the levels described in paragraph (b)(2) of this section; and

(iii) For months after March 1983, the State must agree to maintain supplementary payments at least sufficient to maintain the combined supplementary/SSI payment levels in effect in March 1983, increased by any subsequent SSI benefit increases, except as provided in § 416.2097(b) and § 416.2097(c).

(2) We will find that the State has met the requirements of paragraph (a)(1) of this section if the State has the appropriate agreement in effect and complies with the conditions in either paragraph (b) or (c) of this section. We will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes us satisfactory evidence to the contrary.

* * * * *

[FR Doc. 91–25853 Filed 10–25–91; 8:45 am]

BILLING CODE 4190–29–M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Drug Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to approval of new drug applications and their supplements. The amendment delegates authority to the director, Division of Oncology and Pulmonary Drug Products, Center for Drug Evaluation and Research (CDER), to approve new drug applications (NDA's) and their supplements for oncologic drug products.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPLEMENTARY INFORMATION: FDA is amending § 5.80 *Approval of new drug applications and their supplements* (21 CFR 5.80) to redelegate authority to the Director, Division of Oncology and Pulmonary Drug Products, CDER, to approve NDA's and their supplements for oncologic drug products. This amendment adds new paragraph (a)(1)(iv) to § 5.80.

Further redelegation of the authority delegated is not authorized.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organizations and functions (Governments agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50; 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395h, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.80 is amended by adding new paragraph (a)(1)(iv) to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

(a) (1) * * *

(iv) The director, Division of Oncology and Pulmonary Drug Products, CDER, for oncologic drug products. This authority may not be redelegated.

* * * * *

Dated: October 21, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–25896 Filed 10–25–91; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 89F–0215]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of α-butyl-Ω-hydroxypoly (oxypropylene), minimum molecular weight 1000, as a surface lubricant in the manufacture of metallic articles that contact food. This action is in response to a petition filed by Union Carbide Corp.

DATES: Effective October 28, 1991; written objections and requests for a hearing by November 27, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sandra L. Varner, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 7, 1989 (54 FR 32395), FDA announced that a food additive petition (FAP 9B4151) had been filed by Union Carbide Corp., Old Saw Mill River Rd., Tarrytown, NY 10591, proposing that § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910) be amended to provide for the safe use of α-butyl-Ω-hydroxypoly (oxypropylene), minimum molecular weight 1000, as a surface lubricant in the manufacture of metallic articles that contact food.

FDA, in its evaluation of the safety of this additive, reviewed the safety of both the additive and the starting materials used to manufacture the additive. This additive has not been found to cause cancer. However, propylene oxide, which could be present as an impurity in the additive, has been shown to cause cancer in test animals. Residual amounts of reactants and byproducts, such as propylene oxide, are commonly found as contaminants in chemical products, including food additives.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958).) This definition of safety has been incorporated into FDA's food additive regulations (§ 170.3(i)). The anticancer or Delaney clause of the Food Additives Amendment (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic impurities but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though the additive contains a carcinogenic

impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis. An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute, using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive..

The agency's position is supported by *Scott* v. *FDA*, 728 F. 2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to list D&C Green No. 5, which contains a carcinogenic impurity but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of α-butyl-Ω-hydroxypoly (oxypropylene), minimum molecular weight 1000, will result in extremely low levels of exposure to this additive. The agency calculated the estimated daily intake of the additive based on several worst-case assumptions: (1) That the total residual lubricant remaining on the metallic food-contact article was at the regulatory limit (0.015 milligrams per square inch); (2) that the lubricant contained the maximum use level of the additive or 20 percent; and (3) that all of the additive migrates into the food in contact with the metallic article. Based upon these assumptions and assuming that each square inch of the metallic food-contact article contacts 10 grams of food, the agency estimates the daily intake for the additive will not exceed 30 micrograms per person per day or 10 parts per billion in the diet.

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here. However, the agency has reviewed available data from acute oral toxicity studies of the additive in rats and from subchronic and chronic feeding studies of the additive in rats and dogs. Based on the results of these studies and the low level of exposure to the additive, the agency concludes that there is an adequate margin of safety for the proposed use of the additive.

A. The Impurity, Propylene Oxide

Because the additive itself has not been shown to cause cancer, the anticancer clause does not apply. However, FDA has further evaluated the safety of the additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by the carcinogenic chemical propylene oxide that may be present as an impurity in the additive.

The risk assessment procedures that FDA used in its evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food or color additives that contain carcinogenic impurities (e.g., 49 FR 13018 at 13019; April 2, 1984). The risk evaluation of the carcinogenic impurity propylene oxide has two aspects: (1) Assessment of the worst-case exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

Based on the fraction of the daily diet that may be in contact with surfaces containing the additive and the level of propylene oxide that may be present in the additive, FDA estimates that the hypothetical worst-case exposure to propylene oxide from the petitioned use of the additive will be 0.3 nanograms (ng) per person per day or 0.1 parts per trillion in the daily diet (Ref. 3). The agency used data from a carcinogenesis bioassay on propylene oxide conducted by the Institute of Hygiene, University of Mainz, Germany (Ref. 4), to estimate the upper-bound level of lifetime human risk from exposure to propylene oxide resulting from the proposed use of the additive. The results of the bioassay on propylene oxide demonstrated that the material was carcinogenic for female rats under the conditions of the study, causing carcinomas and papillomas in the squamous epithelium of the forestomach.

The Quantitative Risk Assessment Committee (the committee) of the Center for Food Safety and Applied Nutrition reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on propylene oxide. The committee further concluded that the bioassay provided an appropriate basis on which to calculate an estimate of the upper-bound level of lifetime human cancer risk from potential exposure to propylene oxide stemming from the proposed use of α-butyl-Ω-hydroxypoly (oxypropylene), minimum molecular weight 1000 (Refs. 5, 6, and 7)

The committee used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiments to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the additive.

Based on a worst-case exposure to propylene oxide of 0.3 ng per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from the potential exposure to propylene oxide from the use of α-butyl-Ω-hydroxypoly (oxypropylene), minimum molecular weight 1000, is 2.1×10^{-10}, or less than 1 in 4.8 billion (Ref. 7). Because of the numerous conservatisms in the exposure estimate, lifetime-averaged individual exposure to propylene oxide is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper-bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to propylene oxide that might result from the proposed use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of propylene oxide in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which propylene oxide may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime risk from exposure to this impurity, even under worst-case assumptions, is very low (less than 1 in 4.8 billion).

III. Conclusion of Safety

FDA has evaluated the data in the petition and other relevant material, including the information pertaining to the safety of the potential impurity, propylene oxide. The agency concludes that the proposed use of the food additive is safe and that 21 CFR 178.3910(a)(2) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents

that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

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

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before November 27, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs" in *Food Safety: Where Are We?*, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology" in *Chemical Safety Regulation and Compliance*, F. Homburger and J. K. Marquis, Eds., New York, pp. 24–33, 1985.

3. Memorandum dated June 28, 1989, from Food and Color Additives Review Section to Indirect Additives Branch, "FAP 9B4151—Union Carbide Corp. (UC). Alpha-butyl-omega-hydroxy-poly (oxypropylene) as a component of surface lubricants used in the manufacture of metal foils. Submission of 5–12–89."

4. Dunkelberg, H., "Carcinogenicity of Ethylene Oxide and 1,2-Propylene Oxide Upon Intragastric Administration to Rats," in *British Journal of Cancer*, 46:924, 1982.

5. Report of the Quantitative Risk Assessment Committee, dated August 29, 1990. "Estimation of Upper Bound Risk for Propylene Oxide in a Surface Lubricant Used in the Manufacture of Metal Foils in FAP 9B4151 (Union Carbide Corp.)."

6. Memorandum dated May 30, 1991, from Food and Color Additives Review Section to Indirect Additives Branch, "FAP 9B4151—Union Carbide Corp. (UC). Alpha-butyl-omega-hydroxy-poly(oxypropylene) as a component of surface lubricants used in the manufacture of metal foils. 'Typical' versus 'worst-case' exposure. DFCA request of 1–31–91."

7. Report of the Quantitative Risk Assessment Committee, dated August 1, 1991, "Revision: Estimation of Upper Bound Lifetime Risk for Propylene Oxide in a Surface Lubricant Used in the Manufacture of Metal Foils in FAP 9B4151 (Union Carbide Corp.)."

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3910 is amended in paragraph (a)(2) by alphabetically adding a new entry to the table to read as follows:

§ 178.3910 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(a) * * *

(2) * * *

List of substances	Limitations
α-Butyl-Ω-hydroxypoly(oxypropylene) (CAS Reg. No. 9003–13–8) having minimum molecular weight of 1000	For use at levels not to exceed 20 percent by weight of the finished lubricant formulation.
* * * * *	

* * * * *

Dated: October 21, 1991.

Michael R. Taylor,

Deputy Conmissioner for Policy.

[FR Doc. 91–25844 Filed 10–25–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF STATE

Office of the Legal Adviser

22 CFR Part 7

[Public Notice 1505]

Loss of United States Nationality

In the matter of Regulations Pertaining to Administrative Reconsideration by the Department of State of its Decisions Concerning Loss of Nationality Under Chapters 3 and 4 of the Immigration and Nationality Act of 1952, *as amended*, 8 U.S.C. 1101 *et seq.*

AGENCY: Office of the Legal Adviser, DOS.

ACTION: Final rule.

SUMMARY: This rule amends 22 CFR 7.2(b) and 7.9 to remove a potential ambiguity by expressly providing that the Department of State ("Department") may administratively vacate a Certificate of Loss of Nationality ("CLN"), notwithstanding that the Board of Appellate Review ("Board") may have issued an intervening decision sustaining the Department's original action.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Jamison M. Selby, Deputy Legal Adviser, Department of State, 202–647–7942.

SUPPLEMENTARY INFORMATION: Section 349(a) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 *et seq.* ("INA"), specifies the circumstances under which nationals of the United States may lose their U.S. nationality. See *Vance* v. *Terrazas*, 444 U.S. 252 (1980). Under section 358 of the INA, 8 U.S.C. 1501, diplomatic and consular officers of the United States are required to certify to the Department cases in which they have reason to believe that persons have lost their U.S. nationality under any of the provisions of Chapter 3 of the INA. If the

Department approves the certification, it issues a CLN.

Individuals who wish to challenge the Department's decision to issue a CLN may file an administrative appeal with the Board, pursuant to 22 CFR part 7. 22 CFR 7.2(b) provides, in relevant part, that "[t]he merits of appeals or decisions of the Board shall not be subject to review by the Legal Adviser or any other Department official." 22 CFR 7.9 provides, in relevant part, that "decision(s) of the Board shall be final * * *"

Recently, a question arose concerning the proper interpretation of these provisions when the Department administratively vacated several CLNs in cases in which the Board had issued intervening decisions sustaining the Department's actions in issuing the CLNs. Although the Legal Adviser issued an opinion on 29 May 1991 sustaining the Department's authority to effect such administrative redeterminations, the Department considers that it would be advisable to avoid any possible confusion on this point by amending 22 CFR part 7.

This final rule amends 22 CFR 7.2(b) by adding the following sentence: "Nothing in these regulations, however, shall be deemed to preclude the Department from administratively vacating Certificates of Loss of Nationality on its own initiative at any time, notwithstanding an intervening decision by the Board sustaining the Department's original determination". The final rule makes a corresponding change to 22 CFR 7.9 by amending the third sentence thereof to read as follows: "The decision of the Board shall be final, subject to §§ 7.2(b) and 7.10"

The provisions of 5 U.S.C. 553 relative to notice of final rule and delayed effective date are not required in this rule because the changes herein relate solely to internal agency management matters. This rule is not considered to be a major rule for purposes of E.O. 12291 nor will it have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 7

Administrative practice and procedure, citizenship and naturalization, organization and functions (Government agencies).

Accordingly, part 7 to title 22, Code of Federal Regulations, is amended as indicated below.

PART 7—[AMENDED]

1. Section 7.2, paragraph (b) is revised to read:

§ 7.2 Establishment of Board of Appellate Review; purpose.

* * * * *

(b) For administrative purposes, the Board shall be part of the Office of the Legal Adviser. The merits of appeals or decisions of the Board shall not be subject to review by the Legal Adviser or any other Department official, except that the Department may administratively vacate a Certificate of Loss of Nationality on its own initiative at any time, notwithstanding an intervening decision by the Board sustaining the Department's original determination.

2. Section 7.9 is revised to read:

§ 7.9 Decisions.

The Board shall decide the appeal on the basis of the record of the proceedings. The decision shall be by majority vote in writing and shall include findings of fact and conclusions of law on which it is based. The decision of the Board shall be final, subject to §§ 7.2(b) and 7.10. Copies of the Board's decision shall be forwarded promptly to the parties.

Dated: October 4, 1991.

Edwin D. Williamson,

Legal Adviser.

[FR Doc. 91-25581 Filed 10-25-91; 8:45 am]

BILLING CODE 4710-08-M

Bureau of Politico-Military Affairs

22 CFR Parts 120, 123, and 126

[Public Notice 1509]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule, arrived at through coordination with industry and U.S. Government agencies (e.g., Department of Defense), and consultation with industry through the 30 day public review process, clarifies and amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, it makes explicit certain limits on the definition of technical data; expands an existing exemption from licensing requirements for shipments by or for U.S. Government agencies; and creates a new exemption for specialized packing cases for defense articles. This rule is intended to reduce the burden on munitions exporters: It clarifies when a license is needed to export technical data and eliminates the need for prior U.S. Government approval for certain transactions.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Chief, Arms Licensing Division, Office of Defense Trade Controls, Department of State, (703-875-6644).

SUPPLEMENTARY INFORMATION: This rule amends the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130), which implements section 38 of the Arms Export Control Act (22 U.S.C. 2778). This amendment clarifies when a license is needed to export technical data and eliminates licensing requirements for certain exports of defense articles. It is one of a series of ITAR changes intended to eliminate requirements on munitions exporters that are no longer necessary.

First, this amendment revises the definition of technical data for purposes of the ITAR by making explicit that it does not include basic marketing information on function or purpose, or general system descriptions of defense articles.

Second, this amendment adds packing cases specially designed to carry defense articles to the list of those items covered by the U.S. Munitions List that are exempt from the licensing requirements of the ITAR.

Third, these changes relax the requirements that must be met before exporting defense articles for U.S. Government use abroad without an export license or a U.S. Bill of Lading.

Specifically, it removes the requirements that exporters certify that the urgency of the U.S. Government need is such that an appropriate export license or U.S. Government Bill of Lading could not be obtained in a timely manner. In addition, this amendment makes clear that the exporter certification required whenever this exemption is used must be submitted to the Office of Defense Trade Controls at the same time as the shipper's export declaration required under § 123.25(c).

This rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and will serve to reduce the burden on exporters in that respect. The relevant information collection is to be reviewed by the Office of Management and Budget under control No. 1405-0013.

Accordingly, for the reasons set forth in the preamble, title 22 chapter I, subchapter M (consisting of parts 120 through 130) of the Code of Federal Regulations, is amended as set forth below:

PART 120—PURPOSE, BACKGROUND AND DEFINITIONS

1. The authority citation for part 120 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 120.21, paragraph (c) is revised to read as follows:

§ 120.21 Technical data.

* * * * *

(c) Information, in any form, which is directly related to the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles. This includes, for example, information in the form of blueprints, drawings, photographs, plans, instructions, computer software and documentation. This also includes information which advances the state of the art of articles on the U.S. Munitions List. This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in academia. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

PART 123—LICENSES FOR THE EXPORT OF DEFENSE ARTICLES

3. The authority citation for part 123 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311, 22 U.S.C. 2658.

4. In § 123.16, paragraph (b) is revised to read as follows:

§ 123.16 Obsolete firearms; models or mock-ups; and packing cases.

* * * * *

(b) District directors of customs may permit the export without a license of the following two categories of items:

(1) Packing cases specially designed to carry defense articles; and

(2) Unclassified models or mock-ups of defense articles, provided that such models or mock-ups are nonoperable and do not reveal any technical data in excess of that which is exempted from the licensing requirements of § 125.4(b). U.S. persons who avail themselves of this exemption related to models and mock-ups must provide a written certification to the district director of customs that these conditions are met. This exemption does not imply that the Office of Defense Trade Controls will approve the export of any defense articles for which models or mock-ups have been exported pursuant to this exemption.

PART 126—GENERAL POLICIES AND PROVISIONS

5. The authority citation for part 126 is revised to read as follows:

Authority: Sec. 38, Sec. 42, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

6. In § 126.4, paragraph (c) is revised to read as follows:

§ 126.4 Shipments by or for United States Government agencies.

* * * * *

(c) A license is not required for the temporary import, or temporary or permanent export, of any classified or unclassified defense articles or technical data for end-use by a U.S. Government Agency in a foreign country under the following circumstances:

(1) The export or temporary import is pursuant to a contract with, or written direction by, an agency of the U.S. Government; and

(2) The end-user in the foreign country is a U.S. Government agency or facility, and the defense articles or technical data will not be transferred to any foreign person; and

(3) A Shipper's Export Declaration (SED), required under § 123.25(c) of this subchapter, and a written statement by the contracting U.S. Government Agency certifying that these requirements have been met must be presented at the time of export to the appropriate district director of customs or Department of Defense transmittal authority. A copy of the SED and the written certification statement shall be provided to the Office of Defense Trade Controls immediately following the export.

Dated: September 28, 1991.

Reginald T. Bartholomew,

Under Secretary of State for International Security Affairs.

[FR Doc. 91-25817 Filed 10-25-91; 8:45 am]

BILLING CODE 4710-25-M

Foreign Service Grievance Board

22 CFR Parts 901, 902, 903, 904, 905, 906, 907, 908, 910, and 911

[Public Notice 1500]

Foreign Service Grievance Board Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule will revise the regulations of the Foreign Service Grievance Board to accommodate new legislation. The proposed rule was published under 56 FR 22377, May 15, 1991. The Foreign Service Grievance Board revises its regulations to conform to the provisions concerning grievances as described in chapter 11 of the Foreign Service Act of 1980 (Pub. L. 96-465; 94 Stat. 2071) of October 17, 1980, as amended, and to implement agency regulations adopted by the foreign affairs agencies and the exclusive employee representatives pursuant to that Act. Parts 904, 905, 908, and 910 have been revised to address: Agency actions against certain grievants; payment of attorney fees; agency responses to Board recommendations; and Board procedures in specific grievance cases.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Judith A. Schmidt, Executive Secretary, Foreign Service Grievance Board, (703) 235-3173.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Parts 901-908, 910, and 911

Administrative practice and procedure, Foreign Service. For the reasons set out in the preamble, 22 CFR parts 901-908, 910, and 911 are amended as set forth below:

PART 901—GENERAL

1. The authority citation for part 901 is revised to read as follows:

Authority: Secs. 610, 1101, 1102, 1105, and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4131, 4132, 4135, and 4136), as amended.

2. Section 901.10 is revised to read as follows:

§ 901.10 Act.

Act means the Foreign Service Act of 1980 (Pub. L. 96-465, October 17, 1980), as amended.

§ 901.18 [Amended]

3. In § 901.18, paragraph (c)(4), the word "prohibiting" is changed to read "prohibited".

§ 901.20 [Amended]

4. In § 901.20, paragraph (c) is amended by removing the phrase "achieved Party status under 903.5(a)" and adding in its place "achieved Party status under 903.4".

PART 902—ORGANIZATION

5. The authority citation for part 902 is revised to read as follows:

Authority: Secs. 1105 and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4135 and 4136), as amended.

§ 902.2 [Amended]

6. In § 902.2, paragraph (c) is amended by removing the reference to "§ 906.3" and adding in its place "§ 906.4".

PART 903—INITIATION AND DOCUMENTATION OF CASES

7. The authority citation for part 903 is revised to read as follows:

Authority: Secs. 610, 1104, and 1106–1109 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010, 4134, and 4136–4139), as amended.

PART 904—JURISDICTION AND PRELIMINARY DETERMINATIONS

8. The part heading for part 904 is revised to read as set forth above.

9. The authority citation for part 904 is revised to read as follows:

Authority: Secs. 1101, 1104, 1108, and 1109 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4131, 4134, 4138, and 4139), as amended.

10. In § 904.2, paragraphs (b) and (d) are revised to read as follows:

§ 904.2 Preliminary determinations.

* * * * *

(b) The Board may also make a preliminary determination on any question raised by a Party concerning the timeliness of a grievance, the election of other remedies under § 904.3, or any other issue whose resolution might avoid the necessity of further proceedings.

* * * * *

(d) Where an issue presented for preliminary determination under this section is contested by a party or would result in the termination of a case, a panel of three members of the Board shall decide the issue.

11. Section 904.4 is added to read as follows:

§ 904.4 Suspension of agency actions.

(a) If the Board determines that the agency is considering involuntary separation of the Grievant, disciplinary action against the Grievant, or recovery from the Grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board, and that such action should be suspended, the agency shall suspend such action until the Board has ruled on the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the Grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the Grievant is assigned.

(b) Notwithstanding paragraph (a) of this section, the Board shall not determine that action to suspend without pay a Grievant shall be suspended if the head of an agency or his designee has determined that there is reasonable cause to believe that a Grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the Grievant without pay pending a final resolution of the underlying matter. For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for a job-related crime.

(c) The Board shall expedite its decisions on requested suspensions of proposed Agency actions. The Board may permit or require argument with respect to such requests by the Parties and Exclusive Representative, if any.

PART 905—BURDEN OF PROOF

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

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010 and 4136), as amended.

13. Section 905.2 is revised to read as follows:

§ 905.2 Disciplinary grievances.

In grievances over disciplinary actions, the agency has the burden of establishing by a preponderance of the evidence that the disciplinary action was justified, provided, however, that in a grievance concerning suspension without pay pursuant to section 610(a)(3) of the Act, the Board's determination of the grievance shall be limited to:

(a) Whether the required procedures have been followed; and

(b) Whether there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed and there is a nexus between the conduct and the efficiency of the Service.

For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for, a job-related crime.

PART 906—HEARINGS

14. The authority citation for part 906 is revised to read as follows:

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4010 and 4136), as amended.

PART 907—PROCEDURE WHEN HEARING IS NOT HELD

15. The authority citation for part 907 is revised to read as follows:

Authority: Sec. 1106 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4136), as amended.

PART 908—REMEDIES

16. The authority citation for part 908 is revised to read as follows:

Authority: Secs. 1106 and 1107 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 610, 4010, 4136, and 4137).

§ 908.1 [Amended]

17. In § 908.1, paragraph (e) is removed and paragraph (f) is redesignated as paragraph (e).

§ 908.2 [Redesignated as § 908.3]

18. Section 908.2 is redesignated as § 908.3.

19. Section 908.2 is added to read as follows:

§ 908.2 Attorney fees.

(a) If the Board finds that a grievance is meritorious or that an Agency has not established the cause for separation of a charged employee in a hearing before the Board pursuant to section 610 of the Act, the Board shall have the authority to direct the Agency to pay reasonable attorney fees to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under 5 U.S.C. 7701(g).

(b) Requests for attorney fees, accompanied by supporting documentation, must be filed with the Board within thirty (30) days of the date of the Board's decision.

20. In newly redesignated § 908.3, paragraph (a) is revised, and paragraphs (c), (d), (e), and (f) are added to read as follows:

§ 908.3 Board recommendations.

(a) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure, or assignment of the Grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence in a grievance proceeding warrants disciplinary action against any employee of an Agency, it shall make an appropriate

recommendation to the head of the concerned Agency.

* * * * *

(c) A recommendation under this section shall, for the purposes of section 1110 of the Act, be considered a final action upon the expiration of a 30-day period referred to in paragraph (b) of this section, except to the extent that it is rejected by the head of the Agency by an appropriate written decision.

(d)(1) If the head of the Agency makes a written decision under paragraph (b) of this section rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the head of the Agency shall, within the 30-day period referred to in paragraph (b) of this section:

(i) Submit a copy of such decision to the Board; and

(ii) Request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(2) Within 30 days after receiving such a request, the Board shall, after reviewing the head of the Agency's decision, make a recommendation to the head of the agency confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved. Reconsideration shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(e) A Board recommendation made under the preceding paragraph (d)(2) of this section shall be considered a final action for the purpose of section 1110 of the Act, and shall be implemented by the head of the Agency.

(f) The provisions of paragraphs (c), (d), and (e) of this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Act before December 22, 1987.

PART 910—MISCELLANEOUS

21. The authority citation for part 910 is revised to read as follows:

Authority: Secs. 1106, 1107, 1110, and 2401 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4136, 4137, 4140, and 4172).

§ 910.1 [Removed]

§§ 910.2 through 910.7 [Redesignated as §§ 910.1 through 910.6]

22. Section 910.1 is removed and §§ 910.2 through 910.7 are redesignated as §§ 910.1 through 910.6.

23. In newly redesignated § 910.4, the section heading and paragraph (b) are revised to read as follows:

§ 910.4 Confidentiality; Record of grievances awarded.

* * * * *

(b) The records of the Board shall be maintained by the Board under appropriate safeguards to preserve confidentiality and shall be separate from all records of the Agencies; provided, however, that records of all grievances awarded in favor of the Grievant in which the grievance concerns gross misconduct by a supervisor shall be separately maintained by the Board and the procedures regarding confidentiality and disclosure of such records shall be as provided in section 1107(e) of the Foreign Service Act of 1980, as amended; and provided further, that the Board shall not make a finding of gross misconduct without first providing the supervisor whose conduct is at issue notice and an opportunity to respond.

PART 911—IMPLEMENTATION DISPUTES

24. The authority citation for part 911 is revised to read as follows:

Authority: Sec. 1014 of the Foreign Service Act of 1980, Pub. L. 96–465 (22 U.S.C. 4114), as amended.

Dated: September 26, 1991.

James Oldham,

Chairman.

[FR Doc. 91–25861 Filed 10–25–91; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 900664–1232]

Time Period for Objection to Publication

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending its rules to change the period within which applicants or parties may object to the publication of a decision of the Board of Patent Appeals and Interferences (Board), or any decision of the Commissioner on petition, not otherwise open to public inspection, from two months to one month. The change will expedite publication of decisions involving issues of important precedential value to patent practitioners.

EFFECTIVE DATE: November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Lee E. Barrett by telephone at (703) 557–4035 or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: As presently written, 37 CFR 1.14(d) allows an applicant or a party to an interference two months to object to the publication of a decision of the Board or the Commissioner. When originally proposed, § 1.14(d) contained a one-month time period for objection. 41 FR 43729 (October 4, 1976). A two-month period was adopted originally in response to several comments. 42 FR 5588 (January 28, 1977). The two-month period has been found in practice to unduly delay publication of decisions involving significant issues of law, rule interpretation or PTO practice which the Commissioner has determined to be of important and immediate interest to patent practitioners. The PTO is amending § 1.14(d) to change the time period for objection from "two months" to "one month."

Amendments to 37 CFR 1.14(d) were proposed in a rulemaking notice published in the **Federal Register** at 55 FR 30253–30254 (July 25, 1990). The proposed amendment originally proposed changing "two months" to "a time specified by the Commissioner" and noted that the response period would normally be set at one month.

Interested parties were requested to submit written comments on or before August 24, 1990. Written comments were submitted by three individuals. One telephone comment was received. The comments received and replies thereto are listed below.

Comment. One comment suggested that the proposed rule change be amended to include a minimum time period of at least one month.

Reply. This suggested modification to the proposed rule has, in effect, been incorporated.

Comment. Two comments noted the difficulty and delay involved in dealing with foreign clients. One comment suggested that the two-month period of the rule be left as is. Another suggested that there be a liberal policy for extension of time for foreign clients.

Reply. The suggestion to leave the two-month period of the rule as is has not been adopted in view of the need for a shorter time period. Decisions or requests for further time to respond will be handled on a case-by-case basis.

Comment. One comment noted that correspondence from the PTO sometimes does not reach its destination and suggested that decisions concerning pending applications should not be published without the PTO receiving written permission.

Reply. This comment does not respond to the proposed rule change, which modifies only the time period for objection.

Other Considerations

The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Public Law 96–354) because no increase in fees or paperwork should result from this rule change.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PTO 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.

The rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no recordkeeping or reporting requirements within the coverage of the Act are placed upon the public.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, part 1 of title 37, chapter I, subchapter A of the Code of Federal Regulations is amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.14(d) is revised to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(d) Any decision of the Board of Patent Appeals and Interferences, or any decision of the Commissioner on petition, not otherwise open to public inspection shall be published or made available for public inspection if: (1) The Commissioner believes the decision involves an interpretation of patent laws or regulations that would be of important precedent value; and (2) the applicant, or any party involved in the interference, does not within one month after being notified of the intention to make the decision public, object in writing on the ground that the decision discloses a trade secret or other confidential information. If a decision discloses such information, the applicant or party shall identify the deletions in the text of the decision considered necessary to protect the information. If it is considered the entire decision must be withheld from the public to protect such information, the applicant or party must explain why. Applicants or parties will be given time, not less than twenty days, to request reconsideration and seek court review before any portions of decisions are made public over their objection. See § 2.27 for trademark applications.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 91–25879 Filed 10–25–91; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 46

RIN 2900–AF55

Participation in the National Practitioner Data Bank

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This rule sets forth the policy of the Department of Veterans Affairs (VA) for participation in the National Practitioner Data Bank (Data Bank). VA will request information from the Data Bank concerning physicians, dentists and other health care practitioners who provide or seek to provide health care services at VA facilities and will also report information to the Data Bank regarding malpractice payments and adverse clinical privileges actions. The intended effect of this policy is to participate in the Data Bank for the purpose of promoting better health care at VA and non-VA health care facilities.

EFFECTIVE DATE: October 28, 1991.

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

SUPPLEMENTARY INFORMATION: The Health Care Quality Improvement Act of 1986, as amended, (42 U.S.C. 11101–11152), provides for the establishment of the Data Bank. The Department of Health and Human Services has overall administrative responsibility for the Data Bank which is operated on its behalf by a private contractor. The Act includes provisions for VA to participate in the Data Bank by entering into a Memorandum of Understanding with the Department of Health and Human Services. VA has entered into such a Memorandum of Understanding which sets forth its policies for participation in the Data Bank. Pursuant to the Memorandum of Understanding, VA will obtain information from the Data Bank concerning physicians, dentists and other health care practitioners who provide or seek to provide health care services at VA facilities and will also report to the Data Bank information regarding malpractice payments and adverse clinical privileges actions. This final rule establishes a new 38 CFR part 46 which essentially restates or interprets provisions of that Memorandum of Understanding and constitutes the policy of VA for participation in the Data Bank.

Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 requires the Department to prepare and publish an initial regulatory impact analysis for any proposed major rule. A major rule is defined as any regulation that is likely to: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or (3) result in significant

adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VA has determined that this final rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. The final rule provides for obtaining information from and submitting information to the Data Bank concerning physicians, dentists and other health care practitioners. The Data Bank in turn collects and releases information concerning physicians, dentists and other health care practitioners. Although the Data Bank should greatly simplify the process, virtually all information stored by the Data Bank would be available to the receiver from other sources. Under these circumstances, the final rule would have little direct effect on the economy or on Federal or State expenditures. Consequently, the Department has concluded that a regulatory impact analysis is not required.

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

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

List of Subjects in 38 CFR Part 46

Health professions, Malpractice, Clinical privileges.

Approved: September 27, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, title 38 of the Code of Federal Regulations is amended by adding a new part 46 to read as follows:

PART 46—POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

Subpart A—General Provisions

Sec.

Subpart B—National Practitioner Data Bank Reporting

Subpart C—National Practitioner Data Bank Inquiries

Subpart D—Miscellaneous

Authority: 38 U.S.C. 501; 42 U.S.C. 11101–11152.

Subpart A—General Provisions

§ 46.1 Definitions.

(a) *Act* means The Health Care Quality Improvement Act of 1986, as amended (42 U.S.C. 11101–11152).

(b) *Claim of medical malpractice* means a written claim or demand for payment based on a physician's, dentist's or other health care practitioner's furnishing (or failure to furnish) health care services and includes the filing of a complaint or administrative tort claim under the Federal Tort Claims Act, 28 USC 1346(b), 2671–2680.

(c) *Clinical privileges* means privileges granted by a health care entity to individuals to furnish health care.

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

(e) *Director* means the duly appointed director of a Department of Veterans Affairs facility or any individual with authorization to act for that person in the director's absence.

(f) *Health care entity* means a hospital, domiciliary, outpatient clinic or any other entity that provides health care services.

(g) *Other health care practitioner* means an individual other than a physician or dentist who is licensed or otherwise authorized by a State to provide health care services.

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

(i) *Professional review action* means a recommendation by a professional review body (with at least a majority vote) to affect adversely the clinical privileges of a physician or dentist and which is taken as a result of a professional review activity based on the competence or professional conduct of an individual physician or dentist in cases in which such conduct affects or could affect adversely the health or welfare of a patient or patients. An action is not considered to be based on the competence or professional conduct of a physician or dentist if the action is primarily based on:

(1) A physician's or dentist's association with, administrative supervision of, delegation of authority to, support for, or training of, a member or members of a particular class of health care practitioner or professional, or

(2) Any other matter that does not relate to the competence or professional conduct of a physician or dentist in his/her practice at a Department of Veterans Affairs health care facility.

(j) *Professional review activity* means an activity with respect to an individual physician or dentist to establish a recommendation regarding:

(1) Whether the physician or dentist may have clinical privileges with respect to the medical staff of the facility;

(2) The scope or conditions of such privileges or appointment; or

(3) Change or modification of such privileges.

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

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

§ 46.2 Purpose.

The National Practitioner Data Bank, authorized by the Act and administered by the Department of Health and Human Services, was established for the purpose of collecting and releasing certain information concerning physicians, dentists and other health care practitioners. The Act mandates that the Department of Health and Human Services seek to enter into a Memorandum of Understanding with the Department of Veterans Affairs (VA) for the purpose of having VA participate in the National Practitioner Data Bank. Such a Memorandum of Understanding has been established. Pursuant to the Memorandum of Understanding, VA will obtain information from the Data Bank concerning physicians, dentists and other health care practitioners who provide or seek to provide health care services at VA facilities and will also report information regarding malpractice payments and adverse clinical privileges actions to the Data Bank. This part essentially restates or interprets provisions of that Memorandum of

Understanding and constitutes the policy of VA for participation in the National Practitioner Data Bank.

Subpart B—National Practitioner Data Bank Reporting

§ 46.3 Malpractice payment reporting.

(a) VA will file a report with the National Practitioner Data Bank, in accordance with regulations at 45 CFR part 60, subpart B, as applicable, regarding any payment for the benefit of a physician, dentist, or other licensed health care practitioner which was made as the result of a settlement or judgment of a claim of medical malpractice. The report will identify the physician, dentist, or other licensed health care practitioner for whose benefit the payment is made. It is intended that the report be filed within 30 days of the date payment is made. (This may not be possible in all cases since the Department of Veterans Affairs is not always notified of such payments within sufficient time to provide the report within 30 days of payment.) The report will provide the following information:

(1) With respect to the physician, dentist or other licensed health care practitioner for whose benefit the payment is made—

(i) Name,

(ii) Work address,

(iii) Home address, if known,

(iv) Social Security number, if known, and if obtained in accordance with section 7 of the Privacy Act of 1974,

(v) Date of birth,

(vi) Name of each professional school attended and year of graduation,

(vii) For each professional license: the license number, the field of licensure, and the State in which the license is held,

(viii) Drug Enforcement Administration registration number, if applicable and known,

(ix) Name of each health care entity with which affiliated, if known;

(2) With respect to the reporting VA facility—

(i) Name and address of the reporting facility,

(ii) Name, title and telephone number of the responsible official submitting the report on behalf of the Federal government,

(iii) Relationship of facility to the physician, dentist or other health care practitioner being reported;

(3) With respect to the judgment or settlement resulting in the payment—

(i) Where an action or claim has been filed with an adjudicative body, identification of the adjudicative body and the case number,

(ii) Date or dates on which the act(s) or omission(s) which gave rise to the action or claim occurred,

(iii) Date of judgment or settlement,

(iv) Amount paid, date of payment, and whether payment is for a judgment or a settlement,

(v) Description and amount of judgment or settlement and any conditions attached thereto, including terms of payment,

(vi) A description of the acts or omissions and injuries or illnesses upon which the action or claim was based, and

(vii) Classification of the acts or omissions in accordance with a reporting code adopted by the Secretary of Health and Human Services.

(b) A copy of the report referred to in paragraph (a) of this section will also be filed with the State Licensing Board in the State(s) in which the practitioner is licensed and with the State Licensing Board in the State in which the act or omission occurred upon which the medical malpractice claim was based.

(c) Payment will be considered to have been made for the benefit of a physician, dentist or other licensed health care practitioner only if the Director of the facility at which the act or omission occurred upon which the malpractice claim was based, affirms a conclusion (of at least a majority) of a peer review body that payment was related to substandard care, professional incompetence or professional misconduct on the part of the physician, dentist or other licensed health care practitioner. For purposes of this part, a peer review body shall have a minimum of three individuals appointed by the facility Director (including at least one member of the profession/occupation of the practitioner(s) whose actions are under review). The conclusions of the peer review body shall, at a minimum, be based on review of documents pertinent to the claim and, to the extent practicable, shall include information collected directly from the individual for whose benefit payment was made. Prior to a determination by the Director, the individual under consideration for reporting shall be afforded the opportunity for discussion with the facility Director and any other individuals designated by the facility Director.

§ 46.4 Clinical privileges actions reporting.

(a) VA will file an original and one copy of an adverse action report with the State Licensing Board in the State in which the facility is located in accordance with regulations at 45 CFR part 60, subpart B, as applicable, regarding any of the following actions:

(1) An action of a Director after consideration of a professional review action that, for a period longer than 30 days, adversely affects (by reducing, restricting, suspending, revoking, or failing to renew) the clinical privileges of a physician or dentist relating to possible incompetence or improper professional conduct.

(2) Acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding.

(b) The report specified in paragraph (a) of this section will provide the following information—

(1) With respect to the physician or dentist:

(i) Name,

(ii) Work address,

(iii) Home address, if known,

(iv) Social Security number, if known (and if obtained in accordance with section 7 of the Privacy Act of 1974),

(v) Date of birth,

(vi) Name of each professional school attended and year of graduation,

(vii) For each professional license: The license number, the field of licensure, and the name of the State in which the license is held,

(viii) Drug Enforcement Administration registration number, if applicable and known,

(ix) A description of the acts or omissions or other reasons for privilege loss, or, if known, for surrender,

(x) Action taken, date action was made final, length of action, and effective date of the action;

(2) With respect to the VA facility—

(i) Name and address of the reporting facility,

(ii) Name, title, and telephone number of the responsible official submitting the report.

(c) A copy of the report referred to in paragraph (a) of this section will also be filed with the State Licensing Board in the State(s) in which the practitioner is licensed. It is intended that the report be filed within 15 days of the date the action is made final, that is, subsequent to any internal appeal.

Subpart C—National Practitioner Data Bank Inquiries

§ 46.5 National Practitioner Data Bank inquiries.

VA will request information from the National Practitioner Data Bank, in

accordance with the regulations published at 45 CFR part 60, subpart C, as applicable, concerning a physician, dentist, or other licensed health care practitioner as follows:

(a) At the time a physician, dentist, or other health care practitioner applies for a position at VA Central Office, any of its regional offices, or on the medical staff, or for clinical privileges at a VA hospital or a hospital or other health care entity operated under the auspice of VA;

(b) No less often than every 2 years concerning any physician, dentist, or other health care practitioner who is on the medical staff or who has clinical privileges at a VA hospital or hospital or other health care entity operated under the auspice of VA; and

(c) At other times pursuant to VA policy and needs and consistent with the Act and Department of Health and Human Services Regulations (45 CFR part 60).

Subpart D—Miscellaneous

§ 46.6 Medical quality assurance records confidentiality.

Note that medical quality assurance records that are confidential and privileged under the provisions of 38 U.S.C. 5705 may not be used as evidence for reporting individuals to the National Practitioner Data Bank.

(Authority: 38 U.S.C. 5705)

[FR Doc. 91-25892 Filed 10-25-91; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 600

[AMS-FRL-4025-6]

Revise Gas Guzzler Tax Statement on Fuel Economy Label

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Section 11216 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, 104 Stat. 1388, doubled the Gas Guzzler Tax applicable to sales of automobiles by a manufacturer after December 31, 1990. Today's document announces changes to a statement required on motor vehicle fuel economy labels, called the Gas Guzzler Tax statement, to reflect this increase in the Gas Guzzler Tax. Additional changes to 40 CFR part 600, subpart F are also adopted to conform with certain other revisions to the Gas Guzzler Tax.

DATES: This action will be effective December 27, 1991 unless notice is received within 30 days that adverse or critical comment will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Material relevant to this rulemaking have been placed in Docket A-91-47 by EPA. The docket is located at the Air Docket Section (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M-1500 Waterside Mall and may be inspected from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m. Monday through Friday. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105 (313) 668-4310. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) 202-245-3658.

SUPPLEMENTARY INFORMATION: Manufacturers of passenger automobiles that do not meet specified fuel economy levels are required to pay a "Gas Guzzler Tax", pursuant to the Energy Tax Act of 1978.[1] The Internal Revenue Service (IRS) determines liability for and collects the gas guzzler tax, which is assessed for the sale of each passenger automobile with a fuel economy less than 22.5 miles per gallon. The amount of the revised tax varies from $1000 (vehicles with a fuel economy of less than 22.5 miles per gallon but at least 21.5 miles per gallon) to $7,700 (vehicles with a fuel economy of less than 12.5 miles per gallon).

The Environmental Protection Agency (EPA) determines the fuel economy for each model type and submits this information to the IRS. Automobiles must have a fuel economy label pursuant to the Motor Vehicle Information and Cost Savings Act, as amended.[2] Under the National Energy Conservation Policy Act,[3] the fuel economy label must include a statement which notifies the consumer of the amount of any gas guzzler tax expected to be assessed. See 40 CFR 600.513-81.

The Omnibus Budget Reconciliation Act of 1990 amended the Gas Guzzler Tax provisions in several ways. First, it doubled the manufacturer's gas guzzler tax for sales of automobiles after December 31, 1990. Second, it repealed certain special rules for small manufacturers, including deleting a provision authorizing an alternate tax rate schedule under certain circumstances. Finally, it included limousines in the definition of automobile, without regard to weight, and specified that the lengthening of automobiles would be treated as the manufacture of an automobile. Today's notice only relates to the first and second of these provisions, and is intended to conform EPA's fuel economy labeling regulations with these provisions. A separate rulemaking will address changes to the fuel economy regulations related to limousines and lengthening of automobiles.

EPA is changing 40 CFR part 600, subpart F by adding a new section, specifying the Gas Guzzler Tax statement for passenger automobiles sold after December 27, 1991, regardless of the model year of those vehicles. The Gas Guzzler statement for those automobiles will reflect the increase in the tax adopted by Congress.

The use of a set sales date is a change from EPA's current regulations, where the gas guzzler tax statement is based on the model year of the vehicle, not the date of sale. The change to a set sales date is due to Congressional changes to the Gas Guzzler tax, from a tax based on the model year of a passenger automobile to a tax based on sale after December 31, 1990. The new section makes no change to the calculation of a vehicle's fuel economy, however for a given fuel economy the amount of the gas guzzler tax stated on the fuel economy label is doubled. The fuel economy label is not changed in any other way.

EPA's current regulations allow the Gas Guzzler tax statement to reflect any alternate gas guzzler tax rate schedule approved by the Secretary of the Treasury. The amendments to 26 U.S.C. 4064 adopted in the Omnibus Budget Reconciliation Act of 1990 provided no provision for an alternate tax rate for passenger automobiles sold after December 31, 1990, therefore the new section added by today's revision makes no provision for use of such an alternate tax rate schedule on the Gas Guzzler Tax Statement.

It should be noted that EPA's regulations do not actually impose or assess the gas guzzler tax. EPA's regulations require a statement on the fuel economy label of the amount of the gas guzzler tax expected to be assessed. Passenger automobiles sold by

[1] Pub. L. No. 95-618, 92 Stat. 3180, 26 USC 4064.

[2] The Energy and Conservation Act, Pub. L. No. 94-163, 89 Stat. 901, amended the Motor Vehicle Information and Cost Savings Act by adding Title V, "Improving Automotive Efficiency," which established average fuel economy standards for manufacturers, and required placement of fuel economy labels on automobiles.

[3] Pub. L. No. 95-619, 92 Stat. 3256, 15 USC 2006(a)(1)(C).

manufacturers after December 31, 1991 are subject to the revised gas guzzler tax rate, notwithstanding the effective date of these changes to EPA's fuel economy labeling regulations.

Today's revisions to the fuel economy labeling regulations are effective 60 days from publication. They are not retroactive and do not apply to vehicles sold after December 31, 1990 or prior to the effective date of these revisions. Those vehicles are of course subject to payment of the increased tax, notwithstanding the effective date of these revisions to the fuel economy labeling regulations.

Administrative Requirements

Under Executive Order (E.O.) 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers;

(3) Significant adverse effect on competition, employment investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The effects of this action are to change the gas guzzler tax statement on vehicle fuel economy labels. It does not impose or assess the tax, but informs the public of the expected amount of the tax. As such, the rule is not likely to result in the conditions described in Executive Order 12291 and I determine that it is not a major rule under that order.

This regulation was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291, and any written comments from OMB have been placed in the rulemaking document.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdiction). The Administrator may certify however, that the rule will not have a significant impact on a substantial number of small entities. In such circumstances, a Regulatory Flexibility Analysis is not required.

The expected impact of this rule on small entities is manufacturers may need to revise fuel economy label language.

Accordingly, I hereby certify that these regulations will not have a significant impact on a substantial number of small entities. The regulation therefore does not require a Regulatory Flexibility Analysis.

Statutory Authority

Title III of the Energy Conservation Act of 1975, Public Law No. 94–163, 89 Stat. 871; title IV of the National Energy Conservation Policy Act of 1978, Public Law 95–619, 92 Stat. 3206 (15 U.S.C. 2001, 2003, 2005, 2006).

Direct Final Action, Effective Date

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial ministerial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this section will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective December 27, 1991.

List of Subjects in 40 CFR Part 600

Electric power, Energy conservation, Gasoline, Labeling, Motor vehicles, Reporting and recordkeeping requirements, Administrative practice and procedure, Fuel economy.

Dated: October 21, 1991.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, title 40, Chapter 1, part 600 of the Code of Federal Regulations is amended as follows:

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

1. The Authority citation for part 600 is revised to read as follows:

Authority: Title III of Pub. L. No. 94–163, 89 Stat. 901; Title IV of Pub. L. No. 95–619 (15 U.S.C. 2001, 2003, 2005, 2006).

Subpart F [Amended]

2. Section 600.513–91 is added to Subpart F to read as follows:

§ 600–513–91 Gas guzzler tax.

(a) This section applies only to passenger automobiles sold after December 27, 1991 regardless of the model year of those vehicles

(1) The provisions of this section do not apply to passenger automobiles exempted for Gas Guzzler Tax assessments by applicable federal law and regulations. However, the manufacturer of an exempted passenger automobile may, in its discretion, label such vehicles in accordance with the provisions of this section.

(2) For 1991 and later model year passenger automobiles, the combined general label model type fuel economy value used for Gas Guzzler Tax assessments shall be calculated in accordance with the following equation, rounded to the nearest 0.1 mpg:

$$FE_{adj} = FE[((0.55 \times a_g \times c) + (0.45 \times c) + (0.5556 \times a_g) + 0.4487)/((0.55 \times a_g) + 0.45)] + IW_g$$

Where:

FE_{adj} = Fuel economy value to be used for determination of gas guzzler tax assessment rounded to the nearest 0.1 mpg.

FE = Combined model type fuel economy calculated in accordance with paragraph (a)(2) of this section, rounded to the nearest 0.0001 mpg.

a_g = Model type highway fuel economy, calculated in accordance with paragraph (a)(2) of this section, rounded to the nearest 0.0001 mpg divided by the model type city fuel economy calculated in accordance with paragraph (a)(2) of this section, rounded to the nearest 0.0001 mpg. The quotient shall be rounded to 4 decimal places.

$c = 1.300 \times 10^{-3}$ for the 1986 and later model years.

$I_{wg} = (9.2917 \times 10^{-3} \times SF_{3IWCG} \times FE_{3IWCG}) - (3.5123 \times 10^{-3} \times SF_{4ETWG} \times FE_{4IWCG}$

Note—Any calculated value of IW_g less than zero shall be set equal to zero.

SF_{3IWCG} = The 3000 lb. inertia weight class sales in the model type divided by the total model type sales; the quotient shall be rounded to 4 decimal places.

SF_{4ETWG} = The 4000 lb. equivalent test weight sales in the model type divided by the total model type sales; the quotient shall be rounded to 4 decimal places.

FE_{3ETWG} = The 3000 lb. inertia weight class base level combined fuel economy used to calculate the model type fuel economy rounded to the nearest 0.0001 mpg.

FE_{4ETWG} = The 4000 lb. interia weight class base level combined fuel economy used to calculate the model type fuel economy rounded to the nearest 0.0001 mpg.

(b) (1) For passenger automobiles sold after December 31, 1990, with a combined general label model type fuel economy value of less than 22.5 mpg, calculated in accordance with paragraph (a)(2) of this section and rounded to the nearest 0.1 mpg, each

vehicle fuel economy label shall include a Gas Guzzler Tax statement pursuant to section 403 of the National Energy Conservation Policy Act. The tax amount stated shall be as specified in paragraph (b)(2) of this section.

(2) For passenger automobiles with a combined general label model type fuel economy value of:

(i) At least 22.5 mpg, no Gas Guzzler Tax statement is required.

(ii) At least 21.5 mpg, but less than 22.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,000.

(iii) At least 20.5 mpg, but less than 21.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,300.

(iv) At least 19.5 mpg, but less than 20.5 mpg, the Gas Guzzler Tax statement shall show a tax of $1,700.

(v) At least 18.5 mpg; but less than 19.5 mpg, the Gas Guzzler Tax statement shall show a tax of $2,100.

(vi) At least 17.5 mpg, but less than 18.5 mpg, the Gas Guzzler Tax statement shall show a tax of $2,600.

(vii) At least 16.5 mpg, but less than 17.5 mpg, the Gas Guzzler Tax statement shall show a tax of $3,000.

(viii) At least 15.5 mpg, but less than 16.5 mpg, the Gas Guzzler Tax statement shall show a tax of $3,700.

(ix) At least 14.5 mpg, but less than 15.5 mpg, the Gas Guzzler Tax statement shall show a tax of $4,500.

(x) At least 13.5 mpg, but less than 14.5 mpg, the Gas Guzzler Tax statement shall show a tax of $5,400.

(xi) At least 12.5 mpg, but less than 13.5 mpg, the Gas Guzzler Tax statement shall show a tax of $6,400.

(xii) At least 12.5 mpg, the Gas Guzzler Tax statement shall show a tax of $7,700.

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BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 7526]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies one community, (City of Humboldt, Iowa) where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that is suspended on the effective date listed within the rule because of failure to enforce its floodplain management regulations in accordance with NFIP requirements. If FEMA receives documentation that this community has taken action to bring its floodplain management program into compliance with NFIP requirements prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed in this notice no longer meets that statutory requirement for compliance with program regulations (44 CFR part 59, *et. seq.*). Accordingly, the City of Humboldt will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in this community. However, the community may submit documentation that they have corrected the deficiencies in their floodplain management programs and remedied all violations to the maximum extent possible that have been identified, prior to the actual suspension date. If this documentation is submitted and approved by FEMA, the community will not be suspended and will continue its eligibility for the sale of insurance. A notice withdrawing the suspension of the community will be published in the Federal Register. In the interim, if you wish to determine if this community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in this community by publishing a Flood Insurance Rate Map. The date of this flood map is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the community listed on the date shown in the last column.

The Administrator finds that notice and public comment procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because the community listed in this final rule has been adequately notified.

The community has received a 90-day probationary letter, a 30-day show cause letter in August 1991, and a 30-day suspension notice in October 1991. These notifications were addressed to the chief executive officer of the community, indicating that their community will be suspended unless the required corrective actions and remedial measures are taken prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to enforce adequate floodplain management, thus placing itself in noncompliance with the Federal standards required for community participation. In each entry, a complete chronology of the effective date appears for the listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VII				
Iowa: Humboldt, city of, Humboldt County	190155	Jan. 28, 1975, Emerg; May 19, 1981, Reg; Nov. 6, 1991 Susp.	5-19-81	Nov. 6, 1991.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: October 22, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-25857 Filed 10-25-91; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

Docket No. FEMA 7524

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, SW., room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 *et. seq.*). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance with the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal Assistance no longer available in special flood hazard areas
Regular Program Conversions				
Region II				
New York: Grove, town of, Allegany County	361005	Nov. 26, 1976, Emerg; July 9, 1982, Reg; Nov. 6, 1991, Susp.	Nov. 6, 1991	Nov. 6, 1991.
Region III				
West Virginia: Nicholas County, Unincorporated Areas.	540146	June 30, 1976, Emerg; Nov. 6, 1991, Reg; Nov. 6, 1991, Susp.	Nov. 6, 1991	Do.
Region VI				
Oklahoma: Dewar, town of, Omulgee County	400143	Nov. 21, 1975, Emerg; June 5, 1985, Reg; Nov. 6, 1991 Susp.	Nov. 6, 1991	Do.
Region II				
New York: Hounsfield, town of, Jefferson County	360340	Aug. 22, 1975; Emerg; March 18, 1987, Reg; Nov. 20, 1991, Susp.	Nov. 20, 1991	Nov. 20, 1991.
Region III				
Pennsylvania: Whitpain, township of, Montgomery County.	420713	Apr. 14, 1972, Emerg; Jan. 5, 1978, Reg; Nov. 20, 1991, Susp.	Nov. 20, 1991	Do.
Region V				
Wisconsin: Burnett County, Unincorporated Areas.	550032	March 21, 1975, Emerg; Nov. 20, 1991, Reg. Nov. 20, 1991, Susp.	Nov. 20, 1991	Do.
Region VI				
Oklahoma: Washington County, Unincorporated Areas.	400459	Feb. 1, 1988, Emerg; Nov. 20, 1991, Reg; Nov. 20, 1991, Susp.	Nov. 20, 1991	Do.
Minimal Conversion				
Region V				
Michigan:				
Chester, township of, Ottawa County	260829	May 23, 1990, Emerg; Nov. 20, 1991, Reg; Nov. 20, 1991, Susp.	Nov. 20, 1991	Nov. 20, 1991.
Cascade, township of, Kent County	260814	Feb. 15, 1989, Emerg; Nov. 6, 1991, Reg: Nov. 28, 1991, Susp.	Nov. 6, 1991	Nov. 28, 1991
Regular Program Conversions				
Region IV				
Georgia:				
Clayton County, Unincorporated Areas	130041	April 28, 1972, Emerg; June 5, 1978, Reg; Nov. 20, 1991, Susp.	Nov. 6, 1991	Nov. 20, 1991.
Riverdale, city of, Clayton County	130047	Dec. 12, 1973, Emerg; Feb. 15, 1978, Reg; Nov. 20, 1991, Susp.	Nov. 6, 1991.	Do.
South Carolina: Chesterfield County, Unincorporated Areas.	450228	Aug. 20, 1975, Emerg; July 5, 1982, Reg; Nov. 20, 1991, Susp.	Nov. 6, 1991	Do.
Region V				
Wisconsin:				
Pittsville, city of, Wood County	550517	March 10, 1975, Emerg; Nov. 6, 1991, Reg; Nov. 20, 1991, Susp.	Nov. 6, 1991	Do.
Waushara County, Unincorporated Areas	550540	May 19, 1986, Emerg; Nov. 6, 1991, Reg; Nov. 20, 1991, Susp.	Nov. 6, 1991	Do.

Code for reading third column; Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: October 10, 1991.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 91-25858 Filed 10-25-91; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA 75-25]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, SW., room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, FEMA, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency program			
Texas:			
Rio Vista, city of, [1] Johnson County	481159	Sept. 6, 1991	
Thrall, city of, [1] Johnson County	481632	....do	
Joshua, city of, [1] Johnson County	480882	....do	
Ohio: Ney, village of Defiance County	390850	....do	Jan. 5, 1979
Georgia: Blairsville, city of, Union County	130179	....do	June 11, 1976
Oklahoma: Comanche County, [2] unincorporated areas	400489	....do	June 20, 1978.
New Eligibles—Regular Program			
Tennessee: Hamblen County, unincorporated areas	470346	Sept. 5, 1991	Mar. 18, 1991.
North Carolina: Wayne County, unincorporated areas	370254	Sept. 16, 1991	Sept. 30, 1983
Colorado: Windsor, town of, Weld County	080264	Sept. 27, 1991	Sept. 27, 1991
California:			
Bell Gardens, city of, Los Angeles County	060656	....do	NSFHA
Downey, city of, Los Angeles county	060645	Sept. 30, 1991	NSFHA
Reinstatement—Regular Program			
Iowa: LaGrand, city of, Marshall County	190606	Dec. 5, 1977 Emerg.; Sept. 1, 1987 Reg.; Sept. 1, 1987 Susp.; Sept. 24, 1991 Rein.	Sept. 1, 1987.
Regular Program Conversions			
Region III			
West Virginia: Gauley Bridge, town of, Fayette County	540294	Sept. 18, 1991 suspension withdrawn	Sept. 18, 1991.
Region V			
Wisconsin:			
Amery, city of, Polk County	550332	....do	Sept. 18, 1991.
Elroy, city of, Juneau County	550201	....do	Sept. 18, 1991.
Juneau County, unincorporated areas	550580	....do	Sept. 18, 1991.
Mauston, city of, Juneau County	550204	....do	Sept. 18, 1991.
New Lisbon, city of, Juneau County	550206	....do	Sept. 18, 1991.
Region VI			
Arkansas: Benton County, unincorporated areas	050419	....do	Sept. 18, 1991
Minimal Conversion			
Michigan: Wise, township of, Isabella County	260823	....do	Sept. 18, 1991.
Regular Program Conversions			
Region III			
Maine: Paris, town of, Oxford County	230097	Sept. 27, 1991 suspension withdrawn	Sept. 27, 1991.
Vermont:			
Corinth, town of Orange County	500071	....do	Sept. 27, 1991.
Groton, town of Calendonia County	500026	....do	Sept. 27, 1991.
Topsham, town of Orange County	500241	....do	Sept. 27, 1991.
Vernon, town of Windham County	500137	....do	Sept. 27, 1991

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Regular Conversions			
Region II			
New York: Corning, town of, Steuben County	360773	do	Sept. 27, 1991.
Region III			
West Virginia:			
Alderson, town of, Greenbrier and Monroe Counties	540041	do	Sept. 27, 1991.
Keyser, city of, Mineral County	540130	do.	Sept. 27, 1991.
Mineral County unincorporated areas	540129	dodo	Sept. 27, 1991.
Piedmont, city of, Mineral County	540131	dodo	Sept. 27, 1991.
Randolph County unincorporated areas	540175	dodo	Sept. 27, 1991.
Richwood, city of, Nicholas County	540147	do	Sept. 27, 1991.
Region IV			
Georgia: Austell, city of, Cobb and Douglas Counties	130054	do	Sept. 27, 1991.
Region V			
Minnesota:			
Cloquet, city of, Carlton County	270042	do	Sept. 27, 1991.
Hibbing, city of, St. Louis County	270577	do	Sept. 27, 1991.
Ranier, city of, Koochiching County	270238	do	Sept. 27, 1991.
Ohio:			
Pickaway County unincorporated areas	390445	do	Sept. 27, 1991.
Union County unincorporated areas	390808	do	Sept. 27, 1991.
Region VI			
Arkansas: Mayflower, city of, Faulkner County	050079	Sept. 27, 1991	Sept. 27, 1991.
Louisiana: St. Helana Parish unincorporated areas	220161	do	Sept. 27, 1991.
New Mexico: Dona Ana County unincorporated areas	350012	do	Sept. 27, 1991.
Oklahoma:			
Apache, city of, Caddo County	400019	do	Sept. 27, 1991.
Binger, town of Caddo County	400020	do	Sept. 27, 1991.
Enid, city of, Garfield County	400062	do	Sept. 27, 1991.
Fort Cobb, town of, Caddo County	400022	do	Sept. 27, 1991.
Gracemont, town of, Caddo County	400023	do	Sept. 27, 1991.
Hydro, town of, Caddo County	400024	do	Sept. 27, 1991.
Lookeba, town of, Caddo County	400025	do	Sept. 27, 1991.
Okmulgee County unincorporated areas	400492	do	Sept. 27, 1991.
Nash, town of, Grant County	400311	do	Sept. 27, 1991.
Texas:			
Bowie County unincorporated areas	481194	do	Sept. 27, 1991.
Cedar Park, city of, Williamson County	481282	do	Sept. 27, 1991.
Florence, city of, Williamson County	480669	do	Sept. 27, 1991.
Georgetown, city of, Williamson County	480668	do	Sept. 27, 1991.
Granger, city of, Williamson County	481046	do	Sept. 27, 1991.
Henderson, city of, Rusk County	480551	do	Sept. 27, 1991.
Johnson County unincorporated areas	480879	do	Sept. 27, 1991.
Leander, city of, Williamson County	481536	do	Sept. 27, 1991.
Midland, city of, Williamson County	480477	do	Sept. 27, 1991.
Parker County unincorporated areas	480520	do	Sept. 27, 1991.
Round Rock, city of, Williamson County	481048	do	Sept. 27, 1991.
Region VII			
Kansas:			
Edgerton, city of, Johnson County	200162	do	Sept. 27, 1991.
Fairway, city of, Johnson County	205185	do	Sept. 27, 1991.
Johnson County unincorporated areas	200159	do	Sept. 27, 1991.
Leawood, city of, Johnson County	200167	do	Sept. 27, 1991.
Lenexa, city of, Johnson County	200168	do	Sept. 27, 1991.
Merriam, city of, Johnson County	200169	do	Sept. 27, 1991.
Mission, city of, Johnson County	200170	do	Sept. 27, 1991.
Mission Hills, city of, Johnson County	200171	do	Sept. 27, 1991.
Olathe, city of, Johnson County	200173	do	Sept. 27, 1991.
Kansas:			
Overland Park, city of, Johnson County	200174	do	Sept. 27, 1991.
Prairie Village, city of, Johnson County	200175	do	Sept. 27, 1991.
Shawnee, city of, Johnson County	200177	do	Sept. 27, 1991.
Region VIII			
Colorado:			
Meeker, town of, Rio Blanco County	080151	do	Sept. 27, 1991.
Parachute, town of, Garfield County	080215	do	Sept. 27, 1991.
Weld County unincorporated areas	080266	do	Sept. 27, 1991.
Wyoming: Laramie County unincorporated areas	560029	do	Sept. 27, 1991.
Region IX			
California:			
Simi Valley, city of, Ventura County	060421	do	Sept. 27, 1991.
Solando County unincorporated areas	060631	do	Sept. 27, 1991.
Region X			
Oregon:			
Grants Pass, city of, Josephine County	410108	do	Sept. 27, 1991.
Jackson County unincorporated areas	415589	do	Sept. 27, 1991.
Josephine County unincorporated areas	415590	do	Sept. 27, 1991.

[1] The cities of Rio Vista, Joshua, and Thrall will be converted to the Regular Program on their affective FIRM date September 27, 1991.
[2] Comanche County will be converted to the Regular Program effectiva February 19, 1992, which will be the date of the county's FIRM.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

C.M. "Bud" Schauerte,
Administrator, Federal Insurance Administration.

Issued: October 17, 1991.

[FR Doc. 91-25859 Filed 10-25-91; 8:45 am]
BILLING CODE 6718-21-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-210; Amdt. No. 173-228]

RIN 2137-AC15

Clarification of Requirements for Limited Quantities of Compressed Gases

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

ACTION: Final rule; request for comments.

SUMMARY: RSPA is amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to clarify for compressed gases the limited quantity and the consumer commodity provisions found in § 173.306 (a)(1) and (a)(3). This action is necessary to prevent a serious threat to life and property and to provide a clear understanding of the exceptions provided in these sections. The intended effect is to promote the safety of gases shipped under these provisions.

EFFECTIVE DATE: October 28, 1991.

ADDRESSES: Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

FOR FURTHER INFORMATION CONTACT: Diane LaValle, (202) 366-4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: Because this final rule is necessary to prevent a serious threat to life and property, prior notice and public comment would be contrary to the public interest. Specifically, RSPA is taking this action to stop the misuse of its limited quantity and consumer commodity exceptions under the HMR by persons shipping flammable compressed gases such as butane in significant quantities without identifying their flammability hazard (by labeling or placarding) and without complying with specification packaging requirements. For this same reason, this final rule is being made effective upon publication. Because this final rule was published without prior notice, RSPA is requesting comments by December 12, 1991. A notice will be published in the Federal Register addressing these comments.

The HMR contain exceptions from certain of its requirements for limited quantities of materials and for materials which are consumer commodities in the ORM-D (i.e., other regulated materials, category D) hazard class. A "limited quantity," as defined in § 171.8, means the maximum amount of a hazardous material for which there is a specific labeling and packaging exception. These limited quantity exceptions are specified in the packaging sections applicable to particular materials, which are usually referenced in column 5a of the Hazardous Materials Table in § 172.101. For compressed gases, the limited quantity provisions are contained in paragraph (a) of § 173.306. Materials meeting the criteria of this paragraph are excepted from: (1) Labeling requirements (other than when offered for transportation by aircraft), (2) specification packaging requirements, (3) placarding requirements, (4) most requirements of part 174 for transportation by rail, and (5) most requirements of part 177 for transportation by motor vehicle. For certain of these limited quantity materials, further exceptions are provided if they also meet the criteria in § 171.8 (see "consumer commodity").

Section 173.306(a)(1) authorizes the use of nonspecification packagings with a capacity of not more than 4 fluid ounces or 7.22 cubic inches each. Section 173.306(a)(2) authorizes the use of metal nonspecification packagings filled with a material that is not classed as a hazardous material to not more than 90 percent of capacity at 70 °F and then charged with nonflammable, nonliquefied gas with certain restrictions applying to internal pressure, filling limits and testing of the container. Section 173.306(a)(3) authorizes the use of metal nonspecification packagings charged with a solution of materials and compressed gas or gases (i.e., aerosols), with certain restrictions applying to internal pressure, filling limits and testing of the container. The capacity of this container may not exceed 50 cubic inches or 27.7 fluid ounces. Paragraph (a)(3) applies only to solutions of materials and compressed gas or gases which are not poisonous. This would include most aerosol products, but would not apply to containers containing only compressed gas or gases. Both paragraphs (a)(1) and (a)(3) authorize compressed gases that meet the definition of a consumer commodity to be reclassed as an ORM-D.

A consumer commodity as defined in § 171.8 means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use. If a material meets the definition of a consumer commodity, it may be reclassed and offered for shipment as an ORM-D material provided an exception is authorized in the particular packaging section in part 173 applicable to the material.

It has come to RSPA's attention that several companies are offering butane in containers with capacities of up to 27.7 fluid ounces as a limited quantity under § 173.306(a)(3) and as a consumer commodity, ORM-D, under this same section. One company has added minute quantities of isopropyl alcohol (a water drying agent), ethyl mercaptan (an odorant), and small quantities of oil to butane, claiming that the container contains a "compressed gas and a solution of materials" and that the gas is a propellant. It appears that others may be using the same artifice to ship flammable compressed gases (used as fuel in stoves or other applications wherein the flammable gases, rather than the additives, are the primary end use product) as aerosols. These materials then are offered for transportation without identification of their flammability hazard.

RSPA is concerned about the serious potential hazards posed by shipping flammable compressed gases, under limited quantity or consumer commodity provisions, when a compressed gas is the primary product and not merely an aerosol propellant additive. RSPA and its predecessor agencies never intended that gases other than those used as a propellant could be excepted from any of the HMR when a package has more than a 4-fluid ounce capacity. The limited quantity and consumer commodity provisions for containers of greater than 4-fluid ounce capacity up to 27.7 ounces are intended only for compressed gases that are used as

propellants for the purpose of expelling materials other than gases.

In order to eliminate any misunderstanding of the provisions of § 173.306(a)(3), RSPA is revising the first sentence of this paragraph to make it clear that it applies only to compressed gases used for the purpose of expelling a nonpoisonous liquid, paste or powder. RSPA is also revising the first sentence in § 173.306 paragraph (a)(2), for clarity.

The requirements for small containers of liquefied petroleum gas (larger than 7.22 cubic inches) are specified in § 173.304(d)(3)(ii). The requirements for small containers of refrigerant gases (larger than 7.22 cubic inches) are specified in § 173.304(e). These materials may not be reclassed and described as "Consumer commodity, ORM–D".

Administrative Notices

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) applies only to rules for which an agency publishes an NPRM. Therefore, the RFA does not apply to this rule.

B. Executive Order 12291 and Administrative Notices

In view of the clarifying nature of changes, RSPA has determined that this final rule (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a full regulatory evaluation as the anticipated impact would be minimal; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

C. Executive Order 12612

I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on the States, on the Federal-State relationship or the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is necessary.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packagings and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, title 49, chapter I, subchapter C of the Code of Federal Regulations is amended as set forth below.

The following amendments apply to part 173 in effect as of the date of publication of this final rule:

1. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.306, the first sentence in paragraph (a)(2) is amended by adding the word "and" immediately after "70 °F" and before the word "then", and the first sentence in paragraph (a)(3) is revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

(a) * * *

(3) When in a metal container for the sole purpose of expelling a nonpoisonous liquid, paste or powder, provided all of the following conditions are met. * * *

* * * * * *

Issued in Washington, DC on October 21, 1991 under authority delegated in 49 CFR part 1.

Travis P. Dungan,

Administrator, Research and Specials Programs Administration.

[FR Doc. 91–25703 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–60–M

Proposed Rules

Federal Register
Vol. 56, No. 208
Monday, October 28, 1991

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1413 and 1421

1992 Rice Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR part 1413 to set forth whether to establish an acreage reduction percentage for the 1992 crop of rice, and if so, the level of reduction. This action is required by section 107B of the Agricultural Act of 1949, as amended (the 1949 Act). This proposed rule would also amend the regulations at 7 CFR 1421.25 to change the announcement time of the adjusted world price for rice and to allow for the use of world market prices, expressed by class of rice per 100 pounds, as the basis for calculating marketing loan gains and loan deficiency payment rates.

DATES: Comments must be received on or before November 25, 1991, in order to be assured of consideration.

ADDRESSES: Comments must be mailed to Orval Kerchner, Acting Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), P.O. Box 2415, room 3741–S, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, room 3740–S, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7923.

SUPPLEMENTARY INFORMATION: The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of the implementation of each option is available on request from the above named individual.

This rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as "major." It has been determined that an annual effect on the economy of $100 million or more may result from implementation of the provisions of this proposed rule.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking.

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

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

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

The paperwork requirements imposed by this rule will not become effective until they have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. Such approval has been requested and is under consideration.

The information collection requirements contained in these regulations will be submitted to the Office of Management and Budget for approval under the provisions of 44 U.S.C. chapter 35. Public reporting burden for these collections is estimated to vary from 15 minutes to 45 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden to USDA, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

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

Background

In accordance with section 101B of the 1949 Act, an acreage reduction program (ARP) may be implemented for the 1992 rice crop if it is determined that the total supply of rice, in the absence of such a program, would be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

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

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

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

The Secretary is required to carry out an acreage limitation program in a manner that will result in carry-over stocks equal to 16.5 to 20.0 percent of the simple average of the total disappearance (including domestic, export, and residual disappearance) of rice for each of the 3 marketing years preceding the year for which the announcement is made. The 1992-crop options considered are:

Option 1. No ARP
Option 2. 0-percent ARP
Option 3. 2.5-percent ARP
Option 4. 5.0-percent ARP
Option 5. 7.5-percent ARP

The estimated impacts of these options are shown in Table 1.

TABLE 1.—ESTIMATED IMPACTS OF 1992 CROP OPTION

	Options				
	1	2	3	4	5
ARP (%)	(1)	0.0	2.5	5.0	7.5
Participation (%)	92	94	94	94	94
Planted Acres (1000 Ac.)	3250	3106	3019	2932	2845
Production (Mil cwt)	179.8	172.2	167.7	163.1	158.5
Domestic Use (Mil cwt)	91.0	90.2	89.8	89.4	89.2
Exports (Mil cwt)	83.0	78.0	74.0	71.0	67.0
Ending Stocks (Mil cwt)	29.0	27.3	27.1	25.9	25.5
Stocks/Use Ratio (%)	18.0	16.9	16.8	16.1	15.8
Season Avg. Price ($/cwt)	6.50	6.70	6.80	6.90	6.95
New Outlays (Mil $)	744	752	731	695	660

[1] No ARP.

If the Secretary determines rice supplies will not be excessive, taking into consideration the need for an adequate carry-over to maintain reasonable and stable supplies and to meet a national emergency, the Secretary may not establish an ARP. One program option being considered for the 1992 Rice Program is that an ARP not be established.

If an ARP is not established, all production of rice planted on a farm is eligible to receive price support loans and purchases and marketing loan benefits, including loan deficiency payments. Program benefits included under the 50/92 Program are not authorized unless an acreage limitation program is established. Therefore, deficiency payments would not be made with respect to conserving use acreage or acreage which is prevented from being planted to rice because of drought or other conditions beyond the producers' control. Payment acreage would be the lesser of the number of acres planted to the crop for harvest, or 85 percent of the rice acreage base. Planting flexibility does not apply to rice acreage base if an ARP is not established for rice. Rice would be able to be planted on the normal flexible acreage and optional flexible acreage of other program crops, but no part of the rice acreage base of the farm would be considered as flexible acreage for the purpose of planting other crops.

Rice could be planted on the flexible acreage of other program crops and credited as that crop's considered planted acreage. However, rice acreage base planted to other crops cannot be credited as considered planted to rice.

If an ARP is not established for rice and the Secretary determines that deficiency payments will likely be made for rice, the Secretary would not be required to make advance deficiency payments available for rice. Producers would be required, during the enrollment period, to elect whether any acreage planted to rice is for the purpose of establishing increased rice crop acreage bases in subsequent years or is to be eligible for target price deficiency payments. This election would be required because a producer who is eligible to receive a deficiency payment for any program crop may not use the acreage planted or considered planted to any program crop on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year. Planted rice acreage not designated during the enrollment period would be ineligible for deficiency payments for that crop year.

Accordingly, comments are requested whether to establish an ARP for the 1992 rice crop, and if so, at what reduction percentage. The final determination of this percentage will be set forth at 7 CFR part 1413.54(a)(4).

Section 101B(a)(5)(B) of the 1949 Act provides that the Secretary of Agriculture shall prescribe by regulation a formula to define the prevailing world market price for rice and a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

Under the present rule, the adjusted world price for rice shall be announced, to the extent practicable, on or after 3:00 p.m. Eastern time each Tuesday, but may be announced more or less frequently, as determined by the Secretary. Under the proposed rule, the adjusted world price for rice would be announced on or after 7 a.m. Eastern time each Tuesday, but may be announced more or less frequently, as determined by the Secretary. This change would provide for one world price to be effective each weekday. Under the current rule, two world prices may be effective on Tuesdays, the day of announcement. It is proposed to implement this change during the 1991-crop marketing year.

Comments are requested regarding announcing the adjusted world price of rice on or after 7 a.m. Eastern time each Tuesday or other weekday that may be appropriate to the operation of the rice program and marketing of the rice crop.

The present rule also provides that the adjusted world prices of rice for each class shall be adjusted to a whole kernal loan rate basis, that is, expressed in terms of cents per pound of whole kernels. World prices so expressed have been used to calculate the world price and marketing loan gain for rice based on its milling outturn. Under the proposed rule, CCC would calculate the difference between the loan rate and world market price for each class of rice based on the estimated national average milling outturns of each class. Any price differences by class would be provided as the loan gain or the loan deficiency payment rate for such class of rice without regard to the milling outturn of individual quantities of rice under loan or for which loan deficiency payments are requested. This change is proposed to be implemented starting with the 1992 crop of rice. Accordingly, comments are requested regarding providing a loan gain or loan deficiency payment rate for each class of rice without regard to milling outturns of individual quantities.

List of Subjects

7 CFR Part 1413

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

7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

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

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1442–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 1413.54, paragraphs (a)(4) and (d) are revised to read as follows:

§ 1413.54 Acreage Reduction Program Provisions.

(a) * * *

(4)(i) 1991 rice, 5 percent.

(ii) 1992 rice, within the range of 0 to 35 percent, if supplies are excessive, as determined and announced by CCC with no paid diversion.

* * * * *

(d) Paid land diversion program payments shall not be made available to producers of the 1992 crops of wheat, feed grains, and rice, as determined and announced by CCC.

* * * * *

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

3. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

4. In § 1421.25 paragraph (a)(5)(vi) and (a)(6) are revised to read as follows:

§ 1421.25 Market price repayments.

(a) * * *

(5) * * *

(vi) The price determined in accordance with paragraph (a)(5)(v) of this section may be adjusted to a whole kernel loan rate basis by deducting the estimated domestic market value of the total quantity of broken kernels contained in such rice and dividing the resulting value by the estimated national average quantity of milled whole kernels produced in milling 100 pounds of rice.

(6) The average world price for each class for rice, loan rate basis, shall be determined by CCC and shall be announced, to the extent practicable, on or after 7 a.m. Eastern time each Tuesday continuing through the last Tuesday of July, 1996, but may be announced more or less frequently, as determined by CCC. In the event that Tuesday is a non-workday, the determination will be made on the next workday, on or after 7 a.m. Eastern time. The announced prices will be effective upon announcement and will remain in effect until the next world price is announced.

* * * * *

Signed on October 24, 1991 at Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–25947 Filed 10–24–91; 9:42 am]

BILLING CODE 3410–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

RIN 0960–AC87

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representation of Claimants for Benefits Under Title II and/or Title XVI

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations concerning representation of parties to implement the provisions of section 10307 (b) of Public Law 101–239, the Omnibus Budget Reconciliation Act of 1989 (OBRA), enacted December 19, 1989. Section 10307(b), which will apply to adverse determinations made on or after January 1, 1991, amended sections 206 and 1631(d) of the Social Security Act (Act) to require that we notify claimants who receive an adverse determination concerning their options for obtaining an attorney to represent them in administrative proceedings before us and of the availability, to qualifying claimants, of legal services organizations that provide legal services free of charge.

DATES: To be sure your comments are considered, we must receive them no later than December 27, 1991.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–1769.

SUPPLEMENTARY INFORMATION:

Background

Section 10307(b) of Public Law 101–239 requires that when the Social Security Administration (SSA) notifies a claimant of an adverse determination that is made on or after January 1, 1991, the Agency must also notify the claimant of the options for obtaining attorney representation in presenting his or her case before the Secretary. This notification must also advise the claimant of the availability, to qualifying claimants, of legal services organizations that provide legal services free of charge. This statutory provision was enacted to ensure that claimants who receive a notice of denial or other adverse determination regarding their claim for Social Security and/or supplemental security income (SSI) benefits are informed at the same time of the various options, including the availability of free legal services, for obtaining an attorney to represent them in requesting administrative review and presenting their cases before the Secretary.

Under our existing procedures, we generally inform claimants and beneficiaries of their right to be represented, if they choose, by an attorney or nonattorney at each step of the administrative review process. We provide more detailed information, including lists of attorney referral and legal services organizations and of community organizations that may provide nonattorney representation, to claimants and beneficiaries who inquire about representation or request a hearing before an administrative law judge.

We provide such notice and information in furtherance of the provisions of sections 206 and 1631(d) of the Act permitting the representation of claimants by attorneys and nonattorneys and in accordance with our longstanding policy of neither encouraging nor discouraging claimant representation. The regulations currently in effect do not require that we notify claimants of the options for obtaining attorney representation.

Proposed Regulations

The proposed regulations would amend the subparts of our regulations that deal with representation of parties, subpart R in part 404 and subpart 0 in part 416, by adding one new section to each subpart. Proposed new §§ 404.1706 and 416.1506 implement the provisions of section 10307(b) of OBRA concerning notification of the options for obtaining attorney representation.

Sections 404.1706 and 416.1506, as proposed, require SSA to provide all claimants information on the options for obtaining attorney representation with the notice of any Social Security or SSI determination or decision, as defined in §§ 404.901 and 416.1401 of our regulations, that is adverse to any person claiming such benefits. These are the determinations or decisions such as the denial of a claim for benefits that are subject to the administrative review

process provided by subpart J in part 404 and subpart N in part 416. If our determination or decision does not grant all of the benefits or other relief a claimant or beneficiary has requested, such as waiver of recovery of an overpayment of Social Security or SSI benefits, or if our determination or decision adversely affects any entitlement or eligibility to benefits that we have previously established for an individual, we will include with our notice of that determination information concerning options for attorney representation. The proposed sections permit, but do not require, SSA to provide such information in other situations.

Proposed §§ 404.1706 and 416.1506 state that SSA will provide information on options for obtaining attorney representation and advise claimants of the availability (to those who qualify) of legal services organizations which provide free legal services. Under the rules as proposed, we will provide this information even if our records show that the claimant is already represented by an attorney. The proposed sections do not describe specifically the language to be used in these notices. This is to ensure that we retain the flexibility to vary the standardized notice language and to respond to changing circumstances. However, we intend to advise all claimants that there are organizations that can assist them in obtaining counsel or, if they qualify, free legal services, and that local Social Security offices have information about such organizations. We also intend to inform claimants of the possibility of employing attorneys who charge no fee unless the claim is successful, the requirement that the attorney may not collect any fee for services performed unless and until SSA approves the fee, and the requirement in Social Security cases that we may withhold 25 percent of any past-due benefits for possible use in paying approved fees.

The statutory amendments and these proposed regulations do not limit our ability to provide additional information on representation, including information on the right to represent oneself or to be represented by nonattorneys. They do not change our policy of neither encouraging nor discouraging claimant representation in the nonadversarial proceedings that are conducted pursuant to the administrative review process that is provided for in our regulations. We may provide the required information on attorney representation in the notice of an adverse determination itself or in an enclosure to the notice.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it will result in negligible administrative costs and savings. Any increase in program or administrative costs is attributable to the legislation and not the regulations. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because these rules will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.773 and 93.774, Medicare; 93.802–93.805 Social Security; and 93.807 Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors, and Disability Insurance.

20 CFR part 416

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Supplemental Security Income (SSI).

Dated: May 23, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: September 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subpart R of part 404 and subpart O of part 416 of 20 CFR chapter III are amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

1. The authority citation for subpart R of part 404 continues to read as follows:

Authority: Secs. 205(a), 206, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 406, and 1302.

2. New § 404.1706 is added to read as follows:

§ 404.1706 Notification of options for obtaining attorney representation.

Whether or not you have advised us that you are represented by an attorney, if we make a determination or decision that is subject to the administrative review process provided under Subpart J of these regulations and it does not grant all of the benefits or other relief you requested or it adversely affects any entitlement to benefits that we have established or may establish for you, we will include with the notice of that determination or decision information about your options for obtaining an attorney to represent you in dealing with us. We will also tell you that a legal services organization may provide you with legal representation free of charge if you satisfy the qualifying requirements applicable to that organization.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for subpart O of part 416 continues to read as follows:

Authority: Secs. 1102 and 1631(d) of the Social Security Act; 42 U.S.C. 1302 and 1383(d).

2. New § 416.1506 is added to read as follows:

§ 416.1506 Notification of options for obtaining attorney representation.

Whether or not you have advised us that you are represented by an attorney, if we make a determination or decision that is subject to the administrative review process provided under subpart N of these regulations and it does not grant all of the benefits or other relief you requested or it adversely affects any eligibility for benefits that we have established or may establish for you, we will include with the notice of that determination or decision information about your options for obtaining an attorney to represent you in dealing with us. We will also tell you that a legal services organization may provide you with legal representation free of charge if you satisfy the qualifying requirements applicable to that organization.

[FR Doc. 91–25854 Filed 10–25–91; 8:45 am]

BILLING CODE 4190–29–M

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AD12

Reopening Determinations and Decisions

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: These proposed rules revise our current regulations to clarify the longstanding policy of the Social Security Administration (SSA) that the Agency on its own initiative, as well as at the request of any person claiming a right under the Social Security or supplemental security income programs, may reopen and revise a final administrative determination or decision.

DATES: To be sure that your comments are considered, we must receive them no later than December 27, 1991.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1762.

SUPPLEMENTARY INFORMATION: We propose to revise our regulations at 20 CFR 404.987 and 416.1487 to clarify that we may reopen and revise a final administrative determination or decision either on our own initiative or at the request of a party to the determination or decision. Prior to August 5, 1980, our regulations expressly provided that we had the discretion to reopen and revise a final determination or decision, including a final revised determination or decision, either on our own motion or upon the request of any party to the determination or decision. See 20 CFR 404.956, 404.957, 416.1475 and 416.1477 (1980). On August 5, 1980, however, we published regulations which reorganized and restated all of our rules on the administrative review process, including our rules for reopening and revising final determinations and decisions. This recodification of our rules contained simpler language to make the rules clearer and easier for the public to use and understand (45 FR 52078, August 5, 1980).

Our current regulations on the procedures for reopening and revising a determination or decision were a part of the recodification that was published and became effective on August 5, 1980. Although no substantive changes were intended with regard to the authority to reopen on our own initiative, the language of our current regulations has been read by some to permit reopening and revision of a final determination or decision only when the beneficiary or claimant requests reopening.

With respect to the reopening and the revising of a final determination or decision, our current regulations at 20 CFR 404.987 and 416.1487, state that "(y)ou may ask that a determination or a decision to which you were a party be revised." The current regulations have created some confusion in that they have been read by some courts to mean that we may not reopen and revise a final determination or decision on our own initiative.

The proposed rules will eliminate the ambiguity that exists in our current regulations regarding our authority to reopen and revise a final determination or decision on our own initiative. We propose to revise 20 CFR 404.987 and 416.1487 to state explicitly that we may reopen a determination or decision that has become final on our own initiative or at the request of an individual who was a party to the determination or decision.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security—Disability Insurance; 93.803, Social Security—Retirement Insurance; 93.805, Social Security—Survivors Insurance; 93.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416:

Administrative Practice and Procedure, Aged, Blind, Disability benefits, Public assistance programs Supplemental Security Income.

Dated: May 15, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: September 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

20 CFR Part 404, Subpart J, is amended as follows:

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), and (d)-(h), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405(a), (b), and (d)-(h), 421(d), and 1302; sec. 5 of Pub. L. 97-455, 96 Stat. 2500; sec. 6 of Pub. L. 98-460, 98 Stat. 1802.

2. Section 404.987 is revised to read as follows:

§ 404.987 Reopening and revising determinations and decisions.

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review and that determination or decision becomes final. However, a determination or a decision made in your case which is otherwise final and binding may be reopened and revised by us.

(b) *Procedure for reopening and revision.* We may reopen a final determination or decision on our own initiative, or you may ask that a final determination or a decision to which you were a party be reopened. In either instance, if we reopen the determination

or decision, we may revise that determination or decision. The conditions under which we may reopen a previous determination or decision, either on our own initiative or at your request, are explained in § 404.988.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

20 CFR part 416, subpart N, is amended as follows:

1. The authority citation for subpart N of part 416 continues to read as follows;

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

2. Section 416.1487 is revised to read as follows:

§ 416.1487 Reopening and revising determinations and decisions.

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review and that determination or decision becomes final. However, a determination or a decision made in your case which is otherwise final and binding may be reopened and revised by us.

(b) *Procedure for reopening and revision.* We may reopen a final determination or decision on our own initiative, or you may ask that a final determination or a decision to which you were a party be reopened. In either instance, if we reopen the determination or decision, we may revise that determination or decision. The conditions under which we may reopen a previous determination or decision, either on our own initiative or at your request, are explained in § 416.1488.

[FR Doc. 91–25855 Filed 10–25–91; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–38–91]

RIN 1545–AP73

Extension of Time for Real Estate Mortgage Investment Conduits To Provide Reporting Information; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the notice of proposed rulemaking (FI–38–91), which was published on Monday, September 30, 1991, (56 FR 49525). The proposed regulations extend the time for REMICs and certain other issuers to provide financial information to brokers, middlemen, and certain holders of REMIC interests or other debt instruments.

FOR FURTHER INFORMATION CONTACT: James W.C. Canup (FI–38–91), 202–566–6624, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction relates to real estate mortgage investment conduits (REMICs).

Need for Correction

As published, the proposed regulations contain an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (FI–38–91), which was the subject of FR Doc. 91–22850, is corrected as follows:

Paragraph 1. On page 49525, column three, in the preamble under the heading *"Comments and Requests to Appear at the Public Hearing"*, line 10, the language "November 13, 1991. See the notice of" is corrected to read "December 5, 1991. See the notice of".

Dale D. Goode,

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

[FR Doc. 91–25813 Filed 10–25–91; 8:45 am]

BILLING CODE 4830–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7034]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234). 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area.

The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Food Insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of Flooding and Location	#Depth in feet above ground. *Elevation in feet (NGVD)
MAINE	
Buckfield (Town), Oxford County	
Nezinscot River:	
Approximately 300 feet downstream of county boundary	*316
At the confluence of the East and West Branches Nezinscot River	*322
East Branch Nezinscot River:	
At confluence with Nezinscot River	*322
Approximately 100 feet upstream of State Route 140	*328
West Branch Nezinscot River:	
At the confluence with Nezinscot River	*322
Approximately 100 feet upstream of the upstream corporate limits	*425
Maps available for inspection at the Municipal Building, Buckfield, Maine.	
Send comments to Ms. Cynthia Dunn, Buckfield Town Manager, Oxford County, Box 176, Municipal Building, Buckfield, Maine 04220.	
NEW HAMPSHIRE	
Grantham (Town), Sullivan County	
North Branch Sugar River:	
At downstream corporate limits	*914
At confluence of Stocker and Sawyer Brooks	*959
Stocker Brook:	
At confluence with North Branch Sugar River	*959
Approximately .4 mile upstream of Interstate Route 89	*1,026
Sawyer Brook:	
At confluence with North Branch Sugar River	*959
Approximately .5 mile upstream of Yankee Barn Road	*978
Skinner Brook:	
At confluence with Sawyer Brook	*971
Approximately 150 feet upstream of State Route 10 (second crossing)	*1,003
Butternut Brook:	
At confluence with Eastman Pond	*1,110
Approximately 0.6 mile upstream of Mill Pond Dam	*1,140
Stocker Pond Outlet Channel:	
At confluence with Stocker Brook	*1,026
At Divergence from Stocker Brook	*1,028
Eastman Pond:	
Entire shoreline within community	*1,110
Stocker Pond:	
Entire shoreline within community	*1,026
Maps available for inspection at the Town Office Vault, Town Office, Grantham, New Hampshire.	
Send comments to Mr. Myron Cummings, Chairman of the Town of Grantham, Board of Selectmen, Sullivan County, Town Office, P.O. Box 276, Grantham, New Hampshire 03753.	
TEXAS	
Brazos County (Unincorporated Areas)	
Navasota River:	
At confluence with Brazos River	*189
At State Route OSR	*271
Wickson Creek:	
Approximately 2.8 miles downstream of Elmo Wheeden Road	*223
Approximately 800 feet upstream of Dilly Shaw Road	*298
Little Wickson Creek:	
At confluence with Wickson Creek	*284
Approximately 0.72 mile upstream of Dilly Shaw Road	*315
Mathis Creek:	
At confluence with Wickson Creek	*261
Approximately 0.78 mile upstream of U.S. Route 190	*293
Lick Creek:	
At confluence with the Navasota River	*205
Approximately 0.59 mile downstream of State Route 6	*274
Alum Creek:	
Approximately 0.7 mile upstream of confluence with Lick Creek	*223
Approximately 150 feet upstream of State Route 6	*248
Stream AC-1:	
At confluence with Alum Creek	*231
Approximately 1.2 miles upstream of confluence with Alum Creek	*252
Carters Creek:	
At confluence with the Navasota River	*208
At downstream side of U.S. Route 190/State Route 21	*320
Carters Creek Tributary B:	
Approximately 0.4 mile upstream of confluence with Carters Creek	*295
Approximately 500 feet downstream of State Route 6 Bypass	*305
Cottonwood Branch:	
At confluence with Still Creek	*247
At City of Bryan corporate limits	*279
South Fork of Cottonwood Branch:	
At confluence with Cottowood Branch	*251
Approximately 3.2 miles upstream of confluence with Cottonwood Branch	*294
Still Creek:	
At confluence with Thompsons Creek	*246
At the confluence of West Fork Still Creek	*316
West Fork Still Creek:	
At confluence with Still Creek	*316
Approximately 50 feet downstream of Southern Pacific Railroad	*321
Turkey Creek:	
Approximately 350 feet downstream of London Bridge County Road	*228
Approximately 0.4 mile downstream of Villa Maria Road	*265
Thompsons Creek:	
Approximately 0.22 mile downstream of Silver Hill Road	*240
Approximately 0.04 mile upstream of U.S. Route 190	*316
Thompsons Branch:	
At confluence with Thompsons Creek	*271
Approximately 0.02 mile upstream of Rabbit Lane	*329
Bee Creek Tributarty B:	
At northern corporate limits along unnamed tributary to Bee Creek Tributary B	*278
Maps available for inspection at the County Courthouse, 300 East 26th Street, Bryan, Texas.	
Send comments to the Honorable R. J. Holmgreen, Brazos County Judge, County Courthouse, 300 East 26th Street, Bryan, Texas 77803.	

The proposed modified base (100-year) flood elevations for selected locations are:

Proposed Modified Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Arizona	Yavapai County Unincorporated Areas.	South Rocky Boy Wash	At confluence with Model Creek	*4,499	*4,499
			Just above Aggie Hodge Road	#1	*4,526
			Approximately 4,750 feet above Aggie Hodge Road.	None	*4,575
Maps are available for review at the Yavapai County Flood Control District, 500 South Marina Street, Prescott, Arizona.					
Send comments to: The Honorable William Feldmeir, Chairman, Yavapai County Board of Supervisors, 255 East Gurley Street, Prescott, Arizona 86301.					
California	City of Fort Bragg, Mendocino County.	Noyo River	Approximately 400 feet downstream of U.S. Highway 1.	None	*4
			Just upstream of U.S. Highway 1	None	*9

Proposed Modified Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 3,200 feet upstream of U.S. Highway 1.	None	*14
			Approximately 6,650 feet upstream of U.S. Highway 1.	None	*17

Maps are available for review at City Hall, 416 North Franklin Street, Fort Bragg, California.

Send comments to The Honorable Matt Huber, Mayor City of Fort Bragg, City Hall, 416 North Franklin Street, Fort Bragg, California 95437.

	Mendocino County Unincorporated Areas.	Noyo River	Approximately 500 downstream of U.S. Highway 1 bridge.	None	*4
			Just upstream of U.S. Highway 1	None	*9
			Approximately 1,800 feet upstream of U.S. Highway 1.	None	*10
			Approximately 2,600 feet upstream of U.S. Highway 1.	None	*14
			Approximately 7,000 feet upstream of U.S. Highway 1.	None	*18

Maps are available for review at the Mendocino County Planning and Building Services Department, County Courthouse, Ukiah, California.

Send comments to The Honorable Norman deVall, Chairman, Mendocino County Board of Supervisors, County Courthouse, Ukiah, California 95482

Connecticut	Colchester, Town, New London County.	Meadow Brook	Approximately 0.4 mile downstream of Levy Road.	*277	*276
			Approximately 0.6 mile upstream of State Route 16.	None	*310
		Day Meadow Brook	At upstream side of River Road	None	*195
			At downstream side of State Route 2	None	*278

Maps are available for inspection at the Town Clerk's Office, 127 Norwich Avenue, Colchester, Connecticut.

Send comments to Mr. Ducan Green, First Selectman of the Town of Colchester, New London County, 127 Norwich Avenue, Colchester, Connecticut 06415.

Louisiana	Ascension Parish, Unincorporated Areas.	Bayou Francois	At confluence with New River	None	*5
			Approximately 3.3 miles upstream of U.S. Route 61.	*11	*12
		Babin Canal	Approximately 350 feet downstream of Laurel Ridge Road.	None	*6
			At George Lambert Road	None	*8
		Henderson Bayou	At confluence with Amite River	None	*14
			Approximately 150 feet upstream of State Route 933.	None	*16
		Muddy Creek	Confluence with Bayou Manchac	None	*20
			Approximately 160 feet upstream of State Route 42.	None	*21
		Black Bayou	At confluence of Babin Canal	None	*6
			Approximately 0.5 mile downstream of State Highway 431.	*8	*7
		New River	Approximately 150 feet downstream of confluence of Saveiro Canal.	None	*5
			Approximately 1.1 miles upstream of confluence of Saveiro Canal.	None	*5
		Amite River	At confluence with Amite River Diversion Canal	None	*9
			At confluence of Bayou Manchac	None	*20

Maps available for inspection at 42077 Churchpoint Road, Gonzales, Louisiana.

Send comments to Mr. Thomas Pearce, President of the Ascension Parish Police Jury, P.O. Box 351, Donaldsonville, Louisiana 70346.

	DeRidder, City, Beauregard Parish.	Palmetto Creek	Downstream corporate limits	None	*156
			Upstream corporate limits	None	*180
		Hickory Branch	Approximately 300 feet downstream of downstream corporate limits.	None	*160
			Upstream corporate limits	None	*174

Maps available for inspection at the City Hall, 200 S. Jefferson Street, DeRidder, Louisiana.

Send comments to The Honorable Gerald M. Johnson, Mayor of the City of DeRidder, Beauregard Parish, P.O. Box 400, DeRidder, Lousiana 70634.

	East Baton Rouge Parish, Unicorporated Areas.	Amite River	At confluence with Bayou Manchac	18	*20
			At upstream Parish boundary	None	*110
		Blackwater Bayou	At upstream side of Blackwater Road	None	*76

Proposed Modified Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 1.0 mile upstream of Blackwater Road.	None	*78
		Blackwater Bayou Tributary No. 1.	Appoximately 25 feet upstream of McCullaugh Road.	None	*78
			Approximately 5.8 miles upstream of confluence with Blackwater Bayou.	None	*79
		Blackwater Bayou Tributary No. 3.	At confluence with Blackwater Bayou	None	*78
			Approximately .6 mile upstream of confluence with Blackwater Bayou.	None	*78
		Clay Cut Bayou	At the confluence with Amite River	*27	*25
			Approximately 1.0 mile upstream of confluence with Amite River.	*27	*26
		Comite River	At the confluence with Amite River	*42	*45
			Just downstream of Greenwell Springs	*46	*47
		Draughans Creek	At the confluence with Comite River	*44	*47
			Approximately 2.2 miles upstream of confluence with Comite River.	*46	4746
		Beaver Bayou	At the confluence with Comite River	*45	*47
			Approximately 900 feet upstream of Frenchtown Road.	*46	*47
		Engineer Depot Canal	At the confluence with Comite River	*45	*47
			Approximately 850 feet upstream of Sarasota Drive.	*46	*47
		Hub Bayou	At the confluence with Amite River	*61	*64
		Approximately .4 mile upstream of State Route 37.	*63	*64	

Maps available for inspection at the Flood Office, Engineering Department, 4th Floor, Municipal Building, North Street, Baton Rouge, Louisiana.

Send comments to The Honorable Tom Ed McHugh, Mayor-President of the City of Baton Rouge and East Baton Rouge Parish, P.O. Box 1471, Baton Rouge, Louisiana 70821.

	St.Charles Parish, Unincorporated Areas	Gulf of Mexico affecting:			
		Lake Cataouatche	At the confluence with Bayou des Saules	*6	*9
			At confluence with Bayou Couba	*6	*8
		Lake Salvador	At confluence with Bayou Couba	*6	*10
			At confluence with Baie du Cabanage	*6	*10
		Lake Pontchartrain	At intersection of Apple Street and Kansas City Southern Railway in Norco.	None	*10
			At confluence with Bayou La Branche	*15	*16

Maps available for review at the St. Charles Parish Courthouse, Planning & Zoning Department, Hahnville, Louisiana.

Send comments to Mr. Albert Laque, President of the St. Charles Parish Council, P.O. Box 302, Hahnville, Louisiana 70057.

Maryland	Elkton, Town, Cecil County.	Elk River	At the downstream corporate limits. At confluence of Big and Little Elk Creeks.	*8	*12
		Big Elk Creek	At the confluence of Little Elk Creek	*8	*12
			Approximately 300 feet upstream of U.S. Route 40.	*11	*12
		Little Elk Creek	At the confluence of Big Elk Creek	*8	*12
			Upstream side of CONRAIL	*11	*12

Maps available for inspection at the Building Inspection's Office, 107 North Street, Elkton, Maryland.

Send comments to Mr. Lewis H. George, Jr., Elkton Town Administrator, Cecil County, P.O. Box 157, Elkton, Maryland 21922.

	Montgomery County, Unincorporated Areas.	Whetstone Run	At confluence with Great Seneca Creek	*323	*323
			At a point approximately 1.9 miles upstream of the confluence with Great Seneca Creek.	None	*343
		Muddy Branch	At confluence with Muddy Branch Tributary 1	None	*330
			At a point approximately 11.7 miles upstream of confluence with Potomac River.	None	*421
		Muddy Branch Tributary 1	At confluence with Muddy Branch	None	*330
			At a point approximately .6 mile upstream of the confluence with Muddy Branch.	None	*345

Maps available for inspection at the County Department of Environmental Protection, Stormwater Management, 250 Hungerford Drive, Rockville, Maryland

Send comments to Mr. Neal Potter, Montgomery County Executive, 101 Monroe Street, Rockville, Maryland 20850.

	Washington County, Unincorporated Areas.	Tributary No. 33	Approximately 40 feet downstream of Interstate 81 East Exit Ramp.	*444	*445
			Approximately 0.9 mile upstream of Doub Road	*513	*514

Proposed Modified Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground • Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Washington County Planning Department, County Administration Building, Room 320, 100 West Washington Street, Hagerstown, Maryland.					
Send comments to Mr. Richard Roulette, President of the Washington County Commissioners, c/0 Debra Brewer, 100 West Washington Street, Hagerstown, Maryland 21740.					
Massachusetts	Amesbury, Town Essex County.	Powwow River	Approximately 700 feet upstream of Lake Gardner Dam.	•91	•90
			Approximately 100 feet downstream of upstream crossing of Newton Road.	•94	•95
Maps available for inspection at the Town Hall, Friend Street, Amesbury, Massachusetts.					
Send comments to Mr. R. Claude Gonthier, Chairman of the Town of Amesbury Board of Selectmen, Essex County, Town Hall, Amesbury, Massachusetts 01913.					
Missouri	Hanley Hills, Village, St. Louis County.	Northeast Branch River Des Peres.	At downstream corporate limits	•543	•541
			At upstream corporate	•544	•545
Maps available for inspection at the Village Hall, 7713 Utica Drive, St. Louis, Missouri.					
Send comments to Mr. Larry G. Brown, Chairman of the Village of Hanley Hills Board of Trustees, St. Louis County, 7713 Utica Drive, St. Louis, Missouri 63133.					
New Hampshire	South Hampton, Town, Rockingham County.	Powwow River	At downstream corporate limits	None	• 90
			Approximately 1,050 feet upstream of Chase Road.	None	• 105
		Grassy Brook	Approximately .5 mile downstream of Main Avenue.	None	• 102
			Approximately 800 feet upstream. of Main Avenue.	None	• 105
Maps available for inspection at the Town Hall, 255 Killdale Avenue, South Hampton, New Hampshire.					
Send comments to The Honorable Christine Moore, Chairman of the Town of South Hampton Board of Selectmen, Rockingham County, Town Hall, 255 Killdale Avenue, South Hampton, New Hampshire 03827.					
Oklahoma	Oklahoma City, City, . Canadian, Cleveland, Oklahoma, McClain, and Pottawatomie Counties.	Chisholm Creek	Approximately 400 feet upstream of Northwest 150th Street.	• 1,101	• 1,100
			Approximately 0.78 mile upstream. of Northwest 150th Street.	• 1,110	• 1,111
		Deep Fork Tributary 17	Approximately 250 feet upstream of U.S. Route 77.	• 1,129	• 1,130
			Approximately .046 mile upstream of Northwest 71st Street.	• 1,146	• 1,145
Maps available for inspection at the City Hall, 200 North Walker, Oklahoma City, Oklahoma.					
Send comments to The Honorable Ronald J. Norick, Mayor of the City of Oklahoma City, Canadian, Cleveland, Oklahoma, McClain, and Pottawatomie Counties, 200 North Walker, Oklahoma City, Oklahoma 73102.					
Pennsylvania	Felton, Borough York County.	North Branch Muddy Creek	Approximately 80 feet upstream from corporate limits.	• 531	• 530
			At upstream corporate limits	• 544	• 543
		Pine Run	At confluence with North Branch Muddy Creek	• 532	• 533
			Approximately 30 feet downstream of Main Street.	• 532	• 533
		Tributary to North Branch Muddy Creek.	At confluence with North Branch Muddy Creek	• 540	• 539
			Approximately 20 feet downstream of Legislative Route 66100.	• 540	• 539
Maps available for inspection at the Building Permit Officer's home, 40 Water Street, Jacobus, Pennsylvania. Contact for appointment at (717) 428–1188.					
Send comments to Mr. Steve Campbell, President of the Borough of Felton Council, York County, 17 Beaver Street, Felton, Pennsylvania 17322.					
Texas	Bexar County, Unincorporated Areas.	Salado Creek	At a point approximately 480 feet upstream of Huebner Road.	• 901	• 895
			At a point approximately 150 feet downstream of FM 1604.	None	• 950
Maps available for inspection at the Public Works Department, 414 South Main Street, San Antonio, Texas.					
Send comments to The Honorable John Longoria, Bexar County Judge, Bexar County Courthouse, Commissioners Court, Suite 101, San Antonio, Texas 78205.					
	Bryan, City, Brazos County.	Carters Creek	At upstream side of University Drive	None	•262
			Approximately 1.3 miles upstream of Old Reliance Road.	None	•326
		Burton Creek Tributary D	At confluence with Burton Creek	•287	•288
			At Texas Avenue	•294	•295

Proposed Modified Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
		Cottonwood Branch	Approximately 0.7 mile downstream of Industrial Boulevard.	None	*279
			Approximately 0.065 mile upstream of FM 2818.	*294	*295
		Turkey Creek	Approximately 0.52 mile downstream of Villa Maria Road.	None	*264
			At downstream side of Villa Maria Road	None	*271
		Thompsons Creek	Approximately 0.52 mile upstream of confluence of Thompsons Branch.	None	*274
			At downstream side of Mumford Road	None	*295
		Thompsons Branch	Approximately 0.3 mile upstream of confluence with Thompsons Branch.	None	*273
			Approximately 0.06 mile upstream of U.S. Route 190.	None	*307
		Still Creek	Approximately 0.5 mile of FM 2818	None	*275
			Approximately 50 feet upstream of FM 2818	None	*280
Maps available for inspection at the City Hall, 300 S. Texas Avenue, Bryan, Texas.					
Send comments to The Honorable Marvin Tate, Mayor of the City of Bryan, Brazos County, P.O. Box 1000, Bryan, Texas 77805.					
	College Station, City Brazos County.	Wolf Pen Creek	Approximately 1,600 feet upstream of confluence with Carters Creek.	*248	*247
			Approximately 680 feet upstream of Anderson Street.	None	*305
		Wolf Pen Creek Tributary A	At confluence with Wolf Pen Creek	*273	*275
			Approximately 50 feet upstream of Dominik Drive.	None	*290
		Wolf Pen Creek Tributary B	At confluence with Wolf Pen Creek	*280	*286
			Approximately 1,300 feet upstream of State Route 30.	None	*291
		Wolf Pen Creek Tributary C	At confluence with Wolf Pen Creek	None	*292
			Approximately 100 feet upstream of Jersey Street.	None	*297
		Lick Creek	Approximately 1.7 miles upstream of Peach Creek Road.	None	*210
			Approximately 3.5 miles upstream of the confluence of Spring Creek.	None	*276
		Alum Creek	At the confluence with Lick Creek	None	*217
			Approximately 0.9 mile upstream of confluence with Lick Creek.	None	*226
		Stream AC-1	Approximately 1.0 mile upstream of confluence with Alum Creek.	None	*244
			Approximately 1.8 mile upstream of confluence with Alum Creek.	None	*277
		Carters Creek	Approximately 460 feet downstream of confluence of Bee Creek.	None	*233
			At upstream side of University Drive	None	*262
		Bee Creek	At confluence with Carters Creek	None	*234
			Approximately 1,500 feet upstream of confluence with Carters Creek.	None	*236
		Bee Creek Tributary B	Approximately 0.1 mile downstream of Welch Boulevard.	None	*278
			Approximately 250 feet upstream of Welch Boulevard.	None	*278
Maps available for inspection at the City Hall, 1101 Texas Avenue, College Station, Texas.					
Send comments to The Honorable Larry J. Ringer, Mayor of the City of College Station, Brazos County, P.O. Box 9960, College Station, Texas 77840.					
	Irving, City, Dallas County	Hackberry Creek	Approximately 800 feet upstream of Colwell Drive.	*432	*433
			At MacArthur Boulevard bridge	*440	*439
Maps Available for inspection at the City Hall, Public Works Department, Engineering Division, 825 West Irving Boulevard, Texas.					
Send comments to The Honorable Boy Brown, Mayor of the City of Irving, Dallas County, 825 West Irving Boulevard, Irving, Texas 75060.					
	Mesquite, City, Dallas County.	North Mesquite Creek	Approximately 50 feet downstream of Town East Boulevard.	*505	*504
			Approximately 100 feet upstream of Via Del Norte.	None	*507
		Unnamed Tributary to North Mesquite Creek.	At the confluence with North Mesquite Creek	None	*505
			Approximately 30 feet upstream of Green Canyon Drive.	None	*513

Proposed Modified Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Engineering Division, 1515 Galloway, Mesquite, Texas.					
Send comments to The Honorable Cathye Ray, Mayor of the City of Mesquite, Dallas County, P.O. Box 137, Mesquite, Texas 75149.					
	Texarkana, City, Bowie County.	Howard Creek	Approximately 1,250 feet upstream of Buchanan Road.	*270	*271
			At upstream corporate limits	None	*302
		Wagner Creek	At the confluence with Days Creek	*266	*265
			Approximately .35 mile upstream of upstream corporate limits.	None	*300
		South Wagner Creek	At confluence with Wagner Creek	*273	*274
			At upstream side of U.S. Route 67	*308	*307
		Cowhorn Creek West Tributary.	At the confluence with Cowhorn Creek	*316	*315
			Approximately 700 upstream of Interstate Route 30.	*332	*330
		Swampoodle Creek	At confluence with Days and Nix Creeks	*277	*275
			Approximately 700 feet upstream of West 40th	None	*332
		Swampoodle Creek East Tributary.	Approximately 500 feet upstream of confluence with Swampoodle Creek.	*312	*311
			Approximately 60 feet upstream of Pine Street	*319	*320
		Noname Creek	Approximately 700 feet downstream of Forrest Lake Drive.	None	*276
			Approximately .65 mile upstream of Forrest Lake Drive.	None	*292
		Cowhorn Creek	At confluence with with Wagner Creek	*280	*281
			Approximately .70 mile upstream of Interstate Route 30.	*341	*340
		Days Creek	Approximately 1,100 feet downstream of downstream corporate limits.	*274	*273
			At the confluence of Nix Creek and Swampoodle Creek.	*277	*275
		Nix Creek	At the confluence with Days and Swampoodle Creeks.	*277	*275
			Approximately 250 feet upstream of confluence with Days and Swampoodle Creeks.	*277	*278
		Stream WC-2	Approximately 850 feet downstream of Independence Circle.	None	*323
			At Concord Place	None	*332
		Clear Creek	Approximately .39 mile downstream of Skyline Drive.	None	*320
			Approximately 75 feet upstream of Skyline Drive.	None	*331
Maps available for inspection at the City Hall, 3rd & Texas Boulevard, Texarkana, Texas.					
Send comments to The Honorable John Jarvis, Mayor of the City of Texarkana, Bowie County, P.O. Box 1967, Texarkana, Texas 75504.					

C. M. "Bud" Schauerte,
Administrator, Federal Insurance Administration
Issued: September 6, 1991
[FR Doc. 91-25860 Filed 10-25-91; 8:45 am]
BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 91-280; FCC 91-305]

Low-Earth Orbit Satellites.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this action the Commission proposes to amend part 2 of its Rules to allocate spectrum in the 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, and the 400.15–401 MHz bands for a low-Earth orbit (LEO) satellite service. This would allow for the provision of data messaging and position determination services using low-Earth orbit satellites.

DATES: Comments are due on or before December 24, 1991; and reply comments are due on or before January 23, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, telephone (202) 653–8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted September 26, 1991, and released October 18, 1991.

Summary of Proposed Rule

1. The Commission has received three petitions for rule making proposing to establish a LEO service and seeking a spectrum allocation to accommodate that service. Newly developed low-power, low-cost technology allows for the provision of continuous satellite coverage throughout the United States. In addition these same satellites could provide worldwide coverage.

2. In its petition, ORBCOMM requests that we amend the Table of Frequency Allocations to allocate 370 kHz in the 137–138 MHz band and 478 kHz in the 148–149.9 MHz band for a low-Earth orbit (LEO) mobile-satellite service (MSS). As an alternative to 148–149.9 MHz, ORBCOMM requests frequencies in the 400.15–403 MHz range. ORBCOMM's proposed system would consist of 20 small satellites placed in circular orbits 970 kilometers above the earth. According to ORBCOMM, economical and spectrum efficient

service can be provided due to advances in launch vehicle and small satellite technologies and because of the relatively low power requirements of satellite operations in low-Earth orbit compared with the power requirements of systems using geostationary satellites. It proposes to provide data messaging and position determination services to the United States and its possessions and eventually to provide world-wide coverage.

3. STARSYS also requests establishment of a low-Earth orbit mobile-satellite service that would utilize the 137–138 MHz and 148–149 MHz bands. STARSYS requests that all 2 MHz be allocated in these bands for its LEO system. It proposes a system that would consist of 24 spacecraft placed in low-Earth orbit at about 1,300 kilometers above the earth. STARSYS proposes to use spread spectrum techniques to provide both two-way data messaging and position determination services similar to the services proposed by ORBCOMM. Alternatively, if spread spectrum is not authorized, STARSYS supports the same frequency allocation proposed by ORBCOMM.

4. VITA proposes a non-profit international low-Earth orbit fixed-satellite service that would be used on a humanitarian aid-related basis to disseminate educational and health information and for disaster relief, and other communication services intended to benefit recipients in developing countries. VITA seeks authority to use either a total of 210 kHz in the 137.69–137.75 and 400.15–400.3 MHz bands, or 190 kHz in the 149.81–149.9 and 400.15–400.25 MHz bands. VITA proposes two alternative technical schemes which, it states, are designed to co-exist with the proposals of the commercial applicants.

5. Commenters generally support the petitions for a LEO satellite service. The areas noted for possible implementation of LEO technology are position determination and data messaging. The LEO service could be utilized in the area of data messaging, for example, to monitor and control activities in the oil exploration and transport industries. Another possible use is research and monitoring, including remote monitoring of various climatic, oceanographic, or environmental areas. Also, certain non-commercial applications have been identified.

6. Further, position determination services including tracking and monitoring the location of cars, trucks, and ships have been mentioned by various commenters and petitioners as possible uses for LEOs. Some applications such as search and rescue operations would utilize a combination of the data messaging and position determining capabilities of LEOs.

7. Based on the information before us we conclude that there is significant unmet need for low-cost data messaging and position determination services that could be met by a LEO satellite source. We believe a proposal to establish a LEO satellite service is warranted. Further, this proposal closely tracks our recommendations for WARC–92. We request comment on the extent to which the proposed LEO services could be met through the facilities of other existing services. To the extent feasible, commenters should specifically address demand for specific services, projected costs for those services, and the benefits and costs of providing these services by LEOs compared with geostationary satellites.

8. In addition, we note that the Department of Defense uses the 149.9–150.05 and 399.9–400.05 MHz bands for the "TRANSIT-SAT" radionavigation satellite. Since this system will cease to operate after December, 1996, these bands will also be available for possible use by LEOs.

9. We tentatively conclude that up to 4 MHz of spectrum is needed to accommodate a domestic satellite service utilizing LEOs. We propose to establish a low-Earth orbit satellite system and to allocate 137–138, 149.9–150.05, 399.9–400.05, and 400.15–401 MHz for this purpose.

10. We also seek comment on whether competitive multiple entry is possible. If the Commission allocates spectrum for a LEO satellite system, we request comment on how can we best accommodate two or more space segments so that we encourage competition in this new offering. We also seek comment on whether an allocation for non-commercial LEO operations should be established or whether a generic LEO satellite service allocation is sufficient. We seek comment on these issues and any other technical matters which may be pertinent to this proceeding.

List of Subjects in 47 CFR Part 2

Frequency Allocations, General Rules and Regulations; Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rule

I. Part 2 of chapter I of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation in part 2 continues to read:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154, 302, 303, and 307, unless otherwise noted.

2. In § 2.106, the Table of Frequency Allocations is amended by revising the entries for mHz bands 137.0–138.0, 148.0–149.9, 149.9–150.5, 399.9–400.05 and 400.15–401.0 and adding new Footnotes US318, 319, 320, 321 and 322 to read as follows:

§ 2.106 Table of Frequency Allocations

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government	Non-government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
137.0–138.0			137.0–138.0	137.0–138.0		

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government	Non-government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Space operation (space-to-Earth). Meteorological-satellite (space-to-Earth). Space research (space-to-Earth). Fixed Mobile except aeronautical mobile (R).		Space operation (space-to-Earth). Meteorological-satellite (space-to-Earth). Space research (space-to-Earth). Mobile-satellite (space-to-Earth). Fixed-satellite (space-to-Earth).	Space operation (space-to-Earth). Meteorological-satellite (space-to-Earth). Space research (space-to-Earth). Mobile-satellite (space-to-Earth). Fixed-satellite (space-to-Earth).	Satellite communication (25).	
	596 597 598 599		US318	US318		
	• • •		• •	• •	• •	
	148.0–149.0		148.0–149.9	148.0–149.9		
	Fixed-mobile (Earth-to-space).		Fixed Mobile Mobile-satellite (Earth-to-space). Fixed-satellite (Earth-to-space).	Mobile-satellite (Earth-to-space). Fixed-satellite	Satellite communication (25).	
608	608		608 US10 US320 G30	608 US10 US320		
149.9–150.05			149.9–150.05	149.9–150.05		
	Radionavigation-satellite		Radionavigation-satellite Mobile-satellite (Earth-to-space). Fixed-satellite (Earth-to-space).	Radionavigation satellite Mobile-satellite (Earth-to-space). Fixed-satellite (Earth-to-space).		
	609 609A		609A US319	609A US319		
	• • •		• •	• •	• •	
399.9–400.05			399.9–400.05	399.9–400.05		
	Radionavigation-satellite		Radionavigation-satellite Mobile-satellite (space-to-Earth) (Earth-to-space). Fixed-satellite (space-to-Earth) (Earth-to-space).	Radionavigation-satellite Mobile-satellite (space-to-Earth) (Earth-to-space). Fixed-satellite (space-to-Earth) (Earth-to-space).		
	609 645B		645B US321	645B US321		
	• • •		• •	• •	• •	
400.15–401.0			400.15–401.0	400.15–401.0		
	Meteorological aids Meterological-satellite (space-to-Earth). Space research (space-to-Earth). Space operation (space-to-Earth).		Meteorological aids (radiosonde). Meteorological-satellite (space-to-Earth). Space operation (space-to-Earth). Mobile-satellite (space-to-Earth). Fixed-satellite (space-to-Earth) (Earth-to-space).	Meteorological aids (radiosonde). Space research (space-to-Earth). Space Operation (space-to-Earth). Mobile-satellite (space-to-Earth) (Earth-to-space). Fixed-satellite (space-to-Earth) (Earth-to-space).	Satellite communication (25).	
	647		US70 US322	US70 US322		

US Footnotes

US318 The mobile-satellite service (space-to-Earth) and the fixed-satellite (space-to-Earth) services in the 137–138 MHz band are limited to low-Earth orbit (LEO) satellite operations. Until January 1, 2000, use of this band for LEO satellites will be secondary to the U.S. government operations within the following frequency ranges: 137.333–137.367, 137.485–136.515, 137.605–137.635 and 137.753–137.787 MHz. The mobile-satellite (space-to-Earth) and the fixed-satellite (space-to-Earth) services at these frequencies are on a secondary basis to the meteorological-satellite (space-to-Earth) service operating at 137.025–137.175 and 137.825–137.975 MHz.

US319 The 149.9–150.05 MHz band may be used for low-Earth orbit mobile-satellite (Earth-to-space) and fixed-satellite (Earth-to-space) services after December 31, 1996.

US320 Use of the 148–149.9 MHz band for mobile-satellite (Earth-to-space) and fixed-satellite (Earth-to-space) services is limited to low-Earth orbit (LEO) satellite systems and subject to the following conditions: 1) LEO operations shall not constrain operation of the fixed and mobile services; 2) LEOs shall be designed to accept all signals into the satellite from the fixed and mobile systems; 3) to preclude interference to terrestrial stations operating in accordance with the Frequency Allocation Table, the LEO earth stations shall avoid channels being used by the fixed and mobile services, or limit their spectral power density; 4) the transmissions

will be short bursts of 150 milliseconds or less and have a low duty cycle; and 5) the LEOs shall be limited to non-voice services.

US321 The 399.9–400.05 MHz band may be used for low-Earth orbit mobile-satellite (Earth-to-space and space-to-Earth) and fixed-satellite (Earth-to-space and space-to-Earth) services after December 31, 1996.

US322 The mobile-satellite service (space-to-Earth and Earth-to-space) and the fixed-satellite (space-to-Earth and Earth-to-space) services in the 400.15–401 MHz band are limited to low-Earth orbit (LEO) operations.

Dated:

[FR Doc. 91–25599 Filed 10–25–91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB52

Endangered and Threatened Wildlife and Plants: 6-Month Extension on the Proposed Rule for the Plant Eutrema penlandii (Penland alpine fen mustard)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of deadline and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) extends for 6 additional months the 1-year period on a proposed rule (55 FR 41725; October 15, 1990) to list *Eutrema penlandii* (Penland alpine fen mustard) as threatened under the authority of the Endangered Species Act of 1973, as amended (Act). Since the proposed rule was published, the Service received a comment from a mining company expressing disagreement with the adequacy of the Service's inventory of the species and, hence, its rarity and the need for listing. The extension period will allow time for the mining company to complete further survey work in the only mountain range in which the plant is known to occur and in other mountain ranges in Colorado. The Service will use this new data in combination with existing data to assess the overall status of the species.

DATES: With this 6-month extension, the new deadline for the final rule will be April 15, 1992. A new comment period will commence October 28, 1991 and will close November 27, 1991.

ADDRESSES: Written comments and materials should be sent to the Colorado State Supervisor, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, 730 Simms Street, room 290, Golden, Colorado 80401. Comments and materials and the complete file for this notice will be available for public inspection, by appointment, during normal business hours at the above address or at the Western Colorado Suboffice, 529 25½ Road, suite B–113, Grand Junction, Colorado 81505–6199.

FOR FURTHER INFORMATION CONTACT: Lee Carlson, Colorado State Supervisor, at the Golden address (303/231–5280 or FTS 554–5280).

SUPPLEMENTARY INFORMATION:

Background

Eutrema penlandii (Penland alpine fen mustard) is endemic to the Mosquito Range in the central Rocky Mountains of Colorado. There are eight known occurrences over a 40 kilometer (25 miles) length. This taxon is closely related to *Eutrema edwardsii*, a circumboreal (inhabiting the northern regions of North America and Eurasia) species in the Arctic that also extends into the mountains of central Asia. All other species of *Eutrema* occur in Asia. In the proposed rule, the Service stated that *E. penlandii* is highly habitat-specific and requires a combination of several environmental factors in its microenvironment. These factors include moss-covered peat fens with perennial subirrigation and calcareous (basic) substrate derived from limestone or dolomite above 3,810 meters (12,500 feet) in elevation. The peat mats form on small, flat benches in leeward cirques (steep-walled rounded glacial valleys) with persistent snowfields that provide the subirrigation. The conditions for maintaining these persistent snowfields only exist along this east-west trending portion of the Continental Divide. Most portions of the Continental Divide are north-south trending and are exposed to snow-melting winds.

Eutrema penlandii was proposed for listing as a threatened species on October 15, 1990 (55 FR 41725). During the public comment period, the Alma London Joint Venture, a mining company which has done intensive geological mapping in the Mosquito Range, disagreed with the Service's depiction of habitat requirements, particularly the calcareous substrate. They stated that several of the sites do not occur in areas with significant amounts of carbonate rock fragments, based on their geological mapping. The Service based its determination of a calcareous habitat on the occurrence of species associated with *Eutrema penlandii* that are known to be calciphiles (plants that require calcareous substrates). The Service, therefore, stratified its search areas for potential habitat based on suspected calcareous substrates. Alma London Joint Venture thought this stratification made the Service's definition of potential microhabitat, and hence search areas, too narrow, and the inventory inadequate. They believe that if the search areas were broadened to include noncalcareous substrates, more plants may be found and the species would be too common to qualify for listing. In addition, Alma London Joint Venture believed that the proposed rule overstated the threat posed by acid mine drainage. They requested a 6-month extension of the listing to give them one more field season to look for more *Eutrema penlandii* in additional areas. They have developed a study plan to search approximately 50 additional areas in the summer of 1991 in the Mosquito Range and also areas in the Sawatch Range (the next mountains to the west) where other rare alpine plants are known to occur.

Botanists from the Service and the Colorado Natural Areas Program knowledgeable about the species and geologists from the mining company knowledgeable about geologic substrates affecting plant habitats in the Mosquito Range agreed that substantial disagreement exists regarding the plant's type of substrate and that a 6-month extension would be appropriate to resolve this question and thus the species' true rarity. The Service also is working with Colorado College on a pH study to determine whether or not known occurrences of *Eutrema penlandii* are on calcareous substrate.

Therefore, before a decision is made on the final listing, additional surveys within other habitat types and a pH study are being carried out this year. Upon completion of these additional surveys, and after a thorough analysis of the resulting data, the Service will decide either to continue with the final listing of the species, or to withdraw the proposal for *Eutrema penlandii* as provided under Section 4(b)(6)(B)(i) of the Act.

Author

The author of this notice is John L. Anderson, Botanist, formerly with the U.S. Fish and Wildlife Service, Grand Junction, Colorado (303/243–2778, FTS 322–0351; see **ADDRESSES** above).

Authority

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, and Transportation.

Dated: October 20, 1991.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 91-25849 Filed 10-25-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 208
Monday, October 28, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Elk Creek Integrated Resource Management Project; Boise National Forest, Elmore County, ID; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for an integrated resource management project in the Elk Creek-Steel Creek area of the Mountain Home Ranger District.

The Boise National Forest Land and Resource Management Plan has been prepared. The proposed action is a planned activity in the plan.

The proposed action includes the following individual activities: Timber harvest and road construction, alternate mining claim access, and trailhead construction and trail relocation. Alternatives to this proposal will consider lesser amounts of the individual activities in various combinations. The most significant differences between alternatives will be: (1) The proportions of helicopter, skyline and tractor harvest methods; (2) Miles of road construction; (3) Amount of inventoried roadless area acres treated. No implementation of the proposal at this time will also be an alternative.

Federal, State, and local agencies; potential purchasers; and other individuals and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

Tentative issues presently include: Significant increases in Douglas-fir bark beetle and Tussock moth populations have resulted in widespread mortality of Douglas-fir. Elk security may be diminished by increased human access. Road construction and harvest related activities may result in degradation of area drainages and a reduction in land productivity. Present day mining and exploration, as well as historic, culturally significant mining activities within a portion of the project area may be affected by road construction and/or rehabilitation. Timber harvest activities may alter visual quality objectives and the undeveloped character of the inventories roadless area portion of the project area. High road and/or harvest costs may result in an unsold sale or below cost sale. The scoping process is intended to further define these tentative issues or identify other issues.

The U.S. Fish and Wildlife Service, U.S. Department of Interior, will be invited to participate in the evaluation of potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential timber sale.

Following the scoping process, a decision will be made as to which alternative and mitigation measures best meet the integrated resource goals of the proposed action.

A public field tour to the proposed project area is planned for October 26. The tour will originate at the Mountain Home Ranger District Office, 2180 American Legion Boulevard, Mountain Home, Idaho, at 9 a.m., and proceed to the proposed project site. There will be a public meeting on October 29 at 7 p.m., in the Boise National Forest Supervisor's office at 1750 Front Street, Boise, Idaho. The following evening, October 30, at 7 p.m., a public meeting will be held at the Mountain Home Ranger District Office.

Larry Tripp, District Ranger, Mountain Home Ranger District, Boise National Forest, Mountain Home, Idaho, is the responsible official.

The analysis is expected to take about 4 months. The draft environmental impact statement should be available for public review by February, 1991. The final environmental impact statement is scheduled to be completed by May, 1992.

Questions and written comments concerning the proposed action and environmental impact statement are encouraged and should be directed to Larry Tripp, District Ranger, Mountain Home Ranger District, Boise National Forest, 2180 American Legion Boulevard, Mountain Home, Idaho 83647, phone 208–587–7961, by November 8, 1991.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: October 21, 1991.

Larry Tripp,

District Ranger.

[FR Doc. 91–25835 Filed 10–25–91; 8:45 am]

BILLING CODE 3410–11–M

Trinity Alps Wilderness Management Plan for Shasta-Trinity, Klamath and Six Rivers National Forests, California

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement for a proposal to select a management plan for the Trinity Alps Wilderness on the Shasta-Trinity, Klamath and Six Rivers National Forests; Trinity, Siskiyou and Humboldt Counties, California. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by December 14, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Irl Everest, District Ranger, Weaverville Ranger District, Shasta-Trinity National Forests, P.O. Box 1190, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to John Schuyler, Project Team Leader, Weaverville Ranger District, Shasta-Trinity National Forests, P.O. Box 1190, Weaverville, CA 96093, phone 916–623–2121.

SUPPLEMENTARY INFORMATION: Management direction to prepare a wilderness management plan is provided by federal regulations codified at 36 CFR part 219. At such time that Forest Land and Resource Management Plans are completed for the three affected Forests, this wilderness management plan will be incorporated into these plans.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives for the management of this wilderness. One of these will be no change in its current administration. Other alternatives will consider administrative actions ranging from maximum wilderness protection to maximum recreational use of the wilderness.

Ronald E. Stewart, Regional Forester, Pacific Southwest Region, San Francisco, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 1992. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that reviewers participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS). *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E. D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed by March 1993. The Forest Service is required to respond in the FEIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: October 22, 1991.

Ronald E. Stewart,

Regional Forester.

[FR Doc. 91–25856 Filed 10–25–91; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the North Carolina State Advisory Committee

Notice if hereby given, pursuant to the provisions of the Rules and Regulations of U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 2:30 p.m. and adjourn at 5 p.m. on Tuesday, November 19, 1991, at the Holiday Inn State Capitol, 320 Hillsborough Street, Raleigh, North Carolina. The purpose of the meeting is: (1) To orientate the SAC; (2) to discuss the status of the Commission; (3) to hear a report on civil rights progress and/or problems in the State; (4) to plan a project for Fiscal Year 1992.

Persons desiring additional information, or planning a presentation to the Committee should contact North Carolina Committee Chairperson Dr. Joseph DiBona (919/684–3924) or Bobby D. Doctor, Regional Director, Southern Regional Division of the U.S. Commission on Civil Rights at (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 Southern Regional Division 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, October 22, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–25828 Filed 10–25–91; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting to the West Virginia State 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 West Virginia State Advisory Committee will convene at 2 p.m. and adjourn at 5:30 p.m. on November 12, 1991, at the Governor's Conference Room, State Capitol, Charleston, WV 25305. The purpose of the meeting is to (1) to plan the 3rd Civil Rights Day co-sponsored with the Governor's office; (2) to discuss the feasibility of holding a second community forum on police-community relations in Wheeling, WV.; and (3) to discuss a draft of the report "Police-community Relations in the Southern WV."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Marcia Pops at 304/291–7254 or John I. Binkley, Director, ERD at (202/523–5264); or TDD (202/3376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interprefer should contact the regional division 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 October 22, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–25829 Filed 10–25–91; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Delft Instruments, N.V. and OIP Instrubel and Franks & Co. Optik GmbH

In the matter of: Delft Instruments N.V. with an address at: Van Miereveleltlaan 9 P.O. Box 72 Delft, Netherlands and OIP Instrubel with an address at: Rue De Sacqz 75 1060 Brussels, Belgium and, Franks & Co. Optik GmbH with an address at: Philosophenstrasse 116 Postfach 5420 6300 Giassen/Lahn Germany, Respondents.

Order Modifying Order Temporarily Denying Export Privileges

On August 21, 1991, then-Acting Assistant Secretary for Export Enforcement Kenneth A. Cutshaw issued an order renewing an order temporarily denying the export privileges of the above-captioned persons. 56 FR 42977 (August 30, 1991).[1]

Mr. Cutshaw's order also temporarily denied the export privileges of 47 parties related to Delft Instruments, N.V. (Delft) by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. See Sections 787.12 and 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799)(1991)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991)) (the Act).[2] One of those related parties was B.V. Enraf-Nonius Ermelo, Kerkdennen 36, P.O. Box 82, 3850 AB Ermelo, The Netherlands (Enraf-Nonius Ermelo).

On October 9, 1991, I received a letter from counsel for J.M.J. Houtstra Holding, B.V., Watergoorweg 87, 3861 MA, Nijkerk, Netherlands (Houtstra), wherein that counsel represented that Houtstra had purchased Enraf-Nonius Ermelo from Delft on June 27, 1991, and had renamed it H.P. Nonius.

Based on the assertions set forth in the above-mentioned letter and other supporting documents, I have determined that Enraf-Nonius Ermelo is no longer related to Delft.

It Is Therefore Ordered,

First, The August 21, 1991, temporary denial order of then-Acting Assistant Secretary for Export Enforcement Kenneth A. Cutshaw is hereby modified by removing therefrom the name of B.V. Enraf-Nonius Ermelo, Kerkdennen 36, P.O. Box 82, 3850 AB Ermelo, Netherlands, as a party related to Delft.

Second, A copy of this Order shall be served upon J.M.J. Houtstra Holding B.V., Watergoorweg 87, 3861 MA, Nijkerk, Netherlands and on Delft, Van Miereveleltlaan 9, Box 72, Delft, Netherlands.

Third, A copy of this Order shall be published in the Federal Register.

This Order is effective immediately.

Entered this 18th day of October, 1991.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 91–25815 Filed 10–25–91; 8:45 am]

BILLING CODE 3510–DT–M

[1] The original temporary denial order was issued on February 22, 1991. 56 FR 8321 (February 28, 1991).

[2] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991)).

International Trade Administration

[A–588–819]

Postponement of Final Antidumping Duty Determination: Aspheric Ophthalmoscopy Lenses from Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Stefanie Amadeo, Office of Antidumping Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, at (202) 377–1174.

Postponement

This notice informs the public that we have received a request from Nikon Corporation and Nikon, Inc. ("Nikon"), respondent in this investigation, to postpone the final determination in the investigation of aspheric ophthalmoscopy lenses (lenses) from Japan, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)). Nikon accounts for a significant proportion of exports of the subject merchandise from Japan to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing the date of the final determination as to whether sales of lenses from Japan have occurred at less than fair value until not later than January 22, 1992.

Public Comment

In accordance with 19 CFR 353.38(b), we will hold public hearings to afford interested parties an opportunity to comment on the preliminary determination in the antidumping duty investigation of lenses. Tentatively, the hearing will be held on December 18, 1991, at 1:30 p.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than December 11, 1991, and rebuttal briefs no later than December

16, 1991. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act. This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: October 23, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-25883 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-533-804]

Postponement of Preliminary Countervailing Duty Determination: Bulk Ibuprofen From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Paulo Mendes or Tracey E. Oakes, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; at (202) 377-5050 or (202) 377-3174, respectively.

SUPPLEMENTARY INFORMATION: On August 26, 1991, we initiated antidumping and countervailing duty determinations of bulk ibuprofen from India. On October 4, 1991, petitioner requested postponement of the preliminary countervailing duty determination until December 13, 1991, in accordance with 19 CFR 355.15(c). Petitioner requests postponement of the CVD preliminary determination because of the extraordinarily complex nature of the subsidy practices alleged and the need for additional time to analyze the information submitted prior to a preliminary determination. Therefore, in accordance with 19 CFR 355.15(c), we have postponed the preliminary determination until December 13, 1991.

This notice is published pursuant to section 703(c)(2) of the Act and 19 CFR 355.15(e).

Dated: October 21, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-25884 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by the Weyerhaeuser Company from an Objection by the State of Washington

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

On January 17, 1991, the Secretary of Commerce (Secretary) received a notice of appeal from the Weyerhaeuser Company (Appellant). The Appellant is appealing to the Secretary under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the State of Washington (State) to the Appellant's application for a U.S. Army Corps of Engineers permit for the proposed development of a hydroelectric generating facility. In the absence of a consistency certification, the State reviewed the proposed project and objected on the ground that it was not consistent with the State's coastal management program.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I and Ground II. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that: (1) The proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security," the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within 30 days of the publication of this notice and should be sent to Glenn E. Tallia, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington DC 20235. Copies of comments should also be sent to Mr. M.F. Palko, Supervisor, Environmental Review Section, State of Washington, Department of Ecology, Mail Stop PV-11, Olympia, Washington 98504-8711.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the State of Washington and the Office of the Assistant General Counsel for Ocean Services, NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Glenn E. Tallia, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606-4392.

Dated: October 22, 1991.

Thomas A. Campbell,

General Counsel.

[FR Doc. 91-25891 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-08-M

COMMISSION ON MINORITY BUSINESS

Development, Hearing

AGENCY: Commission on Minority Business Development.

ACTION: Notice of meeting and public hearing.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a public hearing of the United States Commission on Minority Business Development will be held on Thursday, November 14 in San Francisco, California with a meeting of the Commissioners on Friday, November 15, 1991. The meeting and hearing are open to the public.

The November 14th hearing will convene at 9 a.m. in the Federal Reserve Bank, 101 Market Street, First Floor Auditorium, San Francisco, California. The public hearing is for the purpose of receiving testimony from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations concerned about minority business development and participation in Federal programs and contracting opportunities.

The issues of concern will be entrepreneurship and general minority business development. The meeting of the Commissioners will be held on Friday, November 15, 1991 at the same location commencing on the 4th Floor (Central B) at 9 a.m.

The Commission was established by Public Law 100-656, for purposes, of reviewing and assessing Federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in laws or regulations as may be necessary to further the growth and development of minority businesses.

FOR FURTHER INFORMATION AND TESTIMONY INFORMATION: Contact S. Arlene Pinkney or Leo Salazar at 202-523-0030 at the Commission on Minority Business Development, 750 17th Street NW., suite 300, Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Transcripts of hearings will be available for public inspection during regular working hours at the Commission Office approximately 30 days following the hearing.

André M. Carrington,

Executive Director.

[FR Doc. 91-25814 Filed 10-25-91; 8:45 am]

BILLING CODE 6820-PB-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

October 22, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 22, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 640 and 641 are being increased by application of swing and carryforward. The limits for Categories 341 and 342 are being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 52871, published on December 24, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 22, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 18, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on October 22, 1991, you are directed to amend the directive dated December 18, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Nepal:

Category	Adjusted twelve-month limit [1]
341	711,767 dozen.
342	121,836 dozen.
640	122,205 dozen.
641	275,540 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-25882 Filed 10-25-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF EDUCATION

[CFDA.: 84.120-A & B]

Minority Science Improvement Program—Institutional, Design, Cooperative, and Special Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Purpose of Program: To effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities into scientific careers. This program supports the President's AMERICA 2000 strategy for achieving the National Education Goals, especially the Goal Four Objective to significantly increase the number of U.S. undergraduates and graduate students, especially women and minorities, who complete degrees in mathematics, science and engineering.

Eligible Applicants:

(a) *For institutional, design, and special projects.* Public and private, nonprofit minority institutions (accredited colleges and universities whose enrollment of a single minority group or combination of minority groups, as defined in 34 CFR 637.4(b), exceeds 50% of the total enrollment).

(b) *For institutional, design, and special projects (only those described in 34 CFR 637.15(b) and (c)).* Non-profit, science-oriented organizations, professional scientific societies, and nonprofit, accredited colleges and universities that render a needed service to a group of eligible minority institutions or which provide in-service training of project directors, scientists, and engineers from eligible minority institutions.

(c) *For cooperative projects.* Groups of nonprofit accredited colleges and universities whose primary fiscal agent

is a minority institution as defined in paragraph (a) of this section.

Deadline for Transmittal of Applications: Applications for new awards under Institutional, Design, Cooperative and Special Project grants must be mailed or hand-delivered on or before December 11, 1991.

Deadline for Intergovernmental Review: February 7, 1992.

Applications Available: November 4, 1991.

Available Funds: The Administration has requested $6,101,000 for this program for FY 1992. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Awards: Institutional Projects $100,000–$300,000; Design Projects $15,000–$20,000; Cooperative Projects $400,000–$500,000; and Special Projects $22,000–$150,000.

Estimated Average Size of Awards: $240,000 for Institutional, $17,000 for Design Projects, $455,000 for Cooperative Projects, and $55,000 for Special Projects.

Estimated Number of Awards: 44.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 637.

For Applications or Information Contact: Dr. Argelia Velez-Rodriquez, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–4662. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1135b–1135b–3 and 1135d–1135d–6.

Dated: October 21, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 91–25880 Filed 10-25–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreement; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfers: RTD/JA(EU)–56, for the transfer of 400 aluminum-uranium discs, containing a total of 1.2 grams of uranium, enriched to 93.18 percent in the isotope uranium-235, and RTD/JA(EU)–57, for the transfer of 200 aluminum-plutonium discs, containing a total of 0.6 grams of plutonium-239.

The above-mentioned materials are to be transferred from Belgium to Japan for use in the determination of reaction rate distribution during the start-up of the new fast breeder reactor MONJU.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on October 23, 1991.

Richard H. Williamson,

Assaciate Deputy Assistant Secretary far Internatianal Affairs.

[FR Doc. 91–25887 Filed 10–25–91; 8:45 am]

BILLING CODE 6450–01–M

Atomic Energy Agreement; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the transfer of standard reference materials containing the isotopes uranium-238 and neptunium-237 in units of 100 and 200 milligrams, to be used for reactor vessel neutron dosimetric measurements in reactor vessels. These standard reference materials may be retransferred to any country not listed in 10 CFR 110.28 or 10 CFR 110.29.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on October 23, 1991.

Richard H. Williamson,

Associate Deputy Assistant Secretary for Internatianal Affairs.

[FR Doc. 91–25888 Filed 10–25–91; 8:45 am]

BILLING CODE 6450–01–M

Atomic Energy Agreement; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Spain concerning Civil Uses of Atomic Energy, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU(SP)–23, for the transfer from Spain to the United Kingdom of 30.994 kilograms of uranium enriched to approximately 19.75 percent in the isotope uranium-235 for interim storage.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will taken effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on October 23, 1991.

Richard H. Williamson,

Associate Deputy Assistant Secretary for Internatianal Affairs.

[FR Doc. 91–25889 Filed 10–25–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP91-17-000]

Oklahoma Corporation Commission (Oklahoma-3) Tight Formation Determination FERC No. JD91-07085T; Preliminary Finding

October 17, 1991.

On May 28, 1991, the Oklahoma Corporation Commission (Oklahoma) notified the Federal Energy Regulatory Commission (Commission) that the Upper and Lower Cherokee (Red Fork) formations, in parts of Custer, Washita, Beckham, and Roger Mills Counties, Oklahoma, qualify as tight formations under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA). For the reasons described below, the Commission issues this preliminary finding that Oklahoma's determination is not supported by substantial evidence.

Background

The Commission remanded Oklahoma's original tight formation recommendation for the Upper and Lower Cherokee (Red Fork) formations in 1987. The initial request for tight formation designation was received on June 30, 1982, in Docket No. RM89-76-125 (Oklahoma-3).[1] Order No. 465 remanded Oklahoma's determination on February 27, 1987, because the record did not adequately support the recommendation.[2] Order No. 465 noted that the record evidence revealed discrepancies in the evidence filed in support of the recommendations and that the Commission received no response to requests for explanation and additional data.

On May 28, 1991, Oklahoma again determined that the Upper and Lower Cherokee (Red Fork) Formations, qualify as tight formations under section 107(b) of the NGPA.[3]

A review of the recommendation revealed that Oklahoma's determination was a resubmittal of its 1982 recommendation which contained no permeability and flow rate data for the wells drilled after 1981. Pursuant to § 274.104(a)(6) of the regulations, on July 12, 1991 staff requested Oklahoma to explain why it believed that the data which was submitted was representative of the characteristics of the Upper and Lower Cherokee (Red Fork) formations in view of development that had taken place since its initial recommendation.

Oklahoma responded to staff's letter on September 4, 1991. Oklahoma's response, which consisted of July 23, 1991, August 13, 1991, and August 16, 1991 letters from GHK to Oklahoma, provided initial production data, but no new permeability or pre-stimulation stabilized flow rate data for post-1981 wells.[4] GHK's July 23, 1991 letter states that the data submitted in 1982 is consistent with current production rates when compared on the basis of averages or distribution and asserts that such comparison indicates that the recommended area presently has the same characteristics as presented in 1982. The July 23 letter also includes a plot of initial production rates for 505 wells (110 wells drilled before 1982 and 395 wells drilled between 1982-1991) completed in the Upper and Lower Cherokee and a February 1991 paper by Mr. Frederick L. Cornell (The Cornell Paper).[5] GHK's August 16, 1991 letter supplies initial potential post-stimulation flow rate data for the 505 wells discussed in GHK's July 23, 1991 letter. The August 16 letter also states that GHK obtained permeability data for wells completed between 1981 and 1988 which were used in the Cornell Paper.

Oklahoma supplemented its response on September 30, 1991, by submitting a September 23, 1991 letter it received from the Oklahoma Geological Survey (Geological Survey). The Geological Survey compared initial potential test results in wells drilled in the subject area before 1982 with the same data from wells drilled after 1982 and concludes that changes in initial production appear to be a function of improved completion techniques and of a better understanding of fracture treatments. The Geological Survey's letter was in response to GHK's August 13, 1991 letter requesting that Oklahoma seek the assistance of the Geological Survey in responding to the Commission staff's letter.

Oklahoma further supplemented its response on October 8, 1991, with the submission of specific permeability and flow rate data for wells used in the Cornell Paper.[6]

In addition, on September 30, 1991, the Commission received Oklahoma's notice that the Cherokee Group (FERC No. JD91-10110T, Oklahoma-10) in 120 townships qualified as a tight formation. The Oklahoma-10 determination encompasses all of the area covered by the Oklahoma-3 notice and is based on a 110-well study group. Fifty-four of the wells in this study group fall within the Oklahoma-3 recommended area.

Discussion

Section 271.703 of the Commission's regulations establishes the requirements for tight formation designations. Among other things, the estimated *in situ* gas permeability, throughout the pay section, must be expected to be 0.1 millidarcy (md) or less and the stabilized production rate of wells completed in the formation, without stimulation, must not be expected to exceed the production rates set forth in the table therein. 18 CFR § 271.703.

Our review of the permeability data used in the Cornell Paper that was submitted on October 8, 1991, shows that 77 readings pertain to wells within Oklahoma's recommended area and that the average permeability of these 77 wells is 0.1327 md, which exceeds the Commission's 0.1 md standard. In addition, staff calculated the average permeability for the 54 wells that are located in both Oklahoma-3 and Oklahoma-10 determinations to be 0.1248 md.

Further, even though the Cornell Paper indicates that permeabilities generally range from less than 1.0 md to 0.5 md and that corrections to reflect *in situ* conditions result in permeability losses as much as 95 percent, this figure is presented as the uppermost adjustment to obtain *in situ* permeabilities. Permeabilities that exceed the Commission's 0.1 md guideline could result if a lower percentage reduction actually applies. Therefore, it appears that the Upper and Lower Cherokee (Red Fork) Formations do not meet the permeability guideline to qualify as tight formations under section 107(b) of the NGPA.

Under § 275.202(a) the Commission may, before any determination becomes final, make a preliminary finding that the determination is not supported by substantial evidence in the record. Based on the foregoing facts and circumstances, the Commission hereby makes a preliminary finding that the

[1] The GHK Company (GHK) had requested Oklahoma to recommend the Upper and Lower Cherokee (Red Fork) as tight formations. The recommendation covered approximately 682,000 acres.

[2] FERC Statutes and Regulations, Regulations Preambles, 1986-1990, ¶ 30,737.

[3] Oklahoma's determination was noticed on June 5, 1991. No protests or comments were received.

[4] Under § 275.202(b), the 45-day period for Commission review of Oklahoma's notice commenced when the Commission received Oklahoma's response to the Commission staff's tolling letter.

[5] The Cornell Paper, which had been submitted as part of Oklahoma's notice of determination, studied 78 wells in an area approximately three times larger than the area recommended by Oklahoma. The recommended area falls completely within the Cornell Paper's study area.

[6] The Cornell Paper refers to both the Cherokee and the Red Fork.

subject determinations by submitted by the Oklahoma Corporation Commission are not supported by substantial evidence in the record upon which the determinations were made. Oklahoma or the applicant may, within 30 days after issuance of this preliminary finding, submit written comments and may request an informal conference with the Commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after issuance of this preliminary finding.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-25830 Filed 10-25-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 18, 1991.

Take notice that ANR Pipeline Company (ANR) on October 15, 1991, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effective November 1, 1991:

Forty-Ninth Revised Sheet No. 18

ANR states that the filing is being filed to reflect projected gas purchase for November 1, 1991 through January 31, 1992 and restates ANR's ceiling rate for that quarterly period. ANR also states that the tariff sheet also incorporates rate changes from ANR's PGA Waiver Request, at Docket No. RP91-227-000, and ANR's eighth buyout buydown filing, at Docket No. RR92-4-000, which were submitted to the Commission on September 30, 1991 and October 1, 1991, respectively.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 25, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-25831 Filed 10-25-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-109-000]

Equitrans, Inc.; Application

October 18, 1991.

Take notice that on October 17, 1991, Equitrans, Inc. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP92-109-000 an application pursuant to section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) under Equitrans' Rate Schedule PLS and the associated transportation embedded within the PLS sales service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitrans states that it has agreed to provide 50,000 Dth per day of natural gas to Texas Eastern for each of the five winter months of November through March for a period of two years, commencing after issuance of Commission certificate authorization, and continuing through October 31, 1993, and year to year thereafter until terminated by either party. Equitrans further states that the sales would be effected over existing facilities, with deliveries at two existing interconnections with Texas Eastern in Pennsylvania. Equitrans indicates that no new facilities would be required to effectuate the proposed service. Equitrans states that it has the capacity available to deliver the quantities to be sold to Texas Eastern under the requested authorization after all existing requests for firm service are satisfied.

Equitrans states that the rates that would be charged for the proposed service would be the rates stated in Equitrans' Rate Schedule PLS on file with the Commission as they may be changed from time to time. Equitrans further states that it has an adequate supply of natural gas to satisfy its proposed and existing service obligations, and further, that the proposed service would benefit existing customers through load factor improvement, and the buyer, Texas Eastern, due to the proximity and security of Appalachian supply and Equitrans' competitive rates.

Equitrans requests pregranted abandonment of its certificate obligations at the expiration or subsequent termination of the underlying contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-25832 Filed 10-25-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Continuation of Solicitation for Special Research Grants, No. 92-1

AGENCY: Department of Energy (DOE).

ACTION: Annual notice of continuation of availability of research grants.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications for

Special Research Grants supporting work in the following ER program offices: Basic Energy Sciences, Biological and Environmental Research, Fusion Energy, Scientific Computing, Field Operations Management, Superconducting Super Collider, University and Science Education Programs, High Energy and Nuclear Physics, and Program Analysis activities. Information about submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are specified in 10 CFR part 605 which was published in the Federal Register on March 19, 1990 (55 FR 10035). The Catalog of Federal Domestic Assistance number is 81.049.

DATES: Applications may be submitted at any time in response to this notice of availability, but, in all cases, must be received by DOE on or before October 31, 1992.

ADDRESSES: Applicants may obtain forms and additional information from Director, Acquisition and Assistance Management Division, Office of Energy Research, ER–64, U.S. Department of Energy, Washington, DC 20585, (301) 353–5544. Effective November 9, 1991, the commercial telephone prefix will change, making the telephone number (301) 903–5544. Completed applications must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitation for Special Research Grants was published in the Federal Register. This solicitation specifies the policies and procedures which govern the application evaluation and selection processes for research grants. It is anticipated that approximately $475 million will be available for award in FY 1992. DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this notice.

D.D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 91–25890 Filed 10–27–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4023–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: New Jersey Statewide Survey on Wastewater Issues and Costs (ICR # 1599.01).

Abstract: EPA's Office of Administration and Resources Management (OARM) is planning to conduct a telephone survey of New Jersey residents concerning wastewater treatment costs and methods. OARM is seeking to assess New Jersey residents' attitudes towards wastewater treatment issues, and towards sewer moratoria in particular.

The survey will seek information from 809 randomly-selected, voluntarily-participating adult residents of New Jersey on the following subjects:

—Respondents' attitudes on the importance of economic growth and environmental protection, and their views on responsibility for wastewater treatment costs,
—Wastewater practices and costs for each respondent's household,
—Respondents' awareness of wastewater issues,
—Respondents' preferences for financing wastewater treatment,
—Respondents' willingness to pay for wastewater treatment, and
—Demographic characteristics of the respondents.

OARM will use the data yielded by the survey to support the Environmental Financial Advisory Board (EFAB), a body approved by the Federal Advisory Committee Act and charged with advising the EPA Administrator on matters concerning the relationship between environmental policy and public finance. The survey will serve to inform an EFAB study of the economic costs of sewer moratoria and will eventually form the basis of an advisory document for the EPA Administrator. This advisory document will enable the Administrator to determine appropriate public policy concerning public financing of water quality infrastructure.

Burden Statement: The average burden imposed by the New Jersey Statewide Survey on Wastewater Costs and Issues is 15 minutes per response. The survey requires no searching of data sources, reviewing of responses, or record-keeping.

Respondents: Adult residents of New Jersey.

Estimated No. of Respondents: 809.

Estimated Total Annual Burden on Respondents: 202.25 hours.

Frequency of Collection: One-time.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460,

and

Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–25750 Filed 10–25–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4025–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Final Regulatory Revisions to Expand State Identification of Point Sources Discharging Toxics into Impaired Waters [CWA section 304(l)] (ICR no. 1588.01).

Abstract: Under section 304(1) of the Clean Water Act (CWA), States were required to submit four lists to EPA on a one-time basis by 1989:

—the "long list" of all waters in the State that, after application of technology-based effluent limits, cannot reasonably be anticipated to attain or maintain that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water.
—the "mini-list" of those waters that, after the application of technology-based effluent limits, cannot reasonably be anticipated to attain or maintain water quality standards for priority pollutants adopted under section 303(c)(2)(B) of the CWA.
—the "short list" of those waters that, after application of technology-based affluent limits, are not expected to achieve applicable water quality standards, due entirely or substantially to point source discharges or priority pollutants.
—the "facility list" of point sources of the priority pollutants which are believed to be preventing or impairing water quality for waters on the lists and the amount of each priority pollutant discharged by each point source.

In regulations issued in 1989, EPA interpreted the facility list as covering only point sources discharging into waterbodies on the short list. The Ninth Circuit Court, however, in a September 28, 1990 decision ruled that EPA must require States to identify all point sources that are impairing water quality due to toxic pollutant discharges. To comply with this ruling, EPA is revising 40 CFR 130.10, concerning State submittals to EPA. EPA is now directing States to expand the facility list to include the point sources discharging to the waterbodies listed on the long and mini-lists as well.

Specifically, the States and Territories will have to report to EPA on the facility name, the facility NPDES number, the priority pollutants involved, and the quantity of each pollutant discharged by each facility.

Burden Statement: The average burden imposed by the Final Regulatory Revisions to Expand State identification of Point Sources Discharging Toxics into Impaired Water is 489 hours per response. This figure includes the time required for reviewing instructions, searching existing data sources, and completing and reviewing the collection of information.

Respondents: States and Territories.

Estimated No. of Respondents: 56.

Estimated Total Annual Burden on Respondents: 27,384 hours.

Frequency of Collection: One-time.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460; and Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: October 18, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–25873 Filed 10–25–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4025–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 27, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Request for Contractor Access to TSCA Confidential Business Information (EPA ICR No.: 1250.03; OMB No.: 2070–0075). This is an extension of the expiration date of a currently approved collection.

Abstract: In compliance with section 14(a)(2) of the Toxic Substances Control Act (TSCA), EPA contractors may gain access to the Agency's Confidential Business Information (CBI). Contractors must establish on Form 7740–6A ("Federal TSCA CBI Access Request, Agreement, and Approval—Contractor/Subcontractor Employee") that they need access to CBI to perform their contract duties for EPA. The contractors are also required to store, file or maintain a copy of the form for possible future reference. The Agency uses the information to determine whether CBI may be granted.

Burden Statement: The burden for this collection of information is estimated to average .84 hour per response for reporting, and 7.28 hours per recordkeeper annually. This estimate includes the time needed to review instructions, gather the data needed, complete the form and review the collection of information.

Respondents: EPA Contractors.

Estimated No. of Respondents: 28 for reporting, and 39 for recordkeeping.

Estimated No. of Responses Per Respondent: 16.

Estimated Total Annual Burden on Respondents: 654 hours.

Frequency of Collection: One time.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460; and Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: October 22, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–25874 Filed 10–25–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4024–1]

Approval of PSD Permits; Region 6

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. Fina Oil and Chemical Company—Permit PSD–TX–453M–4 modifies PSD–TX–453M–3 to authorize the replacement of a 100,000 barrels per day (BPD) crude column with a 150,000 BPD crude column instead of replacing a 40,000 BPD crude unit, as authorized by the original permit. The existing refinery is located on Highway 366 in Port Arthur, Jefferson County, Texas. This modified permit was issued on January 18, 1991.

2. Texas Utilities Services, Incorporated—Permit PSD–TX–32M–1 modifies PSD–TX–32 to authorize the upgrade of the lignite-fired power plant from the New Source Performance Standards (NSPS) subpart D to NSPS subpart Da. The power plant is located on FM road 979, approximately 11 miles east of Bremond, Robertson County, Texas. This modified permit was issued on February 12, 1991.

3. International Paper Company—Permit PSD–TX–778, which was issued on February 14, 1991, authorizes the: (1) Conversion of the No. 2 recovery boiler to a low odor design, which will increase its burning capacity from 3.690 million to 4.726 million pounds of black liquor solids per day; (2) upgrade of the No. 2 lime kiln to a low energy design, which will reduce natural gas consumption from 10 to 7.6 million Btu per ton of lime produced; (3) increase of the production capacity of the No. 2 smelt tank; and (4) replacement of the No. 1 lime slaker with a new larger unit. The emissions from both slakers will be controlled by a new scrubber. This existing paper mill is located on FM road 3129, approximately 12 miles south of Texarkana, Cass County, Texas.

4. El Paso Natural Gas Company—Permit PSD–NM–999, issued on March 7, 1991, authorizes the replacement of 12 existing compressors, rated at 21,896 horsepower (hp), with a 19,823 hp gas turbine, and upgrade of a 6,170 hp gas turbine to 6,479. The existing compressor station is located on Interstate Highway 666, approximately 7 miles northeast of Tohatchi, McKinley County, New Mexico.

5. Fina Oil and Chemical Company—Permit PSD–TX–453M–5 modifies PSD–TX–453M–4 to authorize the increase of the firing rates of the reformer heater and xylene heater at the BTX unit from 305 and 42 MMBtu/hr, respectively, when burning a pitch/fuel gas combination, to 421 and 56 MMBtu/hr, respectively, when fuel gas alone is burned. Fina is located on highway 366, in Port Arthur, Jefferson County, Texas. This modified permit was issued on April 11, 1991.

6. Phillips 66 Company—Permit PSD–TX–751M–1 modifies PSD–TX–751 to authorize the installation of a vapor combustor, in compliance with NSPS subpart QQQ, to receive vapors from previously uncontrolled tanks. Provisions were added to make certain that the combustor will operate in a manner to ensure at least 98 percent destruction of vapors, including benzene. Phillips is located in highway 35 and FM road 524, approximately 4 miles northwest of Sweeny, Brazoria County, Texas. This modified permit was issued on April 12, 1991.

7. Phillips 66 Company—Permit PSD–TX–733M–1 modifies PSD–TX–733 to authorize: (1) The installation of a reaction furnace to allow better heat management of the sulfur recovery unit; (2) an increase of the hydrogen sulfide concentration in the sorbent bed vent stack from 10 parts per million/by volume (PPMV) to 500 PPMV; (3) an increase of the maximum sulfur processed from five long tons per day to six; (4) an increase in the maximum allowable sulfur dioxide emissions from 163.5 tons per year to 188.2 tons per year; and (5) change the unit's efficiency calculation from an hourly basis to a daily basis. Phillips is located on FM road 722, approximately 3 miles southwest of Dumas, Moore County, Texas. This modified permit was issued on April 16, 1991.

8. Temple-Inland Forest Products Corporation—Permit PSD–TX–785, issued on May 16, 1991, authorizes the increase of production of bleached Kraft pulp from 1,700 air dried tons per day to 2,400 at the existing paper mill located on Highway 105 South, Evadale, Jasper County, Texas.

Thse permits have been issued under EPA's prevention of Significant Air Quality deterioration Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Documents relevant to the above actions are available for public inspection during normal business hours at the Air Pesticides and Toxics Division, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

Under section 307(b)(1) of the Clean Air Act, judicial review of the approval of these actions is available, if at all, only by the filing of a petition for a review in the United States Fifth Circuit Court of Appeals within 60 days of October 28, 1991. Under section 307(b)(2) of the Clean Air Act, the requirements, which are the subject of today's notice, may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Dated: October 11, 1991.

A. Stanley Meiburg,

Acting Regional Administrator, Region 6.

[FR Doc. 91–25751 Filed 10–25–91; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–4024–8]

Draft Documents; Information Regarding the Formulation and Emission Reduction Potential of Transportation Control Measures; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Draft information documents, regarding transportation control measures (TCMs), are currently available for public comment.

DATES: The public comment period will end November 27, 1991.

ADDRESSES: Photocopies of the documents may be requested from Ms. Norma Gray, Technical Support Staff (TSS–11), U.S. EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Phone: 313–663–7632, FTS 374–8632 Fax: 313–668–4368, FTS 374–8368. Copies of the documents will be available for public view in the Motor Vehicle Emissions Laboratory Library, at the same address. Due to expected high demand and limited telephone line availability, it is suggested that requests be made by facsimile whenever possible.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Simons, Technical Support Staff (TSS–11), U.S. EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: 313–668–4420, FTS 374–8420. Fax: 313–668–4368, FTS 374–8368.

SUPPLEMENTARY INFORMATION: Section 108(f) of the Clean Air Act Amendments of 1990 requires the Agency to "publish and make available information prepared, as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors, * * * etc." These documents are designed to assist State and local officials in planning and evaluating transportation control measures. Information is provided through discussions of implementation issues, variations of measures, degree of effectiveness, and institutional processes. More quantitative information is provided on current methods, strategies, and variables for making estimates on how transportation control measures affect the number of vehicle trips, vehicle miles traveled, and vehicle speed.

These documents should be viewed only as a source of information, and should not substitute for local and regional evaluation of TCMs. They should not limit consideration of other TCMs by local and State planners, nor should they be the sole basis for decisions on whether to advance or reject such measures. The Agency may from time to time revise, add to, or replace these guidance documents as new information becomes available. Comments should be made in writing and directed to Mr. Mark E. Simons at the address specified above.

Dated: October 21, 1991.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 91-25752 Filed 10-25-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4024-3]

Underground Injection Control Program Hazardous Waste Disposal Injection Restrictions; Modification of Approved Petition for Exemption—BP Chemicals, Port Lavaca, TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition modification.

SUMMARY: Notice is hereby given that a modification of an approved exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to BP Chemicals, for the Class I injection wells located at Port Lavaca, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the modification request and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by BP Chemicals, of the specific restricted hazardous waste identified in the modified petition, into the Class I hazardous waste injection wells at the Port Lavaca, Texas facility specifically identified in the petition, for as long as the basis for granting an approval of the petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued on August 20, 1991. The public comment period ended on October 3, 1991 and no comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of October 16, 1991.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Chief Municipal Facilities, EPA—Region 6, telephone (214) 655-7110, (FTS) 255-7110.

Oscar Cabra, Jr.,

Acting Director, Water Management Division (6W).

[FR Doc. 91-25753 Filed 10-25-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59302; FRL 4001-5]

Certain Chemical; Test Market Exemption Application

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 92-1 November 16, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-59302)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW, Rm. L-100, Washington, DC 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-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 Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 92-1

Close of Review Period. November 30, 1991.

Importer. Confidential.

Chemical. (S) Benzenamine, 4,4'-methylenebis (2-methyl-6-(1-methylethyl))-.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Mutagenicity: negative.

Dated: October 22, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-25877 Filed 10-25-91 8:45 am]

BILLING CODE 6560-50-F

[FRL-4024-2]

Revision of the Maryland National Pollutant Discharge Elimination System (NPDES) Program To Issue General Permits

AGENCY: Environmental Protection Agency.

ACTION: Notice of Approval of the National Pollutant Discharge Elimination System General Permits Program of the State of Maryland.

SUMMARY: On September 30, 1991, the Regional Administrator for the Environmental Protection Agency (EPA), Region III approved the State of Maryland's National Pollutant Discharge Elimination System General Permits Program. This action authorizes the State of Maryland to issue general permits in lieu of individual NPDES permits. EPA has determined this program modification to be non-substantial for the following reasons: (1) The State regulations have already been subject to public notice by the State and (2) this modification involves the adoption of an administrative mechanism to facilitate coverage of numerous discharges by a general permit rather than new program authority.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Cox, Chief, Program Development Section, U.S. EPA, Region III, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107, phone 215/597–8211.

SUPPLEMENTARY INFORMATION:

I. Background

EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate the discharge of wastewater which results from substantially similar operations, are of the same type wastes, require the same effluent limitations or operating conditions, require similar monitoring, and are more approximately controlled under a general permit rather than by individual permits.

Maryland was authorized to administer the NPDES program in September 1974. Their program, as previously approved, did not include provisions for the issuance of general permits. There are several categories which could appropriately be regulated by general permits. For those reasons the Maryland Department of the Environment requested a revision of their NPDES program to provide for issuance of general permits. The categories which have been proposed for coverage under the general permits program include: Swimming pool backwash and drainage, non-contact cooling water, hydrostatic pipe and tank testing, small seafood operations, surface coal mines, sand and gravel operations, separate storm sewers, stormwater runoff, and any other class of discharge or discharger that meets the requirements of 40 CFR 122.28(a)(2).

Each general permit will be subject to EPA review and approval as provided by 40 CFR 123.44. Public notice and opportunity to request a hearing is also provided under Maryland law for each general permit.

II. Discussion

The State of Maryland submitted in support of its request copies of the relevant statutes and regulations and an amendment to the Memorandum of Agreement dated May 18, 1989. The State has also submitted statements by the Attorney General dated September 30, 1985 and September 25, 1991 certifying, with appropriate citation of the statutes and regulations, that the State will have adequate legal authority to administer the general permits program as required by 40 CFR 123.23(c) upon adoption of it's proposed regulations. In addition, the State submitted a program description supplementing the original application permits program, including the authority to perform each of the activities set forth in 40 CFR 123.44. Based upon Maryland's program description and upon its experience in administering an approved NPDES program, EPA has concluded that the State will have the necessary procedures and resources to administer the general permits program

III. Federal Register Notice of Approval of State NPDES Program or Modifications

EPA must provide Federal Register notice of any action by the Agency approving or modifying a State NPDES program. The following table provides the public with an up-to-date list of the status of NPDES permitting authority throughout the country. Today's Federal Register notice is to announce the approval of Maryland's authority to issue general permits.

STATE NPDES PROGRAM STATUS

	Approved state NPDES permit program	Approved to regulate Federal facilities	Approved state pretreatment program	Approved general permits program
Alabama	10/19/79	10/19/79	10/19/79	06/26/91
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86
California	05/14/73	05/05/78	09/22/89	09/22/89
Colorado	03/27/75			03/04/83
Connecticut	09/26/73	01/09/89	06/03/81	
Delaware	04/01/74			
Georgia	06/28/74	12/08/80	03/12/81	01/28/91
Hawaii	11/28/74	06/01/79	08/12/83	09/30/91
Illinois	10/23/77	09/20/79		01/04/84
Indiana	01/01/75	12/09/78		04/02/91
Iowa	08/10/78	08/10/78	06/03/81	
Kansas	06/28/74	08/28/85		
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83
Maryland	09/05/74	11/10/87	09/30/85	09/30/91
Michigan	10/17/73	12/09/78	06/07/83	
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91
Missouri	10/30/74	06/26/79	06/03/81	12/12/85
Montana	06/10/74	06/23/81		04/29/83
Nebraska	06/12/74	11/02/79	09/07/84	07/20/89
Nevada	09/19/75	08/31/78		
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80		
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91
North Dakota	06/13/75	01/22/90		01/22/90
Ohio	03/11/74	01/28/83	07/27/83	
Oregon	09/26/73	03/02/79	03/12/81	02/23/82
Pennsylvania	06/30/78	06/30/78		08/02/91
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82	
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91
Utah	07/07/87	07/07/87	07/07/87	07/07/87
Vermont	03/11/74		03/16/82	
Virgin Islands	06/30/76			
Virginia	03/31/75	02/09/82	04/14/89	05/20/91
Washington	11/14/73		09/30/86	09/26/89
West Virginia	05/10/82	05/10/82	05/10/82	05/10/82

STATE NPDES PROGRAM STATUS—Continued

	Approved state NPDES permit program	Approved to regulate Federal facilities	Approved state pretreatment program	Approved general permits program
Wisconsin	02/04/74	11/26/79	12/24/80	12/19/86
Wyoming	01/30/75	05/18/81		09/24/91
Total	39	34	27	28

Number of Fully Authorized Programs (Federal Facilities, Pretreatment, General Permits) = 20

IV. Review under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this State General Permits Program will not have a significant impact on a substantial number of small entities.

Approval of the Maryland NPDES State General Permits Program establishes no new substantive requirements, nor does it alter the regulatory control over any industrial category. Approval of the Maryland NPDES State General Permits Program merely provides a simplified administrative process.

Dated: October 15, 1991.

Edwin B. Erickson,

Regional Administrator.

[FR Doc. 91-25774 Filed 10-25-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4024-4]

Revision of the Hawaii National Pollutant Discharge Elimination System (NPDES) Program to Authorize the Issuance of General Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval of the National Pollutant Discharge Elimination System General Permits Program of the State of Hawaii.

SUMMARY: On September 30, 1991, the Regional Administrator for the Environmental Protection Agency (EPA), Region 9, approved the State of Hawaii's National Pollutant Discharge Elimination System (NPDES) General Permits Program. On September 5, 1991, the Hawaii State Department of Health (DOH) submitted a formal request for approval to revise its NPDES Permit Program to authorize the issuance of general NPDES permits. This action authorizes the State of Hawaii to issue general permits in lieu of individual NPDES permits. EPA has determined this program modification to be non-substantial because the State is relying upon an interpretation of its existing NPDES authority, supplemented by its general rulemaking authority.

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, U.S. Environmental Protection Agency, Region 9 (W-5-1), 75 Hawthorne Street, San Francisco, CA 94105, 415-744-1906.

SUPPLEMENTARY INFORMATION:

I. Background

EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate the discharge of wastewater which results from substantially similar operations, are of the same type wastes, require the same effluent limitations or operating conditions, require similar monitoring and are more appropriately controlled under a general permit rather than by individual permits.

Hawaii was authorized to administer the NPDES program in November, 1974. As previously approved, the State's program did not include provisions for the issuance of general permits. There are several categories of discharges which could be appropriately regulated by general permits. For these reasons, the Hawaii State Department of Health requested a revision of the State's NPDES program to provide for the issuance of general permits. The categories which have been proposed for coverage under the general permits program include: storm water discharges from municipal and industrial sites, hydrostatic test water, filter backwash water from potable water treatment units, non-contact cooling water discharges of one (1) million gallons per day or less, underground storage tank remediation sites, erosion control at landfills and erosion control and dewatering from construction sites.

Each general permit will be subject to EPA review and approval as provided by 40 CFR 123.44. Public notice and opportunity to request a hearing is also provided for each general permit.

II. Discussion

The State of Hawaii submitted in support of its request, copies of the relevant statutes. The State has also submitted a statement dated September 5, 1991, by the Attorney General certifying, with appropriate citations to the statutes and regulations that the State will have adequate legal authority to administer the general permits program as required by 40 CFR 123.23(c). In addition, the State submitted a program description supplementing the original application for the NPDES program authority to administer the general permits program, including the authority to perform each of the activities set forth in 40 CFR 123.44. The State has also submitted an Amendment to the Memorandum of Agreement between the State of Hawaii DOH and EPA, Region 9 specifying the procedures through which general permits will be issued and administered by the State. Based upon Hawaii's program description and upon its experience in administering an approved NPDES program, EPA has concluded that the State will have the necessary procedures and resources to administer the general permits program.

Existing regulations adopted by the State of Hawaii to administer the NPDES program do not address the issuance of general permits. However, the State does have statutory authority to issue rules for the abatement of water pollution. General permits are defined as rules under State law and the State proposes to issue general permits as rules, following State rulemaking provisions and including provisions necessary to comply with NPDES regulations applicable to general permits at 40 CFR 122.28. In its submittal, the State cited the relevant statutory authority for the DOH to issue general permits as rules and to include provisions necessary to comply with 40 CFR 122.28.

In addition, the State has indicated an interest to develop and adopt regulations which will specifically address the issuance of general permits. However, EPA's approval is not contingent upon adoption of generic general permit program regulations.

III. Federal Register Notice of Approval of State NPDES Programs or Modifications

EPA must provide **Federal Register** notice of any action by the Agency approving or modifying a State NPDES program. The following table provides the public with an up-to-date list of the status of NPDES permitting authority throughout the country. Today's **Federal Register** notice is to announce the approval of Hawaii's authority to issue general permits.

STATE NPDES PROGRAM STATUS

	Approved state NPDES permit program	Approved to regulate Federal facilities	Approved state pretreatment program	Approved general permits program
Alabama	10/19/79	10/19/79	10/19/79	06/26/91
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86
California	05/14/73	05/05/78	09/22/89	09/22/89
Colorado	03/27/75			03/04/83
Connecticut	09/26/73	01/09/89	06/03/81	
Delaware	04/01/74			
Georgia	06/28/74	12/08/80	03/12/81	01/28/91
Hawaii	11/28/74	06/01/79	08/12/83	09/30/91
Illinois	10/23/77	09/20/79		01/04/84
Indiana	01/01/75	12/09/78		04/02/91
Iowa	08/10/78	08/10/78	06/03/81	
Kansas	06/28/74	08/28/85		
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83
Maryland	09/05/74	11/10/87	09/30/85	09/30/91
Michigan	10/17/73	12/09/78	06/07/83	
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91
Missouri	10/30/74	06/26/79	06/03/81	12/12/85
Montana	06/10/74	06/23/81		04/29/83
Nebraska	06/12/74	11/02/79	09/07/84	07/20/89
Nevada	09/19/75	08/31/78		
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80		
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91
North Dakota	06/13/75	01/22/90		01/22/90
Ohio	03/11/74	01/28/83	07/27/83	
Oregon	09/26/73	03/02/79	03/12/81	02/23/82
Pennsylvania	06/30/78	06/30/78		08/02/91
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82	
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91
Utah	07/07/87	07/07/87	07/07/87	07/07/87
Vermont	03/11/74		03/16/82	
Virgin Islands	06/30/76			
Virginia	03/31/75	02/09/82	04/14/89	05/20/91
Washington	11/14/73		09/30/86	09/26/89
West Virginia	05/10/82	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/28/79	12/24/80	12/19/86
Wyoming	10/30/75	05/18/81		09/24/91
Totals	39	34	27	28

Number of Complete NPDES Programs (Federal Facilities, Pretreatment, General Permits)—20

IV. Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), I certify that this State General Permits Program will not have a significant impact on a substantial number of small entities. Approval of the Hawaii NPDES State General Permits Program establishes no new substantive requirements, nor does it alter the regulatory control over any industrial category. Approval of the Hawaii NPDES State General Permits Program merely provides a simplified administrative process.

Dated: September 30, 1991.

John Wise,

Acting Regional Administrator, Region 9.

[FR Doc. 91-25754 Filed 10-25-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC

20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0132.

Title: Supplemental Information 72–76 MHz Operational Fixed Stations.

Form Number: FCC Form 1068–A.

Action: Extension.

Respondents: Individuals or households, state or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 300 responses; .50 hours average burden per response; 150 hours total annual burden.

Needs and Uses: FCC rules require that the applicant agrees to eliminate any harmful interference caused by the operation to TV reception on either Channel 4 or 5 that might develop. Such action must be taken within 90 days of notification by the Commission. If such interference is not eliminated within the 90-day period, operation of the fixed station will be discontinued. FCC staff will use the data to determine if the information submitted will meet the FCC rule requirements of the assignment of frequencies in the 72–76 MHz band.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–25894 Filed 10–25–91; 8:45 am]

BILLING CODE 6712–01–M

[DA 91–1326]

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

October 24, 1991.

November 19, 1991, 10 a.m., Commission Meeting Room (room 856), 1919 M Street, NW., Washington, DC.

The agenda for the meeting will consist of:

1. Introduction.
2. Minutes of Last Meeting.
3. Report of Working Party 1 Policy and Regulation.
4. Report of Working Party 2 Transition Scenarios.
5. General Discussion.
6. Other Business.
7. Date and Location of Next Meeting.
8. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjen at (609) 734–2237, George Vradenburg III at (213) 203–1334, or Gina Harrison at (202) 632–7792.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–25895 Filed 10–25–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Oakland, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–004008–013.

Title: Port of Oakland/Marine Terminals Corporation Terminal Management Agreement.

Parties: Port of Oakland ("Port") Marine Terminals Corporation ("MTC").

Synopsis: The proposed modification amends basic Agreement No. 224–004008 under which Port assigned the management of certain marine terminal facilities in the Port's Seventh Street Terminal Area to MTC. The amendment deletes a portion of the assigned premises therefrom. The effectiveness of the deletion shall continue during the effectiveness of Agreement No. 224–200287, a Non-exclusive Preferential Assignment Agreement effective August 15, 1989 between the Port and Mitsui O.S.K. Lines, Ltd., covering in part the deleted premises.

Agreement No.: 224–200580.

Title: Port of Oakland/Marine Terminals Corporation Terminal Management Agreement.

Parties: Port of Oakland ("Port") Marine Terminals Corporation ("MTC").

Synopsis: Under the proposed agreement, Port assigns to MTC the responsibility of management, terminal operation and cargo solicitation services at the Port's Ninth Avenue Terminal, utilizing said area for the berthing of vessels and the loading and discharging of cargoes and operation supplemental thereto.

Agreement No.: 224–200581.

Title: Port of Portland/Evergreen Maine Corporation (Taiwan) Ltd. Terminal Use Agreement.

Parties: Port of Portland ("Port") Evergreen Marine Corporation ("Taiwan") Ltd. ("Evergreen").

Synopsis: Under the Agreement's terms, Evergreen will make weekly calls at Port's Terminal 6, providing a minimum annual throughput of 15,000 containers. Port will provide Evergreen with the preferential use of a berth, two cranes, and ten acres of backup space.

Agreement No.: 26–011200–001.

Title: Mediterranean Interconference Agreement.

Parties: South Europe/U.S.A. Freight Conference U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.

Synopsis: The proposed amendment authorizes the parties to agree upon, establish, implement and maintain a common neutral body policing system and a common cargo inspection system.

Agreement No.: 217–011354

Title: Space Charter Agreement between Concorde Line and NEXOS Line Inc.

Parties: Concorde Line NEXOS Inc.

Synopsis: The proposed Agreement would permit the parties to charter space aboard one another's vessels in the trade between ports in Honduras, Guatemala, Nicaragua and El Salvador and U.S. Atlantic and Gulf ports and inland U.S. points via such ports.

Dated: October 22, 1991.

By Order of the Federal Maritime Commission.

[FR Doc. 91–25825 Filed 10–25–91; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Final Funding Preference and Priorities for Grants for Predoctoral Training in Family Medicine

The Health Resources and Services Administration (HRSA) announces the

final funding preference and priorities for fiscal year (FY) 1992 Grants for Predoctoral Training in Family Medicine are being accepted under the authority of section 786(a), title VII, of the Public Health Service Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law. 100–607.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds.

The program currently is operating under Countinuing Resolution No. 27601 dated September 27, 1991, effective through October 29, 1991. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 786(a) of the Public Health Service Act authorizes the award of grants to assist in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Grants may include support for the program only or support for both the program and the trainees.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q.

Eligible applicants are accredited public or nonprofit private schools of medicine or osteopathic medicine.

The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority area. The Grants for Predoctoral Training in Family Medicine Program is related to the priority area of Educational and Community-Based Programs.

Potential applicants may obtain a copy of Healthy People 2000 (Full report,; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3228).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and service programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the training purposes of section 786(a) of the Act;

2. The degree which the proposed project adequately provides for the project requirements;

3. The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

4. The potential of the project to continue on a self-sustaining basis after the period of grant support.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

1. Funding Preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuation projects ahead of new projects.

2. Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Final Funding Preference and Priorities for Fiscal Year 1992

A proposed funding preference and proposed funding priorities were published in the **Federal Register** at (56 FR 42741) on August 29, 1991 for public comment. One comment was received regarding aspects of the notice for which public comment was not requested.

The proposed funding preference and funding priorities will be retained as follows:

A funding preference will be given to applicants that have an established, required third year family medicine clerkship (of at least four weeks in duration) or provide credible evidence that such a clerkship will be initiated no later than academic year 1993–94.

A *funding priority* will be given to: 1. Applicants that provide substantial training experience in: Community Health Centers currently supported under the PHS Act, section 330; Migrant Health Centers supported under the PHS Act, section 329; Homeless Health Centers supported under the PHS Act, section 340; facilities that have formal arrangements to provide primary health services to public housing communities; or hospitals and/or health care facilities of the Indian Health Service; and/or health care centers that serve a substantial number of patients from (1) a Health Professional Shortage Area (HPSA), designated under the PHS Act, section 332 or (2) a Medically Underserved Area (MUA) designated under provisions of the PHS Act, section 330(b)(3).

Section 330 authorizes support for community health care services to medically underserved populations.

Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers.

Section 340 authorizes Health Care for the Homeless Program, as used here, means a community-based program of comprehensive primary health care and substance abuse services brought to the homeless population.

Public Housing Communities means the residents of low income public housing projects that receive Federal assistance, usually through a local public housing agency, under the provisions of the U.S. Housing Act of 1937.

Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas.

Section 330(b)(3) establishes Medically Underserved Areas which are areas designated by the PHS, based on four criteria:

(1) Infant mortality rate;

(2) percentage of the population below the poverty level;

(3) percentage of the population over age 65; and

(4) number of practicing primary care physicians per 1,000 population.

2. Applicants that document that 20 percent or more of the previous medical school graduating class entered accredited family medicine residency training programs or internship training programs in osteopathic medicine which emphasize family medicine and are approved by the American Osteopathic Association.

Statutory Special Consideration

Special consideration will be given to applicants that demonstrate to the

satisfaction of the Secretary a commitment to family medicine in their medical education training programs.

If additional programmatic information is needed, please contact: Mr. Donald Buysse, Chief, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C–16, Rockville, Maryland 20857, Telephone: (301) 443–3614.

Public Law 100–607, section 633(a), requires that for grants authorized under sections 780, 784, 785, and 786 for FY 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period are sufficient with respect to issuing a second solicitation.

This program is listed at 93.896 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 21, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–25805 Filed 10–25–91; 8:45 am]

BILLING CODE 4160–15–M

Scholarships for the Undergraduate Education of Professional Nurses Grant Program

SUMMARY: This notice is to publish a contract required for all scholarship recipients applying for Scholarships for the Undergraduate Education of Professional Nurses (SUEPN) Grant Program under the authority of section 843 of the Public Health Service Act, as added by Public Law 100–607.

In accordance with the statute, the Department requires public or private nonprofit schools which are accredited for the training of professional nurses to require scholarship recipients to sign a contract. Eligible individuals must sign a contract as prescribed by the Secretary, setting forth terms and conditions of the scholarship, including an agreement to serve as a full-time registered nurse upon graduation for a period of not less than 2 years or more than 4 years in an Indian Health Service health center, or a Native Hawaiian health center, or a public hospital, or a migrant health center, or a community health center, or a nursing facility, or in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

REQUEST FOR COMMENTS: Interested persons are invited to comment on the contract. All comments received on or before December 27, 1991 will be considered. A final notice will be published stating whether provisions of the contract will be changed as a result of the comments received.

Written comments should be addressed to Michael Heningburg, Director, Division of Student Assistance, Health Resources and Services Administration, Parklawn Building, room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Student Assistance, Bureau of Health Professions, at the address above weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

The contract for the Scholarships for the Undergraduate Education of Professional Nurses (SUEPN) Grant Program was approved by the Office of Management and Budget under control number 0915–0141 (expiration date 6/30/93) and is published as follows:

Dated: October 21, 1991.

Robert G. Harmon,

Administrator.

Scholarships for the Undergraduate Education of Professional Nurses

(SUEPN) Grant Program
Student Contract—Academic Year 1991–92
U.S. Department of Health and Human Services
Public Health Service
Health Resources and Services Administration
Bureau of Health Professions
OMB #0915–0141
Exp: 06/30/93

A. My Obligations as a Scholarship Recipient

I understand that by accepting the SUEPN Scholarship, I am obligated to work full-time (as determined by the employer) as a registered nurse (R.N.) for at least two years as described below. As the recipient of this Scholarship, I also understand and agree to all of my obligations and responsibilities as outlined below: (1) in return for the Scholarship, I must work full-time as a R.N. in a hospital or other health care facility as listed in the Program Summary. I must work for at least two years, even if I receive a scholarship for only one year of study; (2) To receive the Scholarship, I must be a full-time (as determined by the nursing school) student at a school of nursing participating in the SUEPN Grant Program; (3) I must maintain "good standing" as defined by the school; (4) I must provide the school with all information regarding my financial resources and sources of income that the school requires to conduct a formal need analysis; (5) I am aware that the Scholarship pays my tuition and fees for a full academic year, but does not provide for any costs of living; (6) I must keep the school informed at all times of any changes which affect my continued eligibility for the Scholarship, such as withdrawal from the nursing program; (7) I must attend an entrance interview with school officials before or at the time I sign this contract to discuss the terms of my Scholarship and service obligation and the penalties for not meeting my obligation; (8) I must provide the school with personal information that would help the school and the Federal Government locate me if I fail to keep them informed of my location. This information will include, at a minimum, my Social Security Number, my current/permanent address (if different), my telephone number, the names, addresses, and telephone numbers of my parents or other close relatives that may be contacted. I will also provide other information as requested, including for example: State driver's license number and expiration date, names, addresses and telephone numbers of other personal references, and the State(s) in which I plan to obtain my nursing license; (9) I must keep the school informed at all times of any changes in my name, address, and telephone number until I graduate and begin my service obligation as a R.N.; (10) Prior to graduating or leaving school for any reason, I must attend an exit interview with school officials to obtain information regarding eligible work sites, to update personal information (as described in Item 8 above) and to review the terms of my service obligation and the penalties for not meeting the obligation. Should the school not inform me of a date and time for this interview, I must request an interview from the appropriate school officials; (11) No later than 6 months after graduation, I must begin full-time employment (as determined by the employer) as a R.N., for a period of not less than two years, as identified in the Program Summary; (12) I am responsible for securing full-time employment as a R.N. in a facility described in the Program Summary. Should I have difficulty in securing a position, I must request assistance from the Department

of Health and Human Services (DHHS) in identifying facilities that meet the definition; (13) I must notify DHHS in writing no later than 30 days after I am employed of the name, address, and telephone number of the health facility where I am working. This notification must include a statement of when the official date of employment began and that I am employed as a full-time R.N. and must be signed by me and the Director of the Facility, the Director of Nursing, or other appropriate official at my place of employment; (14) After I begin working full-time as a R.N., I must notify DHHS within 20 days of any change in a) my place of employment, b) my address, or c) my name; (15) I must respond to all correspondence from DHHS until I have completed this service obligation required under the Scholarship.

B. Penalties if I Fail To Meet the Service Obligation

I understand that if I fail to work as a full-time R.N. in an eligible facility, whether or not I graduated from the nursing program, I will be required to repay to the Federal Government (DHHS) the entire amount of any Scholarship funds I received. If I fail to maintain good standing in the nursing program for which I received the Scholarship, or voluntarily withdraw from school before graduating from the program, or am dismissed by the school for any reason, or if I fail to become licensed so that I may meet my service obligation, then the Scholarship funds that I received become a debt owed to the Federal Government and I must repay all Scholarship funds that I received under this contract. I will be required to repay this amount within 3 years of the date of the event described above, in accordance with a repayment schedule which the DHHS will provide to me. If I fail to begin or complete my service obligation under this contract for any reason other than those described above, the Scholarship funds become a debt owed to the Federal Government and I must repay all Scholarship funds that I received under this contract, plus interest, at rates determined by the Treasury Department. I will be required to repay this amount within 3 years of the date that the Secretary determines that I failed to meet my service obligation and will be required to make payments, in accordance with a repayment schedule which the DHHS will provide to me. If I fail to make payments when they are due in accordance with the repayment schedule, the Federal Government will actively pursue me for the debt. This may include the use of collection agents, reporting the debt to credit bureaus, and other collection procedures (such as addition of late charges under the Department's Claims Collection Regulations).

C. Cancellation, Suspension, and Waiver of Obligation

I understand that my service or payment obligation may be canceled, suspended, or waived under certain circumstances described below: (1) Should I die or become permanently and totally disabled, the Secretary will cancel my obligation under this contract. To received cancellation in the event of my death, the executor of my estate must submit an official death certificate to the Secretary. To receive cancellation for permanent and total disability, I or my representative must apply to the Secretary, submitting medical evidence of my condition, and the Secretary may cancel this obligation in accordance with applicable Federal statutes and regulations; (2) Upon receipt of supporting documentation the Secretary may waive or suspend my service or payment obligation under this contract if the Secretary determines that: (a) my meeting the terms and conditions of the contract is impossible or would involve extreme hardship; and, (b) enforcement of the obligations would be unconscionable. Supporting documentation should be submitted to: Division of Student Assistance, Student and Institutional Support Branch, SUEPN Grant Program, Room 8-34 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

D. Scholarship Renewal and Extension of Contract

(1) On an annual basis, I may request through my school that my Scholarship be renewed for another year's payment of tuition and fees and that this contract be extended. *Renewal of the contract is subject to the availability of funds.* (2) I understand that should my Scholarship be renewed and this contract extended, my total service obligation would be as follows: 1 year of support for 2 years of service, 2 years of support for 2 years of service, 3 years of support for 3 years of service and 4 years of support for 4 years of service. (3) I understand that the Secretary may approve a request for renewal of this Scholarship and contract extension only if: (a) Federal funds are available for this program; (b) The request does not extend the total period of scholarship support to more than four years; and (c) I continue to be eligible for a Scholarship under this program.

SUEPN Contract 1991-92

New Contract _____

Continuation Contract _____

Tuition $ _____

Fees $ _____

Total $ _____

Name of Recipient _____ ___Mr ___ Ms

Permanent Address _____

City, State, Zip Code _____

Social Security Number _____

Anticipated Graduation Date _____

Scholarship Recipient: By my signature below, I certify that I have read and understand my rights and obligations under this contract.

_____

Signature of Scholarship Recipient

_____

Date

_____

Signature of Cosigner (If recipient is a minor)

_____

Date

Grantee Institution: I understand that this award is made upon the terms, conditions and obligations specified in this contract.

_____

Grantee Institution (Name)

_____

Signature of Authorizing Official

_____

Date

_____

Signature of the Authorizing Official of the Department of Health & Human Services

_____

Date

_____

Any person who knowingly makes a false statement or misrepresentation or commits any other illegal action in connection with the scholarships for the undergraduate education of professional nurses grant program is subject to a fine or imprisonment under Federal statute.

[FR Doc. 91-25806 Filed 10-25-91; 8:45 am]

BILLING CODE 4160-15-M

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending December 31, 1991

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

Section 60.13(a)(4) of the program's implementing regulations (42 CFR part 60, previously 45 CFR part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1991, three interest rates are in effect for loans

executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9⅛ percent. Using the regulatory formula (45 CFR 126.13(a)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (5.55 percent), and rounding the result (9.05 percent) upward to the nearest ⅛ percent (9⅛ percent).

However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending December 31, 1991, is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 10¾ percent for the quarter ending March 31, 1991; 9¾ percent for the quarter ending June 30, 1991; and 9⅜ percent for the quarter ending September 30, 1991.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9⅛ percent. Using the regulatory formula (42 CFR 60.13(a)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (5.55 percent); U.S. Treasury bills during the preceding quarter (5.55 percent); adding 3.50 percent (9.05 percent and rounding that figure to the next higher one-eighth of one percent (9⅛ percent).

3. For fixed rate loans executed during the period of October 1, 1991 through December 31, 1991, and for variable rate loans executed on or after October 22, 1985, the interest rate is 8⅝ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (5.55 percent); adding 3.0 percent (8.55 percent) and rounding that figure to the next higher one-eighth of one percent (8⅝ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 21, 1991.

Robert G. Harmon,

Administratar.

[FR Doc. 91–25807 Filed 10–25–91; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Meeting of the Acquired Immunodeficiency Syndrome Program Advisory Committee (APAC)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome (AIDS) Program Advisory Committee on November 19–20, 1991 at the National Institutes of Health, Bethesda, MD. The meeting will take place on November 19 from 9 a.m. to 5 p.m., and on November 20 from 9 a.m. to 12 noon, in Building 31, C Wing, Conference Room 10. The meeting will be open to the public.

The purpose of the Ninth Meeting will be to examine research priorities of the NIH AIDS research program in reference to the 1992 budget appropriations and plans for future year activities. Specifically, the APAC will address the Three Year Strategic Plan for the NIH AIDS Research Program. In addition, various issues regarding vaccine development and testing, treatment updates, HIV positive health care worker policy, and international AIDS vaccine infrastructure, and agency coordination issues will be discussed. Anthony S. Fauci, Associate Director for AIDS Research, National Institutes of Health, Shannon Building, room 201, Bethesda, MD 20892, (301) 496–0357, will furnish the meeting agenda, roster of committee members, and substantive program information upon request.

Date: October 21, 1991.

Raymond Bahor,

Acting Committee Management Officer, NIH.

[FR Doc. 91–25796 Filed 10–25–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), November 6, 7, and 8, 1991, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20892. This meeting will be open to the public on November 6 from 8:50 p.m. to 9:30 p.m., and November 7 from 9 a.m. to 12 noon and again from 2 p.m. to 4:30 p.m. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIDDK Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on November 6 from 8:20 p.m. to 8:50 p.m., November 7 from 12 noon to 2 p.m. and again from 4:30 p.m. to recess, and November 8 from 9 a.m. to adjournment for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, Building 31, room 9A19, Bethesda, Maryland 20892. Further information concerning the meeting may be obtained by contacting the office of Dr. Allen Spiegel, Scientific Review Administrator, Board of Scientific Counselors, National Institutes of Health, Building 10, room 9N–222, Bethesda, Maryland 20892, (301) 496–4128.

Dated: September 30, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91–25797 Filed 10–25–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Meeting, Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on December 4–6, 1991, Medical Board Room, Building 10, rm. 2C116, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 5 p.m. on December 5th in the Medical Board Room, Bldg. 10, rm. 2C116, to discuss program planning and

program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on December 4th and from 9 a.m. until adjournment on December 6th in Bldg. 10, rm. 2N238 for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Division of Intramural Research, NINDS, Building 10, room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–4297 will furnish a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: October 4, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91–25798 Filed 10–25–91; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, chapter HB (Health Resources and Services Administration) of the Statement of organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 56 FR 4838, February 6, 1991) is amended to reflect the following changes in the Bureau of Health Resources Development:

1. Abolish the Division of Information and Analysis;

2. Establish the Office of Communications and Information Resources Management, and the Office of Science and Epidemiology;

3. Revise the Office of Program Development.

Under HB–10, Organization and Functions amend the functional statements for the Health Resources and Services Administration (HB) as follows:

1. Delete the Division of Information and Analysis (HBB4), functional statement in it's entirety;

2. Delete the functional statement for the Office of Program Development (HBB13) and enter the following:

Office of Program Development (HBB13). Serves as the Bureau's focal point for planning, legislation and extramural activities including the development and dissemination of program objectives, alternatives, and policy positions. Specifically: (1) Advises the Bureau Director and Division Directors in the development of plans and legislative proposals to support Administration goals. Serves as the primary staff unit on extramural activities and special projects for the Director, BHRD; (2) coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation (OPEL), and the Associate Administrator for Minority Health, (AAMH) HRSA; (3) stimulates, guides, and coordinates the Bureau's program planning and development activities, and prepares the Bureau's forward planning agenda; (4) provides staff services and coordinates activities pertaining to legislative policy development and interpretation, including the development of legislative proposals and the analysis of existing and pending Federal and State legislation to assure the fullest possible consideration of programmatic requirements in meeting established departmental, PHS, and HRSA goals; maintains liaison with other agencies, and distributes legislative materials; (5) participates in the development and coordination of program policies, implementation plans, and processes for health facilities, AIDS, and organ transplantation programs and devices implementation plans including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures; and, (6) conducts special inquiries and studies with special emphasis on coordinating, managing and/or undertaking special projects which cut across Office or Division lines and responsibilities.

3. Add the following functional statements after the OPD (HBB13).

Office of Communications and Information Resources Management (HBB14). (1) Provides leadership in the development, review and implementation of policies and procedures to promote improved communications and information resources management capabilities and practices throughout BHRD; (2) develops and coordinates BHRD-wide plans and budgets for the management of information technology and services, including centralized data processing, office automation, and telecommunications; (3) develops and recommends policies and procedures relating to information resources management and support services; (4) provides computer programming, systems analysis, and other ADP related support for the Bureau in the analysis, design, development, implementation, and evaluation of information systems· (5) plans, manages, administers and coordinates the BHRD-wide microcomputer network including all required linkages to other networks inside and outside BHRD including mainframe systems; (6) collects, complies, and evaluates various data on the health care industry, disease trends, and public and private programs relating to the roles of the BHRD in addressing health care issues; (7) maintains and develops information about primary sources of data relating to Bureau program activities, including data bases; and, (8) develops and provides information and methods to health program and facility planners, providers, and consumers.

Office of Science and Epidemiology (HBB15). Serves as the Director's primary staff unit and principal source of advice on epidemiological, medical, and evaluative research, experimental design, collaborative studies, biometrics and program evaluation for BHRD. Specifically: (1) Develops and directs long and short range scientific programs; (2) plans, directs, coordinates and administers BHRD's annual evaluation strategy; (3) designs and implements special epidemiological studies of the impact of the Bureau health care programs and of the characteristics on the population served; (4) through grants, contracts and direct activities designs, tests and evaluates models of health care delivery systems; (5) plans and develops collaborative efforts in the scientific aspects of Bureau programs with other PHS agencies, Federal departments, universities, and other scientific organizations; (6) stimulates, guides and coordinates the Bureau scientific planning and development activities in epidemiology, research, and demonstration; (7) plans and coordinates Bureau participation in scientific organizations, including scientific clearance of presentation and articles for publication; (8) studies and analyzes trends in health care, including availability, distribution, organization.

and financing, to determine if BHRD activities address current and emerging issues and problems in an effective, efficient manner; and, (9) conducts special studies, as assigned, in the areas of facility distribution, access, and financing, including their relationship to the treatment of AIDS patients, and the development and operation of organ procurement programs.

Delegations of Authority

All delegations and redelegations of authorities to officers and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this reorganization will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this reorganization.

Effective Date

This reorganization is effective upon date of signature.

Dated: October 21, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91-25843 Filed 10-25-91; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-3192; FR-2931-N-03]

Supportive Housing Demonstration; Permanent Housing for Handicapped Homeless; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Permanent Housing for Handicapped Homeless program of the Supportive Housing Demonstration. The announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone number (202) 708-4300; TDD (202) 708-2565. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Title IV of the Stewart B. McKinney Homeless Assistance Act authorized the Supportive Housing Demonstration to develop innovative approaches for providing supportive housing for the homeless. The Permanent Housing for Handicapped Homeless program, a component of the Supportive Housing Demonstration, has as its purpose, through providing housing and supportive services, maximizing each resident's ability to live independently within a permanent housing environment. Funds are provided for acquisition, rehabilitation, operating costs, and supportive services costs. Eligible applicants are States and Indian tribes for projects developed in partnership with private nonprofit organizations or public housing agencies that serve as project sponsors. (Program regulations are at 24 CFR part 578.)

The 1991 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on January 23, 1991 (56 FR 2648). Applicants were scored and selected for funding on the basis of selection criteria contained in the Notice.

A total of $48.6 million was awarded for 80 projects to 24 States. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as follows:

Arizona: James W. Medis, Operations Officer, 1740 W. Adams St., Phoenix, AZ. United Methodist Outreach Ministries, Phoenix, $560,459.

California: Timothy L. Coyle, Director, Housing & Community Development, P.O. Box 951054, Sacramento, CA.
Project Headway, Northridge, $837,887.
Hospice-by-the-Bay/Leland Residence, San Francisco, $837,774.
Valley Village, Los Angeles, $703,032.
H.O.M.E.-Glasgow Street, Los Angeles, $602,786.
CRS-Garnet House, Los Angeles, $657,206.
Rubicon Programs, Inc.-West Richmond Apartments, Richmond, $371,074.
Bay Area Community Services, Livermore, $144,596.
Catholic Charities-Oakland, Oakland, $784,980.
Bonita House, Berkeley, $309,335.

Colorado: Jerry Smith, Deputy Director, Department of Local Affairs, 1313 Sherman St., Room 323, Denver, CO 80203.
Colorado Coalition for the Homeless, Aurora, $204,367.
Colorado Coalition for the Homeless, Aurora, $285,639.
Mental Health Center of Boulder County, Longmont, $292,761.

Connecticut: Henry S. Scherer, Jr., Commissioner, 1179 Main St., Hartford, CT 06103-1089.
Hall Brooke Foundation, Inc., Westport, $2,338,571.
Hall Brooke Foundation, Norwalk, $2,520,521.

Delaware: Thomas P. Eichler, Secretary, 1901 N. Dupont Hwy., New Castle, DE 19720.
Alliance for the Mentally Ill in Delaware, Wilmington, $186,405.

Hawaii: Joseph K. Conant, Executive Director, Seven Waterfront Plaza, Ste. 300, Honolulu, HI 96813-4991.
Steadfast Housing Corp., Maile, $533,702.
Steadfast Housing Corp., Pearl City, $578,171.

Illinois: Bobby J. Wilkerson, Acting Deputy Director, 401 William Stratton Bldg., Springfield, IL 62765.
Adult Community Outreach Network (ACORN), Chicago, $1,005,117.
Travelers and Immigrants Aid, Chicago, $578,205.

Indiana: Ira G. Peppercorn, Executive Director, One North Capitol, Ste. 515, Indianapolis, IN 46204.
Quinco Consulting Center, Seymour, $213,152.
Eastside Community Investments, Inc., Indianapolis, $573,087.
Community Mental Health Center, Inc., Lawrenceburg, $665,162.

Kentucky: John G. Martinez, Executive Director, 1231 Louisville Rd., Frankfort, KY 40601.
Community Kitchen/Horizon Center, Lexington, $434,736.

Louisiana: Jennifer Trosclair, President, 2644 S. Sherwood Forest, Ste. 200, Baton Rouge, LA 70818.
Aneome, Inc., New Orleans, $592,344.
Schumpert Medical Center, Shreveport, $1,100,260.

Maine: Lynn Wachtel, Commissioner, 219 Capitol St., State House Station #130, Augusta, ME 04333.
Medical Care Development, Inc., Auburn, $1,255,611.
York County Counseling Services, Inc., York, $942,543.

Massachusetts: Kevin M. Smith, Acting Secretary, 100 Cambridge St., 18th Floor, Boston, MA 02202.
Vinfen Corp., Boston, $879,228.
Cambridge YWCA, Cambridge, $1,093,049.
Vinfen Corp., Peabody, $790,398.
Housing Assistance Corp., Hyannis, $198,209.
Vinfen Corp., Quincy, $819,133.
Minnesota: James J. Solem, Commissioner, 400 Sibley St., Ste. 300, St. Paul, MN 55101.
Community Involvement Programs, Hopkins, $247,588.
New Hampshire: Donald L. Shumway, Director, 105 Pleasant St., Concord, NH 03301.
Mental Health of Greater Manchester, Manchester, $2,584,050.
New Jersey: Melvin R. Primas, Jr., Commissioner, 101 South Street/CN–051, Trenton, NJ 08625–0051.
Habcore House, Red Bank, $141,141.
Easter Seal Society of New Jersey, Raritan Township, $330,653.
Retarded Citizens Raritan Valley, New Brunswick, $1,183,957.
Easter Seal Society of New Jersey, Bloomfield Township, $379,964.
Easter Seal Society of New Jersey, Freehold, $658,440.
Easter Seal Society of New Jersey, White Township, $448,725.
New York: Peter R. Brest, Assoc. Commissioner, 40 North Pearl St., Ste. 10A, Albany, NY 12243–0001.
Rural Ulster Preservation Co., Kingston, $679,767.
Education Alliance, New York City, $1,902,753.
Victim Services Agency, New York City, $380,840.
Federation of Employment and Guidance Service, New York City, $3,349,786.
Minority Task Force on AIDS, New York City, $1,011,776.
Bridge Inc., New York City, $566,619.
Community Living, Inc., Brooklyn, $265,896.
Human Development Services, Port Chester, $241,746.
Ohio: Roberta F. Garber, Deputy Director, Community Development, P.O. Box 1001, Columbus, OH 43266–0101.
New Sunrise Properties, Inc., Lorain County, $2,392,615.
David House Compassion, Toledo, $368,138.
Federation for Community Planning, Cleveland, $289,101.
Community Housing Network, Inc., Columbus, $406,366.
Mahoning County Chemical Dependency Program, Youngstown, $134,108.
Summit AIDS Housing Corp., Akron, $340,305.
Community Housing Network, Inc., Columbus, $628,944.
Kevin Coleman Center, Kent, $636,923.
Columbiana County Mental Health Center, Columbiana Cnty, $531,888.
Miami Valley Housing Opportunities, Inc., Montgomery Cnty, $262,737.
Oregon: Dr. Richard C. Lippincott, Administrator, 2575 Bittern St., NE, Salem, OR 97310.
Housing Authority of Portland, $88,379.
Tennessee: Mary Rolando, Assistant Commissioner, 706 Church St., Nashville, TN 37243–0675.
Midtown Mental Health Center, Memphis, $347,618.
Texas: Larry Crumpton, Acting Executive Director, 2201 Donley Dr., Austin, TX 78758.
Austin-Travis County Mental Health Mental Retardation, Austin, $214,597.
Utah: Olene Walker, Director, Community Development Division, 324 S. State St., Ste. 300, Salt Lake City, UT 84111.
Travelers Aid Society, Salt Lake City, $90,627.
Virginia: Neal J. Barber, Director, 205 N. 4th St., Richmond, VA 23219–1747.
Western Tidewater Community Services Board, Suffolk Cnty., $230,114.
Christian Relief Services, Inc., Fairfax Cnty., $323,827.
Christian Relief Services, Inc., Fairfax Cnty., $324,100.
Christian Relief Services, Inc., Fairfax Cnty., $321,370.
Pathway Homes, Inc., Fairfax Cnty., $50,232.
Pathway Homes, Inc., Fairfax Cnty., $67,158.
Pathway Homes, Inc., Fairfax Cnty., $50,205.
Pathway Homes, Inc., Fairfax Cnty., $50,232.
Pathway Homes, Inc., Fairfax Cnty., $252,970.
Pathway Homes, Inc., Fairfax Cnty., $252,479.
Pathway Homes, Inc., Fairfax Cnty., $248,925.
Pathway Homes, Inc., Fairfax Cnty., $246,441.
Washington: Chuck Clarke, Director, Ninth & Columbia Bldg., MS:GH–51, Olympia, WA 98504–4151.
Central Washington Comprehensive Mental Health, Yakima, $132,200.
Central Washington Comprehensive Mental Health, Ellensburg, $124,375.
Central Washington Comprehensive Mental Health, Yakima, $83,213.
Community Psychiatric Clinic, Seattle, $259,872.
Wisconsin: Richard J. Longabaugh, Executive Director, One South Pinckney St., Ste. 500, Madison, WI 53701–1728.
Tellurian UCAN, Inc., Madison, $677,295.

Dated: October 21, 1991.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 91–25812 Filed 10–25–91; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 5, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 12, 1991.

Antoinette J. Lee,

Acting Chief of Registration, National Register.

FLORIDA

Indian River County

Old Palmetto Hotel, 1889 Old Dixie Hwy., Vero Beach, 91001650

MISSISSIPPI

Clay County

Brandtown Gin Historic District (Clay County MPS), MS 47 at Brandtown, W of Prairie, Prairie vicinity, 91001634
Cooper, Robert L., House (Cloy County MPS), Mhoon Volley Rd., W of West Point, West Point vicinity, 91001635
Homes, Mary, Junior College Historic District (Clay County MPS), Ms 50 W of jct. with MS 45W, West Point, 91001637
Jordan, Chorles R., House (Cloy County MPS), Tibbee—Columbus Rd. S of New Hope Church, West Point vicinity, 91001636
Mathews, Nathon, House and Mothews Cotton Gin (Cloy County MPS), Mathews Gin Rd. N of Union Staff Church, West Point vicinity, 91001638
Montpelier Historic District (Clay County MPS), Jct. of MS 389 and MS 46, Montpelier, 91001639
Phebo Historic District (Cloy County MPS), Pheba St. No. 2, just W of MS 389, Pheba, 91001640
Powell—Voil House (Clay County MPS), E side of Vail Rd., 1.2 mi. N of MS 50, Pheba vicinity, 91001641

Tibbee School (Clay County MPS), Tibbee—Columbus Rd., at Tibbee, West Point vicinity, 91001642
Turnage House (Clay County MPS), Turnage Rd. NE of Palestine Church, Montpelier vicinity, 91001643
Uno Consolidated School (Clay County MPS), Una—Prairie Rd. E of Pleasant Grove Church, Prairie vicinity, 91001644
West Clay County Agricultural School (Clay County MPS), Between Pheba Sts. Nos. 7 and 8, S of MS 50, Pheba, 91001645

NEVADA

Clark County

Hunt, Porley, House, Canal St. near jct. with Virgin St., Bunkerville, 91001652
Leavitt, Thomas, House, 160 S. First West St., Bunkerville, 91001653

Humboldt County

Golconda School, Jct. of Morrison and Fourth Sts., Golconda, 91001651
Hinnemucca Grammar School, 522 Lay St., Winnemucca, 91001654

NEW YORK

Oswego County

Ames, Leonard, Farmhouse (Mexico MPS), 5707 Main St., Mexico, 91001630
Arthut Tavern (Mexica MPS), Jct. of Clarke Rd. and NY 16, Arthur, 91001632
Chandler, Peter, Hause (Mexico MPS), 5897 Main St., Mexico, 91001626
Fowler—Loomis House (Mexico MPS), 6022 Main St., Mexico, 91001628
Mexica Academy and Central School (Mexico MPS), 5805 Main St., Mexico, 91001633
Red Mill Farm (Mexica MPS), 7177 Red Mill Rd., Colosse vicinity, 91001629
Slack Farmstead (Mexico MPS), 5174 Row Rd., Mexico vicinity, 91001627
Thayer Farmstead (Mexico MPS), 5933 Church St., Mexico vicinity, 91001631

NORTH CAROLINA

Dare County

USS HURON, Address Restricted, Nags Head vicinity, 91001625

RHODE ISLAND

Providence County

Whipple—Cullen House and Barn (Lincoln MPS), Old River Rd. S of jct. with George Washington Hwy., Lincoln, 91001647

Washington County

Eldred, Henry, Form, 368 Old North Rd., South Kingston, 91001646

TEXAS

Harris County

Nairn, Farrest A., House (Haustan Heights MPS), 1148 Heights Blvd., Houston, 91001655

Potter County

Central Presbyterian Church, 1100 Harrison St., Amarillo, 91001649

VERMONT

Windsor County

Gate of the Hills, Jct. of North and Royalton Hill Rds., Bethel, 91001648

[FR Doc. 91-25868 Filed 10-25-91; 8:45 am]
BILLING CODE 4310-70-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-93]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Microgravity Science and Applications Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Microgravity Science and Applications Subcommittee.

DATES: November 5, 1991, 8:30 a.m. to 5 p.m.

ADDRESSES: The National Aeronautics and Space Administration, 600 Independence Avenue, SW., room 226, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Roger K. Crouch, Code SN, National Aeronautics and Space Administration, Washington, DC 20546 (202) 453-1490.

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Microgravity Science and Applications Subcommittee provides advice to the Microgravity Science and Applications Division concerning all of its programs in the microgravity sciences. The Subcommittee will meet to review the current status of the Microgravity Science and Applications Division. The Subcommittee is chaired by Dr. Dudley Saville and is composed of 8 members. The meeting will be open to the public up to the capacity of the room (approximately 50 including Subcommittee members). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Tuesday, November 5

8:30 a.m.—Introduction and Division Overview.
9:15 a.m.—Strategic Planning Process.
9:30 a.m.—Advisory Process.
10 a.m.—Space Studies Board Activities relating to Microgravity Science.
10:30 a.m.—Discipline Working Groups.
11 a.m.—Science Overview: Material Science, Fluids and Fundamental Phenomena, Combustion, and Biotechnology.
4:30 p.m.—Discussion.
5 p.m.—Adjourn.

Dated: October 22, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-25870 Filed 10-25-91; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

Public Service Company of New Hampshire; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-86 issued to the Public Service Company of New Hampshire (PSNH, the licensee) for operation of the Seabrook Station located in Rockingham County, New Hampshire.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would change the license to allow the operation and maintenance of Seabrook Station by North Atlantic Energy Service Company (NAESCO), a wholly-owned subsidiary of Northeast Utilities (NU).

The proposed action is in accordance with the licensee's application for amendment dated November 13, 1990 as supplemented by letters dated January 15, 1991, January 22, 1991, April 9, 1991, June 12, 1991, and September 16, 1991.

The Need for the Proposed Action

The licensee, PSNH, proposes to transfer the operation and maintenance of Seabrook Station to NAESCO. The transfer to NAESCO entails the transfer of Seabrook Station operating and support staff from New Hampshire

Yankee (NHY) to NAESCO. All staff and functions for safety, environmental, security, emergency planning, and related disciplines will continue after the amendment, as before. There will be no physical or operational changes associated with this amendment other than the change in name only (to NAESCO) of the operations, maintenance, engineering and other nuclear related personnel.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the license. The proposed revisions would allow the licensee to transfer the operations and maintenance of Seabrook Station to NAESCO. The operation and maintenance staff of NHY will transfer to NAESCO. There will be no changes to the facility or the environment as a result of the license amendment. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the license involves systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the Federal Register on March 6, 1991 (56 FR 9384). The licensee's January 15, 1991, January 22, 1991, April 9, 1991, June 12, 1991, and September 16, 1991, supplemental letters provided additional information relating to the application, within the scope of the March 6, 1991 notice. No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in not meeting NRC requirements.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Seabrook Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to his action, see the application for amendment dated November 13, 1990 as supplemented by letters dated January 15, 1991, January 22, 1991, April 9, 1991, June 12, 1991, and September 16, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, Maryland, this 22nd day of October 1991.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-25864 Filed 10-25-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8964]

Rio Algom Mining Corp.; Draft Finding of No Significant Impact Regarding the Issuance of a Source Material License to Rio Algom Mining Corp., Smith Ranch Commercial Mine Project, Converse County, WY

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Draft Finding of No Significant Impact.

1. Proposed Action

The proposed administrative action is to issue a commercial source and byproduct material license. This license would allow in situ leach uranium recovery of the Smith Ranch Project in Converse County, Wyoming.

2. Reasons for Draft Finding of No Significant Impact

An environmental assessment was prepared by the staff at the U.S. Nuclear Regulatory Commission (NRC) and issued by the Commission's Uranium Recovery Field Office, Region IV. The environmental assessment performed by the Commission's staff evaluated potential impacts onsite and offsite due to radiological releases that may occur during the course of the operation. Documents used in preparing the assessment included operational data from the O-Sand and Q-Sand Research and Development in situ leach operation and the licensee's application dated March 31, 1988. Based on the review of operational data and the application materials, the Commission has determined that no significant impact will result from the proposed action, and therefore, an Environmental Impact Statement is not warranted.

The following statements support the draft finding of no significant impact and summarize the conclusions resulting from the environmental assessment.

A. The ground-water monitoring program proposed by Rio Algom Mining Corp. is sufficient to monitor the operations and will provide a warning system that will minimize any impact on ground water. Furthermore, aquifer testing indicates that the production zone is adequately confined, thereby assuring hydrologic control of mining solutions.

B. Radiologic effluents from the proposed operation of the well field and processing plant will be within regulatory limits and will be continuously monitored.

C. The environmental monitoring program is comprehensive and will detect any radiological releases resulting from the operation.

D. Radioactive wastes will be minimal and will be disposed of at an approved site in accordance with applicable Federal and State regulations.

E. Ground water, based on previous applicant demonstration projects, can be restored to baseline conditions or applicable class of use standards.

F. Cultural resources eligible for and listed on the National Register of Historic Places will not be adversely affected by the mining project.

In accordance with 10 CFR part 51.33(a), the Director of the Uranium Recovery Field Office made the determination to issue a draft finding of

no significant impact and to accept comments on the draft finding for a period of 30 days after issuance in the Federal Register.

This finding, together with the environmental assessment setting forth the basis for the findings, is available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated at Denver, Colorado, this 18th day of October 1991.

Ramon E. Hall,

Director.

[FR Doc. 91-25865 Filed 10-25-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-29626, License No. 24-24826-01, EA 91-136]

Piping Specialists, Inc., Kansas City, MO; Order Suspending License (Effective Immediately)

I

Piping Specialists, Inc. (PSI or Licensee) is the holder of Byproduct Material License No. 24-24826-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34 on March 6, 1987. This license authorizes the use of byproduct material (iridium 192 and cobalt 60) for industrial radiography in devices approved by the NRC or an Agreement State. The facility where licensed materials are authorized for storage is located at 1012 East 10th Street, Kansas City, Missouri. The use of licensed materials is authorized at temporary job sites anywhere in the United States where the United States Nuclear Regulatory Commission maintains jurisdiction for regulating the use of licensed material. The license identifies Mr. Forrest Roudebush as PSI's President and Mr. James Hosack as the Radiation Safety Officer (RSO) and the sole individual authorized to act as a radiographer. No individual is authorized to act as a radiographer's assistant. The license, originally issued on March 6, 1987, is due to expire on March 31, 1992.

II

During the period of September 4 to October 16, 1991, an inspection of PSI's licensed activities was conducted by NRC. While the inspection activities are continuing, the following significant violations have been identified to date:

A. Deliberate falsification of utilization logs maintained in accordance with 10 CFR 34.27, in that numerous uses of NRC licensed byproduct materials were not recorded, contrary to 10 CFR 30.9(a) during the period of January 1, 1991 through September 11, 1991.

B. False oral information was provided on March 21, 1991, and on September 17 and 18, 1991 to NRC in violation of 10 CFR 30.9(a), concerning the following:

1. The accuracy of the utilization logs;

2. The Licensee president's role in licensed activities including acting as a radiographer's assistant in violation of the license and not wearing all necessary personnel monitoring devices required by 10 CFR 34.33; and,

3. The conduct of radiographic operations on June 27 and 28, 1991 at the Licensee's facilities located at 1012 East 10th Street, Kansas City, Missouri.

C. Additionally, the following violations identified in the inspection collectively demonstrate the lack of effective oversight of the Licensee's radiation safety program:

1. Failure to perform surveys between April 1990 and September 1991, when radiographic exposure devices were placed into storage, in accordance with 10 CFR 34.43(c).

2. Failure to mark radiographic exposure devices as of September 18, 1991 with the Licensee's address, and telephone number, in accordance with 10 CFR 34.20(b)(1).

3. Failure to properly mark and label radioactive material shipment containers as of September 18, 1991, in accordance with 49 CFR 173.25, contrary to 10 CFR 71.5.

4. Failure to ship radioactive materials accompanied by properly completed shipping papers as of October 4, 1991, in accordance with 49 CFR 177.817(a), contrary to 10 CFR 71.5. Specific deficiencies were observed regarding shipping paper requirements specified in 49 CFR 172.201(d) and 172.203(d).

5. Failure to maintain complete records of quarterly physical inventories of sealed sources as of September 18, 1991, in accordance with 10 CFR 34.26.

6. Failure to conspicuously post high radiation areas on October 4, 1991 in accordance with 10 CFR 34.42.

7. Failure to post required documents as of September 18, 1991, in accordance with 10 CFR 19.11.

III

The performance of licensed activities requires the use of appropriate procedures, use of personnel who are adequately trained in those procedures, and meticulous attention to detail by responsible personnel, to ensure that licensed activities are conducted safely and in accordance with Commission requirements. This attention to detail is particularly important during the performance of industrial radiography, given the high activity levels of the radioactive sources. The failure to properly control the use of radiography devices could result in significant exposures of individuals to radiation.

In addition, the Commission must be able to rely on its licensees to maintain accurate records and provide complete and accurate information to the NRC. Violations, in particular willful violations of Commission requirements, cannot and will not be tolerated.

While the inspection is continuing, the information developed to date indicates that many of the violations appear to be deliberate, which raises a question whether the Licensee is able or willing to comply with the Commission's requirements to protect the public health and safety.

Consequently, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 24-24826-01 in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that License No. 24-24826-01 be suspended pending the completion of the investigation and licensed material be transferred to another authorized person. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety and interest require that this Order be immediately effective.

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 30 and 34, *it is hereby ordered, effective immediately, that:*

A. Activities under License No. 24-24826-01 are suspended pending further action by the NRC.

B. The Licensee shall:

1. Immediately upon the receipt of this order, if it has not already done so, return all byproduct material in its possession to locked safe storage at the licensee's facility and notify NRC Region III within one hour of placing the material in locked storage.

2. By 2 p.m. (CDT) on October 18, 1991, identify to NRC Region III, a person specifically authorized by the Commission or an Agreement State to possess such material who will take possession of the licensee's byproduct material at the licensee's facility or provide the status of actions to obtain a person to take possession of the sources.

3. By 5 p.m. (CDT) on October 19, 1991, physically transfer possession of all byproduct material to the person identified in section B.2. If a person has not been so identified, transfer the source to a person approved by NRC Region III. Such person shall package and ship the material in accordance with all applicable NRC and U.S.D.O.T. requirements. The Licensee shall notify the Regional Administrator, NRC Region III, in writing under oath or affirmation, within 48 hours of the completion of the transfer. The written notification shall include the name, address, telephone number, and radioactive materials license number of the authorized recipient.

The Regional Administrator, NRC Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

The Licensee 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. The answer shall specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why this Order should not have been issued. Any answer filed within 20 days of the date of this Order may include a request for a hearing. 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 III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137 and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his 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 the Licensee 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.

VI

In the absence of any request for hearing, this Order shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay with immediate effectiveness of this order.

Dated at Rockville, Maryland this 17th day of October 1991.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 91–25863 Filed 10–25–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology; Panel on Science and Technology and National Security; Change of Time and Location

The location and time of the October 25, 1991, meeting of the Panel on Science and Technology and National Security of the President's Council of Advisors on Science and Technology (PCAST), as announced in the **Federal Register** on Tuesday, October 15, 1991, 56 FR 51718, has been changed. The morning session will be held from 8 a.m. to 12:30 p.m. in Conference Room 300, AT&T Federal Systems Advanced Technologies Building, 1919 South Eads Street, Arlington, VA. The afternoon session will be held from 1 p.m. to 5:30 p.m. in room 22, Old Executive Office Building, 17th Street and Pennsylvania Avenue, NW., Washington, DC. Both sessions will remain closed to the public.

Dated: October 22, 1991.

Ms. Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 91–25833 Filed 10–25–91; 8:45 am]

BILLING CODE 3170–01–M

OVERSIGHT BOARD

Regional Advisory Board Meetings, Regions I–VI

AGENCY: Oversight Board for the Resolution Trust Corporation.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby published for the regional advisory board meetings for Regions I through VI. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. November 13, 12:30 p.m. to 3:30 p.m., Tampa, Fla., Region I Advisory Board.
2. November 15, 12:30 p.m. to 3:30 p.m., Jackson, Miss., Region II Advisory Board.
3. December 3, 12:30 p.m. to 3:30 p.m., Albuquerque, N.M., Region V Advisory Board.
4. December 5, 1991, 12:30 p.m. to 3:30 p.m., Chicago, Ill., Region III Advisory Board.
5. December 11, 1991, 12:30 p.m. to 3:30 p.m., San Francisco, Calif., Region VI Advisory Board.
6. December 13, 1991, 12:30 p.m. to 3:30 p.m., Dallas, Tx., Region IV Advisory Board.

ADDRESSES: The meetings will be held at the following locations:

1. Tampa, Fla.—Tampa Bay Performing Arts Center, Banquet Hall, Second Level, 1010 North W.C. MacInnes Place.
2. Jackson, Miss.—The Old Capitol Museum, House of Representatives Chamber, 100 South State.
3. Albuquerque, N.M.—Albuquerque Technical Vocational Institute, Main Board Room, Brasher Hall, 525 Buena Vista, SE.
4. Chicago, Ill.—Northwestern University Kellogg School of Business, Wieboldt Hall, Commerce Club Lounge, 339 East Chicago Avenue.
5. San Francisco, Calif.—Federal Reserve of San Francisco, Fourth Floor Conference room, 101 Market Street.
6. Dallas, Tx.—Dallas Public Library, Auditorium, 1515 Young Street.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Oversight Board/RTC, 1777 F Street, NW. Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Section 501(a) of the financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the Act), Public Law No. 101–73, 103 Stat. 183, 382–383, directed the Oversight Board to establish one national advisory board and six regional advisory boards.

Purpose

The advisory boards provide the Resolution Trust Corporation (RTC) with information and recommendations on the policies and programs for the sale of RTC owned real property assets.

Agenda

A detailed agenda will be available at the meeting.

Statements

Interested persons may submit to the advisory board written statements, data, information, or views on the issues pending before the board prior to or at the meeting. The meeting will include a

public forum for oral comments. Oral comments will be limited to approximately five minutes. Interested persons may sign up for the public forum at the meeting. All meetings are open to the public. Seating is available on a first come first served basis.

Dated: October 23, 1991.

Jill Nevius,

Committee Management Officer, Office of Advisory Board Affairs.

[FR Doc. 91-25871 Filed 10-25-91; 8:45 am]

BILLING CODE 2222-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATES: Comments should be submitted by November 27, 1991. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Application for Section 502/504 Loan.

Form No.: SBA Forms 1244.

Frequency: On Occasion.

Description of Respondents: SBA Businesses applying for financial assistance.

Annual Responses: 1,300.

Annual Burden: 2,925.

Cleo Verbillis,

Acting Chief, Administrative Informotion Branch.

[FR Doc. 91-25821 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, will hold a public meeting at 9 a.m., November 7, 1991 at the Kelly's Inn in Bismark, North Dakota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. James L. Stai, District Director, U.S. Small Business Administration, 657 2nd Avenue North, Fargo, North Dakota 58108, (701) 239-5131.

Dr. Caroline J. Beeson,

Assistant Administrator, Nationol Advisory Councils.

[FR Doc. 91-25822 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, will hold a public meeting from 9 a.m. to 3 p.m., on November 8, 1991, at the Small Business Administration District Office, Security Building, suite 101, 101 South Maine Avenue, Sioux Falls, South Dakota to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Chester B. Leedom, District Director, U.S. Small Business Administration, Security Building, suite 101, 101 South Maine Avenue, Sioux Falls, South Dakota 57102, (605) 330-4231.

Dr. Caroline J. Beeson,

Assistant Administrator, Nationol Advisory Councils.

[FR Doc. 91-25886 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Houston, will hold a public meeting at 9 a.m. on Thursday, October 31, 1991, at the University of Houston Small Business Development Center, 601 Jefferson, suite 2330, Houston, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Milton Wilson, Jr., District Director, U.S. Small Business Administration, 2525 Murworth, suite 112, Houston, Texas, 77054, (409) 660-4409.

Dr. Caroline J. Beeson,

Assistont Administrator, Advisory Councils.

[FR Doc. 91-25823 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Lower Rio Grande Valley, will hold a public meeting from 1 p.m. to 4 p.m. on Tuesday, November 19, 1991, at the Rio Grande Valley Chamber of Commerce conference room, FM 1015 and Expressway 83, Weslaco, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Miguel A. Gavazos, Jr., District Office, U.S. Small Business Administration, 222 East Van Buren, suite 500, Harlingen, Texas 78550 (512) 427-8625.

Dr. Caroline J. Beeson,

Assistant Administrator, Advisory Councils.

[FR Doc. 91-25824 Filed 10-25-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Fine Arts Committee

[Public Notice 1506]

Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, November 23, 1991 at 10 a.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 11:30 p.m. and is open to the public.

The agency for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in May 1991 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 1991 to September 30, 1991.

Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Wednesday, November 20, 1991, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: October 9, 1991.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 91–25819 Filed 10–25–91; 8:45 am]

BILLING CODE 4710–38–M

[Public Notice 1507]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group B Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Wednesday, November 13, 1991, in Room 1912 from 9:30 a.m. to 5 p.m., Department of State, 2201 C Street, NW., Washington, DC 20520.

The agenda of the meeting will be as follows:

1. Approve August 27, 1991, meeting minutes
2. Review results and activities of CCITT Study Group XI Meeting (September 16–October 4, 1991)
3. Consider contributions
   —CCITT Study Group XVIII (December 2–13, 1991)
   —Others appropriate for Study Group B
4. Consider nominations for U.S. delegation to Study Group XVIII Meeting
5. Other business

Members of the general public may attend the meeting and join in the discussions, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting.

Please note: Persons intending to attend the above meeting must announce this not later than five days before the meeting to the Department of State, 202–647–0201 (fax 202–647–7407). The announcement must include name, social security number, and date of birth, if you have not already provided this personal data to this office. The above includes government and non-government attendees. All attendees must use the C-Street entrance.

Please bring 60 copies of documents to be considered at this meeting. If document has been mailed, bring only 10 copies.

Dated: October 15, 1991.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT, National Committee.

[FR Doc. 91–25820 Filed 10–25–91; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 18, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47793.
Date filed: October 17, 1991.
Parties: Members of the International Air Transport Association.
Subject: Comp MV/P 0681 dated September 20, 1991. Mail Vote 513 (Mauritius currency-related matter).
Proposed Effective Date: April 1, 1992.

Docket Number: 47795.
Date filed: October 18, 1991.
Parties: Member of the International Air Transport Association.
Subject: TC3 Reso/P 0437 dated October 18, 1991, TC3 Expedited Resolutions, R–1 To R–24.
Proposed Effective Date: November 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91–25847 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q; Week Ended October 18, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47791.
Date filed: October 17, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 14, 1991.
Description: Application of Aerotransportes Mas de Carga, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air carrier permit authorizing the carriage of property and mail on a scheduled basis between Mexico City, Mexico on the one hand, and Los Angeles, California and Miami, Florida on the other.

Docket Number: 47724.
Date filed: October 16, 1991.
Due Date for answers, Conforming Applications, or Motion to Modify Scope: November 13, 1991.
Description: Amendment No. 1 to the Application of Atlantic Coast Airlines, request that the Department take expeditious action to issue a Certificate of Public Convenience and Necessity as requested herein; to find ACAI "fit" with the meaning of Section 401(r) of the Act; to authorize ACA to hold itself out under the trade name "United Express": and for such further and other relief as the DOT may deem appropriate.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 19–25848 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements, Submittals to OMB on October 17, 1991

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice list those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on October 17, 1991, 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).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson or Susan Pickrel, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366–4735, or Edward Clarke or Wayne Brough, Office of Management and Budget, New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

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 the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. 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 officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on October 17, 1991.

DOT No.: 3544.
OMB No.: 2125–0507.
Administration: Federal Highway Administration.
Title: Voucher for Federal-aid Reimbursements.
Need for Information: For the Federal Highway Administration to reimburse State highway costs incurred on Federal-aid projects.
Proposed Use of Information: To assure the Federal Highway Administration that the amount of claims and terms of agreements have been certified by an authorized State official.
Frequency: On occasion.
Burden Estimate: 15,174 hours.
Respndents: State highway agencies.
Form(s): PR–20, FHWA–1447, FHWA–1175.
Average Burden Hours Per Respondent: 1 hour.

DOT No.: 3545.
OMB No.: 2125–0523.
Administration: Federal Highway Administration.
Title: Annual Program of Projects.
Need for Information: To meet requirements of Section 105 of Title 23 U.S.C. for the submission of annual program of projects by the State Highway agencies.
Proposed Use of Information: For the Federal Highway Administration to study overall program of proposed highway projects for which Federal-aid highway funds have been requested.
Frequency: Annually.
Burden Estimate: 32,280 hours.
Respondents: State highway agencies.
Form(s): None.
Average Burden Hours Per Respondent: 640 hours.

DOT No.: 3546.
OMB No.: 2133–0036.
Administration: maritime Administration.
Title: Relative Cost of Shipbuilding in the Various Costal Districts of the United States.
Need for Information: Required to obtain or retain a benefit.
Proposed Use of Information: To assure that applicants qualify for requested benefit under the statute.
Frequency: Annually.
Burden Estimate: 50 hours.
Respondents: 10.
Form(s): MA–939.
Average Burden Hours Per Respondent: 5 hours.

DOT No.: 3547.
OMB No.: 2133–0033.
Administration: Maritime Administration.
Title: Exporter/Importer Data.
Need for Information: Required to obtain a benefit.
Proposed Use of Information: To develop marketing policies in cooperation with U.S. flag carriers.
Frequency: Weekly.
Burden Estimate: 960 hours.
Respondents: 1920.
Form(s): MA–740.
Average Burden Hours Per Respondent: 30 minutes.

DOT No.: 3548.
OMB No.: 2138–0016.
Administration: Research and Special Programs Administration.
Title: Report of Extension of Credit to Political Candidates.
Need for Information: To monitor the extension of credit to political candidates by certificated air carriers.
Proposed Use of Information: Data is sent to the Federal Election Commission.
Frequency: On occasion.
Burden Estimate: 20 hours.
Respondents: Air carriers that extend credit to political candidates.
Form(s): Form 183.
Average Burden Hours Per Response: 1 hour.

DOT No.: 3549.
OMB No.: 2120–0553.
Administration: Federal Aviation Administration.
Title: Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia.
Need for Information: The Airport Noise and Capacity Act of 1990 mandates the formulation of a national noise policy. Part of that mandate is the phaseout of Stage 2 Airplanes by 12/31/99. The information is needed to implement that requirement.
Proposed Use of Information: The Federal Aviation Administration will use the data to monitor and enforce compliance, and to keep Congress and the public informed on the progress being made to achieve full and continued compliance.
Frequency: Annual and On occasion.
Burden Estimate: 113 hours.
Respondents: Businesses.
Form(s): None.
Average Burden Hours Per Response: 1 hour for small companies and 2 hours for large companies.

DOT No.: 3550.
OMB No.: New.
Administration: Federal Aviation Administration.
Title: Notice and Approval of Airport Noise and Access Restrictions.
Need for Information: The applicant is required to notify the following parties directly in writing: 1) aircraft operators serving the airport and aircraft operator known to be interested in serving the airport; 2) the FAA; 3) each Federal agency with facilities or land use control jurisdiction within the airport noise study areas; and 4) each state and local agency and land use planning or control jurisdiction within the airport noise study area.
Proposed Use of Information: Public notice will help to mitigate potential adverse effects of proposed restrictions by improving the changes for potential entrants to service at an airport to protect themselves from undesirable constraints on their future activities.
Frequency: On occasion.
Burden Estimate: 39,226 hours.
Respondents: Airport and Aircraft operators.
Form(s): None.
Average Burden Hours Per Response: 1,783 hours.

DOT No.: 3551.

OMB No.: 2127–0000.
Administration: National Highway Traffic Safety Administration.
Title: Drug Offender's License Suspension Certification.
Need for Informotion: To encourage States to enact and enforce drug offender's driver's license suspension.
Proposed Use of Information: To provide procedures to State highway construction grant recipients on how to certify compliance with the provisions of Public Law 101–215. The law requires a driver's license suspension, or revocation, for individuals convicted of any drug-related offense.
Frequency: Annual.
Burden Estimate: 260 hours.
Respondents: States.
Form(s): None.
Average Burden Hours Per Response: 5 hours.

DOT No.: 3552.
OMB No.: 2115–0041.
Administration: U.S. Coast Guard.
Title: Outer Continental Shelf Lands Act of 1978 Facility Application for Certificate of Financial Responsibility.
Need for Informotion: This information collection requirement ensures compliance with 33 USC 1815 and 1817. It is needed to determine the financial responsibility of the owner or operator of an offshore facility for oil pollution liability purposes.
Proposed Use of Information: The Coast Guard will use this information to evaluate the owner/operator request for a Certificate of Financial Responsibility. The information will also be used to process and settle any claims made against the Fund.
Frequency: On occasion.
Burden Estimote: 2,062.
Respondents: Owners/operators of offshore facilities.
Form(s): CG–5210.
Average Burden Hours Per Response: 1 hour and 26½ minutes.

DOT No.: 3553.
OMB No.: 2106–0013.
Administrotion: Office of the Secretary of Transportation.
Title: Canadian Charter Air Taxi Operators.
Need for Informotion: Regulatory compliance.
Proposed Use of Information: Competitive protection for U.S. air taxis, safety and financial protection for the traveling public.
Frequency: On occasion.
Burden Estimote: 17.5 hours.
Respondents: 35.
Form(s): 4505.
Average Burden Hours Per Response: 30 minutes.

DOT No.: 3554.
OMB No.: 2115–0580.
Administration: U.S. Coast Guard.
Title: Emergency Evacuation Plans for Manned Outer Continental Shelf (OCS) Facilities.
Need for Information: This Information Collection is needed by the U.S. Coast Guard to ensure that regulations promoting the safety of life and property on the Outer Continental Shelf (OCS) facilities are met. Regulations promulgated by the Coast Guard will ensure that operators of OCS facilities have specific contingency plans for the emergency evacuation of all personnel and mobile offshore drilling units operating on the OCS.
Proposed Use of Information: This Information Collection will be used by the U.S. Coast Guard to ensure that emergency evacuation plans are prepared and are maintained at each facility for the use of personnel in case of an emergency evacuation. These plans will identify equipment and procedures available to facility personnel for a safe and orderly evacuation to a place of safety.
Frequency: On occasion.
Burden Estimate: 7776.
Respondents: Owner's and Operators of OCS.
Form(s): None.
Average Burden Hours Per Response: 40 hours for a new plan, or 10 hours to revise plan.

DOT No.: 3555.
OMB No.: 2120–0060.
Administrotion: Federal Aviation Administration.
Title: General Aviation Activity and Avionics Survey.
Need for Information: This survey is needed to collect information on the use and the characteristics of the general aviation aircraft.
Proposed Use of Information: The data is used by the FAA in supporting safety analysis, regulatory changes, assessing the impact of general aviation on the National Airspace System and formulating long-term programs and policies.
Frequency: Annually.
Burden Estimate: 4,500 hours.
Respondents: A sampling of general aviation aircraft owners and operators.
Form(s): FAA Form 1800–54.
Average Burden Hours Per Response: 15 minutes for the 1992 and 1994 surveys, and 10 minutes for the 1993 survey.

DOT No.: 3556.
OMB No.: 2138–0006.
Administration: Research and Special Programs Administration.
Title: Part 249 Preservation of Air Carrier Records.
Need for Informotion: To verify air carrier reports.
Proposed Use of Information: Audit air carrier and public charter operators records.
Frequency: Records are retained for periods from 30 days to 3 years.
Burden Estimote: 449.
Respondents: Certified air carriers and public charter operators.
Form(s): None.
Average Burden Hours Per Respondent: 2 hours.

DOT No.: 3557.
OMB No.: 2133–0013.
Administration: Maritime Administration.
Title: Monthly Report of Ocean Shipments Moving Under Export-Import Bank Financing.
Need for Information: Required to obtain or retain a benefit.
Proposed Use of Information: To assure applicant qualifies for requested benefit under the statute.
Frequency: Monthly.
Burden Estimate: 144 hours.
Respondents: 288.
Form(s): MA–518.
Average Burden Hours Per Respondent: 30 minutes.

DOT No.: 3558.
OMB No.: 2125–0525.
Administration: Federal Highway Administration.
Title: Emergency Relief Funding Applications.
Need for Informotion: For FHWA to fulfill its statutory obligations regarding funding determinations on emergency work to repair damaged highway facilities.
Proposed Use of Informotion: For FHWA to allocate emergency relief (ER) funds based on the application of the State highway agency.
Frequency: On occasion.
Burden Estimate: 2,400 hours.
Respondents: State highway agencies.
Form(s): None.
Average Burden Hours Per Respondent: 12 hours.

DOT No.: 3559.
OMB No.: 2133–0514.
Administration: Maritime Administration.
Title: Determination of Fair and Reasonable Rates for the Carriage of Bulk Preference Cargoes (46 CFR Part 382).
Need for Information: Required to obtain or retain a benefit.
Proposed Use of Information: To assure applicant qualifies for requested benefit under the statute.
Frequency: Annually.
Burden Estimate: 600 hours.

Respondents: 150.
Form(s): None.
Average Burden Hours Per Respondent: 4 hours.
DOT No.: 3560.
OMB No.: 2115–0141.
Administration: U.S. Coast Guard.
Title: Reporting and Recordkeeping Requirements for Fire Fighting Equipment, Structural Fire Protection Materials Lifesaving Equipment, and Marine Sanitation Devices.
Need for Information: This information is needed by the U.S. Coast Guard to ensure that regulations governing specific types of safety equipment and materials installed on commercial vessels and pleasure crafts are met. Manufacturers are required to submit drawings, specifications, and laboratory test reports to the Coast Guard before any approval is given.
Proposed Use of Information: This information will be used to determine if manufacturers are in compliance with Coast Guard regulations and technical requirements contained in individual regulations. When Coast Guard approves the emergency and safety equipment for use aboard commercial vessels and pleasure crafts, the manufacturer is issued a Certificate of Approval. This certificate will serve as a source of information on specific equipment approved by the Coast Guard for the shipbuilding industry and vessel operators.
Frequency: On occasion.
Burden Estimate: 7140 hours.
Respondents: Manufacturers of safety equipment.
Form(s): None.
Average Burden Hours Per Respondent: 2 hours for manufacturers and 4 hours for independent laboratories.

Issued in Washington, DC on October 17, 1991.

Cynthia C. Rand,

Director of Information Resource Management.

[FR Doc. 91–25846 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee; Unmanned Aerospace Vehicle Operations Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of Unmanned Aerospace Vehicle Operations Working Group.

SUMMARY: Notice is given of the establishment of an Unmanned Aerospace Vehicle Operations Working Group by the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee. This notice informs the public of the activities of the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Executive Director, Air Traffic Subcommittee, Air Traffic Rules and Procedures Service (ATP–230), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202–267–8783; FAX: 202–267–5809.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) established an Aviation Rulemaking Advisory Committee (56 FR 2190, January 22, 1991) which held its first meeting on May 23, 1991 (56 FR 20492, May 3, 1991). The Air Traffic Subcommittee was established at that meeting to provide advice and recommendations to the Director, Air Traffic Rules and Procedures Service, on air traffic operations rulemaking actions. At its meeting on September 30, 1991 (56 FR 46350, September 11, 1991), the subcommittee established the Unmanned Aerospace Vehicle Operations Working Group.

Specifically, the working groups's task is the following: Develop operating and certification standards for unmanned aerospace vehicles. Include minimum qualifications or standards for the operators of these vehicles.

The Unmanned Aerospace Vehicle Operations Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A working group member need not necessarily be a representative of one of the organizations of the parent Air Traffic Subcommittee or of the full Aviation Rulemaking Advisory Committee. An individual who has expertise in the subject matter and wishes to become a member of the working group should write the person listed under the caption **"FOR FURTHER INFORMATION CONTACT"** expressing that desire and describing his or her interest in the task and the expertise he or she would bring to the working group. The request will be reviewed with the subcommittee chair and working group leader and the individual advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of the Aviation Rulemaking Advisory Committee and its subcommittees are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the full committee and any subcommittees will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Unmanned Aerospace Vehicle Operations Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on October 22, 1991.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 91–25881 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee; Pilot Procedures at Non-Towered Airports Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of Pilot Procedures at Non-Towered Airports Working Group.

SUMMARY: Notice is given of the establishment of a Pilot Procedures at Non-Towered Airports Working Group by the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee. This notice informs the public of the activities of the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Executive Director, Air Traffic Subcommittee, Air Traffic Rules and Procedures Service (ATP–230), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202–267–8783; FAX: 202–267–5809.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) established an Aviation Rulemaking Advisory Committee (56 FR 2190, January 22, 1991) which held its first meeting on May 23, 1991 (56 FR 20492, May 3, 1991). The Air Traffic Subcommittee was established at that meeting to provide advice and recommendations to the Director, Air Traffic Rules and Procedures Service, on air traffic operations rulemaking actions. At its meeting on September 30, 1991 (56 FR 46350, September 11, 1991), the subcommittee established the Pilot Procedures at Non-Towered Airports Working Group.

Specifically, the working group's task is the following:

Update Advisory Circular No. 90–66, Recommended Standard Traffic Patterns for Airplane Operations at Uncontrolled Airports, to reflect safe practices when entering and exiting same. In addition, expand the advisory circular to include operational information on ultralights, sailplanes, hang gliders, helicopters, and parachuting operations.

The Pilot Procedures at Non-Towered Airports Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A working group member need not necessarily be a representative of one of the organizations of the parent Air Traffic Subcommittee or of the full Aviation Rulemaking Advisory Committee. An individual who has expertise in the subject matter and wishes to become a member of the working group should write the person listed under the caption **"FOR FURTHER INFORMATION CONTACT"** expressing that desire and describing his or her interest in the task and the expertise he or she would bring to the working group. The request will be reviewed with the subcommittee chair and working group leader and the individual advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of the Aviation Rulemaking Advisory Committee and its subcommittees are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the full committee and any subcommittees will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Pilot Procedures at Non-Towered Airports Working Group will be not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on October 22, 1991.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviotion Rulemaking Advisory Committee.

[FR Doc. 91–25852 Filed 10–25–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 18, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0195
Form Number: IRS Form 5213
Type of Review: Extension
Title: Election to Postpone Determination as to Whether the Presumption That an Activity is Engaged in for Profit Applies
Description: This form is used by individuals, partnerships, estates, trusts, and S corporations to make an election to postpone an IRS determination as to whether an activity is engaged in for profit 5 years (7 years for breeding, training, showing, or racing horses). The data is used to verify eligibility to make the election.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 10,730
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—26 minutes
Learning about the form or the law—5 minutes
Preparing the form—10 minutes
Copying, assembling, and sending the form to IRS—20 minutes
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 7,511 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmentol Reports Management Officer.

[FR Doc. 91–25826 Filed 10–25–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: October 22, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New collection
Title: Excise Tax Compliance Focus Group Interviews
Description: These Focus Groups are being conducted to help the Service fulfill its responsibilities under OMB Circular A–123. The data collected will be used to evaluate the level of voluntary compliance with Excise Tax laws and to initiate recommendations for changes and improvements.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 500
Estimated Burden Hours Per Respondent: 37 minutes
Frequency of Response: Other (One-time Focus Group)
Estimated Total Reporting/ Recordkeeping Burden: 312 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–25827 Filed 10–25–91; 8:45 am]

BILLING CODE 4830–01–M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash

Management Regulations (I TFM 6–8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 6% for calendar year 1992.

DATES: The rate will be in effect for the period beginning on January 1, 1992 and ending on December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Division (Program Compliance Branch), Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227 (Telephone: (202) 874–6550).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month ge dm2:a28oc3.046period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for calendar year 1992 reflects the average investment rates for the 12-month period ended September 30, 1991.

Dated: October 16, 1991.

Michael T. Smokovich,

Assistant Commissioner Federal Finance.

[FR Doc. 91–25811 Filed 10–25–91; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1991—Rev., Supp. No. 6]

Surety Companies Acceptable on Federal Bonds: Termination of Authority: CIM Insurance Corp.

Notice is hereby given that the Certificate of Authority issued by the Treasury to CIM Insurance Corporation, under the United States Code, Title 31, Section 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 56 FR 30137, July 1, 1991. With respect to any bonds currently in force with CIM Insurance Corporation, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 874–6850.

Dated: October 21, 1991.

Charles F. Schwan, III,

Director, Funds Management Division.

[FR Doc. 91–25808 Filed 10–25–91; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1991—Rev., Supp. No. 7]

Surety Companies Acceptable on Federal Bonds: Termination of Authority: MIC Property and Casualty Insurance Corp.

Notice is hereby given that the Certificate of Authority issued by the Treasury to MIC Property and Casualty Insurance Corporation, under the United States Code, Title 31, Section 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 56 FR 30151, July 1, 1991. With respect to any bonds currently in force with MIC Property and Casualty Insurance Corporation, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, D.C. 20227, telephone (202) 874–6850.

Dated: October 21, 1991.

Charles F. Schwan, III,

Director, Funds Management Division.

[FR Doc. 91 25809 Filed 10–25–91; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1991 Rev., Supp. No. 5]

Surety Companies Acceptable on Federal Bonds; National Grange Mutual Insurance Co.; Correction

The underwriting limitation for National Grange Mutual Insurance Company was listed in error in the Treasury Department Circular 570, July 1, 1991, revision at 56 FR 30153 as $785,000.

The underwriting limitation is hereby corrected to read $6,927,000.

Federal bond-approving officers should annotate their reference copies of Treasury Department Circular 570, 1991 Revision, at 56 FR 30153 to reflect this correction.

Questions concerning this Notice may be directed to the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6905.

Dated: October 16, 1991.

Charles F. Schwan, III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 91–25810 Filed 10–25–91; 8:45 am]

BILLING CODE 4810-35-M

Office of Thrift Supervision

Citizens Federal Savings Association Jacksonville, FL; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in sections 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Citizens Federal Savings Association, Jacksonville, Florida, on October 16, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–25775 Filed 10–25–91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings and Loan Association, Pontiac, Michigan, on October 16, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–25776 Filed 10–25–91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift

Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Association, Lubbock, Texas, on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25777 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Homebank Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for HomeBank Federal Savings Association, Gilford, New Hampshire, on October 10, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25778 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Life Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Life Federal Savings Bank, Clearwater, Florida, on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25779 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Oak Tree Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Oak Tree Federal Savings Bank, New Orleans, Louisiana, on October 13, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25780 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Beacon Federal Savings Association; Baldwin, NY Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Beacon Federal Savings Association, Baldwin, New York ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on October 18, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25781 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Citizens Federal Savings Bank Jacksonville, FL; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Citizens Federal Savings Bank, Jacksonville, Florida, OTS No. 8531, on October 16, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25782 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Colony Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Colony Federal Savings Bank, Monaca, Pennsylvania ("Savings Bank") with the Resolution Trust Corporation as sole Receiver for the Savings Bank on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25783 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Empire Savings Bank, FSB; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Empire Savings Bank, Federal Savings Bank, Hammonton, New Jersey ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25784 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Bank and Trust; Appointment of Receiver

Notice is hereby given that , pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Trust Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings Bank and Trust, Pontiac, Michigan, OTS No. 3310, on October 16, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary

[FR Doc. 91-25785 Filed 10-25-91; 8:34 am]

BILLING CODE 6720-01-M

First Federal Savings Bank of West Texas; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings Bank of West Texas, Lubbock, Texas, OTS No. 3073, on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25786 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Homebank, FSB; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for HomeBank, FSB, Gilford, New Hampshire, OTS No. 2664, on October 10, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25787 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Life Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Life Savings Bank, Clearwater, Florida, OTS No. 7699, on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25788 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-10-M

Numerica Savings Bank, FSB Manchester, New Hampshire; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for Numerica Savings Bank, FSB, Manchester, New Hampshire, OTS No. 7396, on October 10, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25789 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Oak Tree Savings Bank, S.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Oak Tree Savings Bank, S.S.B., New Orleans, Louisiana (OTS No. 7841), on October 13, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25790 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Riverside Federal Savings Bank; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Riverside Federal Savings Bank, Riverside, New Jersey ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on October 1, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadie Y. Washington,

Corporate Secretary.

[FR Doc. 91-25791 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

The First, F.A.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for the First, F.A., Orlando, Florida, OTS No. 2314, on October 11, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25792 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

Yorkwood Federal Savings & Loan Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Yorkwood Federal Savings & Loan Association, Maplewood, New Jersey ("Savings Association") with the Resolution Trust Corporation as sole Receiver for the Savings Association on October 18, 1991.

Dated: October 22, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-25793 Filed 10-25-91; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Public Law 92-463, the Department of Veterans Affairs gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 "M" Street NW., Washington, DC, January 14 through January 17, 1992. The session on January 14, 1992, is scheduled to begin at 6:30 p.m. and end at 10:30 p.m. The sessions on January 15, 16, 17, 1992, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) for the January 14 session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On January 15-17, 1992, the meeting is closed during which time the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate

the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 522b(c)(6), and (c)(9)(b) and the determination of the Secretary of the Department of Veterans Affairs under sections 10(d) of Public Law 92–463 as amended by section 5(c) of Public Law 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service, Department of Veteran Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, (Phone: 202–535–7278) at least five days before the meeting.

Dated: October 17, 1991.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 91–25836 Filed 10–25–91; 8 45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 208
Monday, October 28, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 1, 1991.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–25981 Filed 10–24–91; 11:28 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 8, 1991.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–25982 Filed 10–24–91; 11:28 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 15, 1991.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–25983 Filed 10–24–91; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 22, 1991.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–25984 Filed 10–24–91; 11:28 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, November 29, 1991.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–25985 Filed 10–24–91; 11:28 am]

BILLING CODE 6351–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2 p.m. (Eastern Time) Tuesday, November 5, 1991.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations.

Closed Session

1. Litigation Authorization: General Counsel Recommendations.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663–7100 (voice) and (202) 663–4494 (TTD) at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

Dated: October 23, 1991.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 91–25945 Filed 10–23–91; 5:01 pm]

BILLING CODE 6750–06–M

Corrections

Federal Register
Vol. 56, No. 208
Monday, October 28, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program, Special Milk Program for Children, School Breakfast Program, State Administrative Expense Funds, and Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Coordinated Review Effort

Correction

In rule document 91-17052 beginning on page 32920 in the issue of Wednesday, July 17, 1991, make the following corrections:

§ 210.18 [Corrected]

1. In § 210.18:

a. On page 32942, in the first column, in paragraph (b)(2)(ii), in the fifth line, "are" should read "as".

b. On page 32943, in the first column, in paragraph (e)(1), in Table A, in the first column "101 to more" should read "101 or more".

c. On page 32945, in the second column, in paragraph (i)(4), in the seventh line, "received" should read "reviewed".

d. On the same page, in the 3d column, in paragraph (i)(5)(i) in the 13th line, "paragraph (1)" should read "paragraph (l)".

e. On the same page, in the same column, in paragraph (i)(5)(ii), in the second line "as" should read "a".

f. On the same page, in the same column, in paragraph (i)(5)(iii), in 14th line, "paragraph (1)" should read "paragraph (l)".

g. On page 32946, in the first column, in paragraph (i)(6)(i), in the seventh line, "paragraph (1)" should read "paragraph (l)".

h. On page 32946, in the 3d column, in paragraph (l)(4), in the 12th line, "paragraph (i)(1)" should read "paragraph (l)(1)".

i. On page 32947, in the first column, in paragraph (p)(2), in the third line, "(i)(1)" should read "paragraph (i)(1)".

§ 210.20 [Corrected]

2. On page 32948, in the third column, in § 210.20, in amendatory item f., in the first line, "Paragraph (b)(i)" should read "Paragraph (b)(8)".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Sweden; Final Results of Antidumping Duty Administrative Reviews

Correction

In notice document 91-16166 beginning on page 31762 in the issue of Thursday, July 11, 1991, on page 31765, in the third column, in the file line at the end of the document, "FR Doc. 91-19166" should read "FR Doc. 91-16166".

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Proposed Regulation Prohibiting Certain Transactions Between Commodity Pool Operators and Affiliated Persons

Correction

In proposed rule document 91-23744, beginning on page 50067, in the issue of Thursday, October 3, 1991, make the following correction:

On page 50069, in the third column, footnote 29 was omitted and should have appeared as follows:

"[29] See Survey of Commodity Pool Operators in Futures Markets with an Analysis of Interday Position Changes, Commodity Futures Trading Commission, Division of Economic Analysis (January 1991). Large CPOs were defined in the survey as those with over $10 million in net assets under management. Large CPOs held about 94% of the total net assets reported by the approximately 1,200 CPO members of the National Futures Association as of September 30, 1988."

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Correction

In notice document 91-18438 appearing on page 37205 in the issue of Monday, August 5, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-18430" should read "FR Doc. 91-18438".

BILLING CODE 1505-01-D

federal register

Monday
October 28, 1991

Part II

Consumer Product Safety Commission

16 CFR Parts 1115 and 1116

Substantial Hazard Reports and Reporting Requirements Under Section 37 of the Consumer Product Safety Act; Proposed Rules

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1115

Substantial Hazard Reports; Proposed Revision to Interpretative Rule Governing Substantial Hazard Reporting

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed revision to rule.

SUMMARY: Because of changes in its statute, the Consumer Product Safety Commission proposes revisions to its interpretative rules regarding the reporting of possible substantial product hazards. The Consumer Product Safety Improvement Act of 1990 amended section 15(b) of the Consumer Product Safety Act (CPSA) to add provisions requiring that every manufacturer (including an importer), distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that its product fails to comply with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA, or creates an unreasonable risk of serious injury or death, shall immediately inform the Commission of such failure to comply or of such risk, unless the manufacturer, distributor cr retailer has actual knowledge that the Commission has been adequately informed. Previously, section 15(b) of the CPSA required reports only when a product "fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard described in subsection (a)(2)." (These reports are still required.) Thus, before the 1990 amendment, firms were not required to report noncompliance with a voluntary standard or unreasonable risks of serious injury or death unless the noncompliance or risk created a product defect which could create a substantial product hazard. The proposed modification of the Commission's rule governing substantial hazard reports reflects these statutory changes.

DATES: Comments concerning this proposal must be received in the Office of the Secretary by December 27, 1991. The revisions are proposed to become effective 30 days after their publication in the Federal Register in final form.

ADDRESSES: Comments concerning this proposal should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to room 428, 5401 Westbard Avenue, Bethesda, Maryland 20816. Comments may be seen at the Office of the Secretary, room 428, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland, 301–4926800.

FOR FURTHER INFORMATION CONTACT: Eric L. Stone, Division of Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION:

Background Information

On October 27, 1972, Congress enacted legislation creating the Consumer Product Safety Commission. A key provision of that Act was a requirement that every manufacturer, distributor or retailer of a consumer product distributed in commerce immediately inform the Commission if it obtained information which reasonably supported the conclusion that such product contained a defect which could create a substantial product hazard, or violated a consumer product safety rule. Section 15(b) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2064(b).

On August 7, 1978, the Commission published an interpretative rule that provided guidance to the public about section 15(b) reports. I6 CFR part 1115. Over the years, the Commission has averaged 150 to 200 reports per year. Hundreds of these reports resulted in product recalls; others provided useful hazard information to the Commission.

For a long time, the Commission has been concerned that some firms were not complying with the reporting obligations. Despite the publication of a statement of enforcement policy, 49 FR 13,820 (April 6, 1984), and numerous civil penalty cases against firms which failed to report, or failed to report in a timely manner, the number of reports has remained relatively static.

With this history in mind, Congress enacted the Consumer Product Safety Improvement Act of 1990, Public Law 101–608, 104 Stat. 3110 (November 16, 1990) (Improvement Act). This act made a number of significant changes to the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051–2084, Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1277 and the Flammable Fabrics Act (FFA), 15 U.S.C. 1191–1204. Among these changes are an increase in the amount of civil penalties for violations of the CPSA, new civil penalties for violations of rules under the FHSA and FFA, and new reporting requirements for lawsuit settlements and judgments, certain voluntary standards violations and unreasonable risks of serious injury or death.

In this notice, the Commission proposes changes in its interpretative rule governing substantial hazard reports, 16 CFR 1115. These changes reflect the addition of the new reporting requirements to section 15(b) of the CPSA.

Section 15(b) of the CPSA, as enacted in 1972, required that every manufacturer, distributor, and retailer of a consumer product who—

> Obtains information which reasonably supports the conclusion that such product—(1) fails to comply with an applicable consumer product safety rule; or (2) contains a defect which could create a substantial product hazard . . . shall immediately inform the Commission of such failure to comply or of such defect, unless [they have] actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

The Improvement Act amends section 15(b) by imposing two additional notification requirements. First, manufacturers, distributors, and retailers must notify the Commission about products that fail to comply with an applicable voluntary standard upon which the Commission has relied under section 9 of the CPSA. Section 15(b)(1) of the CPSA, 15 U.S.C. 2064(b)(1). Second, they must report products that create an unreasonable risk of serious injury or death. Section 15(b)(3) of the CPSA, 15 U.S.C. 2064(b)(3).

The legislative history of the Improvement Act discusses the reasons for these changes. Congress was concerned that firms were not reporting potential hazards. The Senate Committee on Commerce, Science, and Transportation, which drafted the new reporting language for section 15(b), noted that there were only 150–200 reports per year, and suggested that "[m]anufacturers are reluctant to indicate that their products may contain a defect or do not believe their products to be defective, and so often do not supply the CPSC with notice under the law." Report of the Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 37, 101st Cong., 1st Sess. 10 (1990). The amendments to section 15(b) were intended to broaden the reporting requirements and increase the number of reports.

New Reporting Provisions

A. Failure To Comply With Voluntary Standards Relied Upon by the Commission

Under the CPSA, the Commission may rely on existing voluntary standards in lieu of developing mandatory ones. In recognition of the role of voluntary

standards under the CPSA, the new legislation requires reports if a product fails to comply with a voluntary standard "upon which the Commission has relied under section 9" of the CPSA. Section 15(b)(1) of the CPSA, 15 U.S.C. 2064(b)(1).

Since 1981, section 9 of the CPSA has set forth procedural requirements for the development of standards or bans under the CPSA, and established conditions for Commission reliance on a voluntary standard rather than a mandatory rule. The first step in the rulemaking process is a Commission decision whether to begin a rulemaking proceeding under section 9(a) of the CPSA. 15 U.S.C. 2058(a). This process can be initiated either by a petition in accordance with 5 U.S.C. 553(e) and section 9(i) of the CPSA, 15 U.S.C. 2058(i), or through a project initiated by the Commission. At that stage, the Commission may choose to take one of the following actions: (1) Deny a petition and rely upon a voluntary standard, (2) deny the petition for other reasons, (3) grant a petition and proceed with rulemaking, (4) continue a Commission initiative and start a rulemaking proceeding, or (5) discontinue a Commission initiative for other reasons.

A rulemaking proceeding is begun by publication of an advance notice of proposed rulemaking (ANPR) under section 9(a) of the CPSA, 15 U.S.C. 2058(a). The ANPR must invite any person to submit a voluntary standard or portion thereof as a proposed consumer product safety standard for Commission consideration. At this stage, the Commission may terminate the rulemaking proceeding for a number of reasons or rely upon a voluntary standard if the voluntary standard is in existence, "is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice" and "it is likely that there will be substantial compliance with such standard." Section 9(b)(2) of the CPSA, 15 U.S.C. 2058(b)(2). If the Commission does not rely on a voluntary standard or terminate the rulemaking at this stage, it may publish a notice of proposed rulemaking (NPR). After publication of the NPR, the Commission may terminate its rulemaking based upon the existence of a voluntary standard or for other reasons, or proceed to publication of a final rule. See Sections 9(d) and 9(f)(3) of the CPSA, 15 U.S.C. 2058(d) and 2058(f)(3).

In view of the foregoing, the Commission interprets the phrase "voluntary consumer product safety standard upon which the Commission has relied under section 9" to apply when the Commission decides not to publish an ANPR, denies a petition to commence rulemaking under the CPSA, terminates a rulemaking proceeding, or withdraws an existing consumer product safety rule under the CPSA because it has explicitly determined that an existing voluntary standard, or portion(s) thereof, is likely to result in an adequate reduction of the risk of injury and it is likely there will be substantial compliance with that voluntary standard. The Commission believes this provision applies to voluntary standards relied upon by the Commission in lieu of a mandatory consumer product safety rule under section 9 of the CPSA only, and not to standards relied upon under the FHSA, FFA, PPPA, or Refrigerator Safety Act (RSA), since the statute references only reliance under section 9. It is limited to voluntary standards relied upon by the Commission since August 13, 1981, the date CPSA rulemaking procedures were incorporated into section 9. (Consumer Product Safety Amendments of 1981, Public Law 97–35, 95 Stat. 703 (August 13, 1981).) The Commission has carefully considered the record of past Commission decisions and prepared a list of voluntary standards that the Commission has relied upon between August 13, 1981 and November 16, 1990, as per the aforementioned criteria.[1] That list is included as an Appendix to this notice. The list will be updated as necessary to include additional voluntary standards upon which the Commission relies in the future.

If the Commission relies upon only an identified portion(s) of a voluntary standard, firms are required to report under this section where there is nonconformance with the portion(s) of the voluntary standard relied upon by the Commission. (The list of voluntary standards in the Appendix to this part identifies the portions of the voluntary standards upon which the Commission relied.) As explained above, however, firms may have an obligation to report nonconformance with other portions of a voluntary standard, or with voluntary standards not relied upon by the Commission, if the nonconformance is a defect which could create a substantial product hazard or creates an unreasonable risk of serious injury or death.

The Commission interprets this provision as requiring reports only for noncomplying products that were manufactured after the date the Commission relied upon the voluntary standard and after this reporting obligation was enacted into law (November 16, 1990). The Commission recognizes that voluntary standards groups may revise and improve a voluntary standard that the Commission had relied upon. After the voluntary standard has been revised, firms do not have to report non-compliance with the earlier version, but must report non-compliance with the new version of the voluntary standard. The Commission has reached this interpretation because it recognizes when it defers to a voluntary standard that the voluntary standard may continue to evolve and improve in the future. The Commission believes that requiring firms to report only non-compliance with the particular version of a standard in effect at the time the Commission relied upon it would place a burden on firms to keep track of a possibly outdated standard.

It might also discourage improvements in voluntary standards since despite compliance with such improved standards firms would have an obligation to report under section 15(b). Therefore, this interpretation recognizes that voluntary standards evolve and improve over time. This approach is consistent with the spirit of this reporting provision, which encourages reports to the Commission of products that present a possible safety problem because they deviate from industry standards.

B. Unreasonable Risk of Serious Injury or Death

Prior to November, 1990, section 15(b) required reports concerning unregulated products only when available information reasonably supported the conclusion that a product contained a defect which could create a substantial product hazard. As the regulation interpreting this provision (16 CFR part 1115) points out, this latter determination requires a two part analysis. First, a firm must consider whether the product contains a defect. If the answer is affirmative, the firm must evaluate whether the defect could create a substantial risk of injury to the public—a process that requires consideration of the pattern of the defect, the number of defective products in commerce, the severity of the risk, and other relevant factors. 16 CFR 1115.4, 1115.12.

Under the 1990 amendments, a new provision, section 15(b)(3), also requires a report when a firm obtains information which reasonably supports the conclusion that a product presents an unreasonable risk of serious injury or death. Significantly, a firm need not

[1] On August 5, 1991, by a 2–0–1 vote, Commissioner Dawson abstaining, the Commission identified the attached list of voluntary standards.

determine that a pattern of defect exists or even that a specific product is defective. Instead, as the Report of the Senate Committee on Commerce, Science, and Transportation notes, the proper inquiry is whether a "reasonable person could conclude given the information available" that the product "creates an unreasonable risk of serious injury or death." [Emphasis added.] S. Rep. No. 37, 101st Cong., 1st Sess. 10 (1990).

To determine whether a report is required under this new provision, firms must analyze a broad spectrum of information about the product and its uses. The Senate Report explains:

> A product liability action, consumer reports, or reports, [sic] or reports from experts suggesting the existence of such a risk could be instances under which a manufacturer would become subject to the reporting requirement in the bill * * *.
> *Id.*

Sometimes the obligation to report arises from consumer complaints, quality control information, test data, lawsuits, or other indications that the product contains a defect or unreasonable risk. Frequently, firms learn of an incident of property damage or personal injury but the details become more evident during the course of their investigation and—in the case of lawsuits—through the discovery process. Firms have an obligation to synthesize such information with other knowledge about their product. At any time during this process, a subject firm may obtain sufficient information to reasonably conclude that its product fails to comply with a consumer product safety rule or voluntary standard upon which the Commission has relied under section 9, contains a reportable defect, or creates an unreasonable risk of serious injury or death, and have an obligation to report under section 15.

The Commission also interprets this provision to require firms to report if their product violates a provision of a standard or ban promulgated under the Federal Hazardous Substances Act, Flammable Fabrics Act, Poison Prevention Packaging Act or Refrigerator Safety Act that addresses a risk of injury or death and the violation could result in serious injury or death. In the case of a standard or ban issued pursuant to a statute that requires an unreasonable risk finding—*e.g.* regulations under section 3(e) of the FHSA, 15 U.S.C. 1262(e), to address mechanical hazards—the issuance of the standard or ban is conclusive that a violative product presents an unreasonable risk. The Commission also concludes that its issuance of a regulation is an implicit recognition that the hazard addressed presents an unreasonable risk for reporting purposes under section 15(b), whether or not the statute required a formal unreasonable risk determination for rulemaking. Thus, once there is a violation of any Commission standard or banning regulation, the appropriate inquiry is whether the injury that could occur as a result of the violation is "serious."

The amendments to section 15(b) are intended to encourage additional reporting of potential hazards, but do not change existing standards for when corrective action must be taken. In addition to alerting the Commission to potential substantial hazards, section 15 reports also can assist the Commission in its other activities, such as rulemaking or informational efforts. Therefore, the broadening of the reporting standard does not change the criteria for corrective action.

The amendments to section 15(b) are in addition to the new reporting requirements of section 37 of the CPSA, which requires firms to report information about settlements and judgments in private lawsuits. A report of such lawsuit information under section 37 plays a complementary role, providing to the Commission product-related information that may not have been reported under section 15. A section 37 report does not relieve a firm of its reporting obligations under section 15(b) of the CPSA. Firms must continue to evaluate such lawsuit information to determine whether a report is required under section 15(b) of the CPSA regardless of whether reporting is required under section 37 of the CPSA.

Finally, Congress also has amended the Consumer Product Safety Act to provide for penalties of up to $1.25 million for violation of the reporting requirements.

The Commission invites comments by interested parties on these proposed revisions to the Commission's interpretative rule governing substantial hazard reports. Comments must be submitted by December 27, 1991. Late filed comments will be considered to the extent practicable. Comments may be accompanied by relevant data, case law, and arguments, and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Secretary in Room 428, 5401 Westbard Ave., Bethesda, Maryland. Interested persons may examine comments received by the Commission in the Commission's Public Reading Room, 5401 Westbard Ave., Room 428, Bethesda, MD. between 8:30 a.m. and 5:00 p.m., Monday through Friday.

Proposed Effective Date: The Commission proposes that this part become effective 30 days after the date of publication of the final interpretative rule in the **Federal Register**.

List of Subjects in 16 CFR Part 1115

Administrative practice and procedure, Business and industry, Consumer protection, Reporting and recordkeeping requirements.

In accordance with the provisions of 5 U.S.C. 553 and under the authority of the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, the Commission proposes to amend Part 1115 of Title 16, Chapter II, of the Code of Federal Regulations as follows:

PART 1115—SUBSTANTIAL PRODUCT HAZARD REPORTS

1. The authority citation for part 1115 is revised to read as follows:

Authority: 15 U.S.C. 2061, 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2073, 2076, 2079 and 2084.

2. Sections 1115.2 (b) and (c) are revised to read as follows:

§ 1115.2 Scope and finding.

* * * * *

(b) Section 15(b) of the CPSA requires every manufacturer (including an importer), distributor, and retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product fails to comply with an applicable consumer product safety rule, fails to comply with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA, contains a defect which could create a substantial product hazard described in subsection 15(a)(2) of the CPSA, or creates an unreasonable risk of serious injury or death, immediately to inform the Commission, unless the manufacturer (including an importer), distributor or retailer has actual knowledge that the Commission has been adequately informed of such failure to comply, defect, or risk. This provision indicates that a broad spectrum of safety related information should be reported under section 15(b) of the CPSA.

(c) Sections 15 (c) and (d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect or the failure to comply and/

or to order the subject firm to elect either to repair, to replace, or to refund the purchase price of such product. However, information which should be reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard, because what must be reported under section 15(b) are failures to comply with consumer product safety rules or voluntary standards upon which the Commission has relied under section 9, defects that could create a substantial product hazard, and products which create an unreasonable risk of serious injury or death. (See § 1115.12.)

* * * * *

3. Section 1115.3(c) is revised to read as follows:

§ 1115.3 Definitions.

* * * * *

(c) *Noncompliance* means the failure of a consumer product to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA.

* * * * *

4. Sections 1115.5 through 1115.7 are added to read as follows:

§ 1115.5 Reporting of failures to comply with a voluntary consumer product safety standard relied upon by the Commission under section 9 of the CPSA.

(a) *General provision.* Under the CPSA, the Commission may rely on voluntary standards in lieu of developing mandatory ones. In recognition of the role of voluntary standards under the CPSA, section 15(b)(1) requires reports if a product fails to comply with a voluntary standard "upon which the Commission has relied under section 9" of the CPSA. The Commission has relied upon a voluntary consumer product safety standard under section 9 of the CPSA if, since August 13, 1981 it has decided not to commence a rulemaking proceeding by publishing an ANPR, denied a petition to commence a rulemaking proceeding, terminated a rulemaking proceeding, or withdrawn an existing consumer product safety rule, because it explicitly determined that an existing voluntary standard, or portion(s) thereof, is likely to result in an adequate reduction of the risk of injury and it is likely there will be substantial compliance with that voluntary standard. (See appendix to this part 1115 for a list of such voluntary standards.) This provision applies only when the Commission relies upon a voluntary standard in a rulemaking proceeding under section 9 of the CPSA, and does not apply when the Commission relies upon a voluntary standard in a rulemaking proceeding under another provision of the CPSA or one of the transferred acts.

(b) *Reporting requirement.* A firm must report under this section if it has distributed in commerce a product that does not conform to a voluntary standard or portion(s) of a voluntary standard relied upon by the Commission since August 13, 1981. If the Commission relied upon only a portion(s) of a voluntary standard, a firm must report under this section only nonconformance with the portion(s) of the voluntary standard relied upon by the Commission. If the voluntary standard relied upon by the Commission is amended or modified at some time after the Commission relies upon it, firms must report any noncompliance with the new version of the voluntary standard which occurs after the new version of the standard becomes effective. A firm must continue to evaluate whether deviations from other portions of a voluntary standard, or other voluntary standards not relied upon by the Commission, either constitute a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death.

§ 1115.6 Reporting of unreasonable risk of serious injury or death.

(a) *General provision.* Every manufacturer, distributor, and retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that its product creates an unreasonable risk of serious injury or death is required to notify the Commission immediately. 15 U.S.C. 2064(b)(3). The requirement that notification occur when a responsible party "obtains information which reasonably supports the conclusion that" its product creates an unreasonable risk of serious injury or death is intended to require firms to report even when no final determination of the risk is possible. Firms must carefully analyze the information they obtain to determine whether such information "reasonably supports" a determination that the product creates an unreasonable risk of serious injury or death. (See § 1115.12(f) for a discussion of the kinds of information that firms must study and evaluate to determine whether they have an obligation to report.) Firms that obtain information indicating that their products present an unreasonable risk of serious injury or death should not wait for such serious injury or death to actually occur before reporting. Such information can include reports from experts, test reports, product liability lawsuits or claims, consumer or customer complaints, quality control data, scientific or epidemiological studies, reports of injury, information from other firms or governmental entities, and other relevant information.

(b) *Unreasonable risk.* The use of the term "unreasonable risk" suggests that the risk of injury presented by a product should be evaluated to determine if that risk is a reasonable one. In determining whether a product presents an unreasonable risk, the firm should examine the utility of the product, or the utility of the aspect of the product that causes the risk, the level of exposure of consumers to the risk, the nature and severity of the hazard presented, and the likelihood of resulting serious injury or death. In its analysis, the firm should also evaluate the state of the manufacturing or scientific art, the availability of alternative designs or products, and the feasibility of eliminating the risk. The Commission expects firms to report if a "reasonable person could conclude given the information available" that a product creates an unreasonable risk of serious injury or death. A manufacturer, distributor, or retailer of a consumer product distributed in commerce must report if it obtains information which reasonably supports the conclusion that its product violates a standard or ban promulgated under the FHSA, FFA, PPPA or RSA and the violation could result in serious injury or death.

(c) *Serious injury or death.* The term "serious injury" is not defined in the CPSA. The Commission believes that the term includes not only the concept of "grievous bodily injury", defined at § 1115.12(d), but also any other significant injury. Injuries requiring medical attention or hospitalization, fractures, serious lacerations, concussions, injuries to the eye or internal organs, and injuries causing absence from school or work might be examples of such significant injuries. To determine whether an unreasonable risk of serious injury or death exists, the firm should evaluate chronic or long term health effects as well as immediate injuries.

§ 1115.7 Relation to other provisions.

The reporting requirements of section 15(b) of the CPSA are in addition to the requirement in section 37 of the CPSA (15 U.S.C. 2084). Section 37 requires a product manufacturer to report certain kinds of lawsuit information. It is intended as a supplement to, not a substitute for, the requirements of

section 15(b) of the CPSA. Whether or not a firm has an obligation to provide information under section 37, it must consider whether it has obtained information which reasonably supports the conclusion that its product violates a consumer product safety rule, does not comply with a voluntary safety standard upon which the Commission has relied under section 9, contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death. If a firm has obtained such information, it must report under section 15(b) of the CPSA, whether or not it is required to report under section 37. Further, in many cases the Commission would expect to receive reports under section 15(b) long before the obligation to report under section 37 arises since firms have frequently obtained reportable information before settlements or judgments in their product liability lawsuits.

5. In Section 1115.10, remove the words "Product Defect Correction Division" and add, in their place, the words "Office of Compliance and Enforcement, Division of Corrective Actions" in paragraphs (a) and (b); redesignate paragraphs (c) and (d) as paragraphs (e) and (f); and add new paragraphs (c) and (d) to read as follows:

§ 1115.10 Persons who must report and where to report.

* * * * *

(c) Every manufacturer (including importer), distributor, and retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA, shall immediately notify the Commission's Office of Compliance and Enforcement, Division of Corrective Actions or such other persons as may be designated.

(d) Every manufacturer (including importer), distributor, and retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product creates an unreasonable risk of serious injury or death shall immediately notify the Commission's Office of Compliance and Enforcement, Division of Corrective Actions or such other persons as may be designated. This obligation applies to manufacturers, distributors and retailers of consumer products subject to regulation by the Commission under the Flammable Fabrics Act, Federal Hazardous Substances Act, Poison Prevention Packaging Act, and Refrigerator Safety Act as well as products subject to regulation under the CPSA.

* * * * *

6. Section 1115.12 is amended by revising paragraphs (a) and (b), by redesignating paragraphs (c) through (f) as paragraphs (d) through (g), by adding new paragraph (c), and by revising newly designated paragraph (f) to read as follows:

§ 1115.12 Information which should be reported; evaluating substantial product hazard.

(a) *General.* Subject firms should not delay reporting in order to determine to a certainty the existence of a reportable noncompliance, defect or unreasonable risk. The obligation to report arises upon receipt of information from which one could reasonably conclude the existence of a noncompliance, defect which could create a substantial product hazard, or unreasonable risk of serious injury or death. Thus, an obligation to report may arise when a subject firm receives the first information regarding a potential hazard, noncompliance or risk. (See § 1115.14(c).) A subject firm in its report to the Commission need not admit, or may specifically deny, that the information it submits reasonably supports the conclusion that its consumer product is noncomplying, contains a defect which could create a substantial product hazard within the meaning of section 15(b) of the CPSA, or creates an unreasonable risk of serious injury or death. After receiving the report, the staff may conduct further investigations and will preliminarily determine whether the product reported upon presents a substantial product hazard. This determination can be based on information supplied by a subject firm or from any other source. If the matter is adjudicated, the Commission will ultimately make the decision as to substantial product hazard or will seek to have a court make the decision as to imminent product hazard.

(b) *Failure to comply.* A subject firm must report information indicating that a consumer product which it has distributed in commerce does not comply with an applicable consumer product safety standard or ban issued under the CPSA, or a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA.

(c) *Unreasonable risk of serious injury or death.* A subject firm must report when it obtains information indicating that a consumer product which it has distributed in commerce creates an unreasonable risk of serious injury or death.

* * * * *

(f) *Information which should be studied and evaluated.*

Paragraphs (f)(1) through (7) of this section are examples of information which a subject firm should study and evaluate in order to determine whether it is obligated to report under section 15(b) of the CPSA. This information should be evaluated to determine whether it suggests the existence of a noncompliance, a defect, or an unreasonable risk of serious injury or death:

(1) Information about engineering, quality control, or production data.

(2) Information about safety-related production or design change(s).

(3) Product liability suits and/or claims for personal injury or damage.

(4) Information from an independent testing laboratory.

(5) Complaints from a consumer or consumer group.

(6) Information received from the Commission or other governmental agency.

(7) Information received from other firms, including requests to return a product or for replacement or credit. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that products be returned.

* * * * *

7. Section 1115.13 is amended by removing the words "Product Defect Corrections Division" and adding in their place "Office of Compliance and Enforcement, Division of Corrective Actions" in paragraph (a) and by revising paragraphs (b), (c) introductory text, (c)(3), (d) introductory text, (d)(4), (d)(5), the first sentence of (d)(6), (d)(10), and (d)(11) to read as follows:

§ 1115.13 Content and Form of Reports; delegations of authority.

* * * * *

(b) *Distributors and retailers.* A distributor or retailer of a product (who is neither a manufacturer nor an importer of that product) satisfies the initial reporting requirements either by telephoning or writing the Office of Compliance and Enforcement, Division of Corrective Actions, Consumer Product Safety Commission, Washington, DC 20207, phone 301–492–6608; by sending a letter describing the noncompliance, defect or risk of injury to the manufacturer (or importer) of the product and sending a copy of the letter to the Commission's Division of Corrective Actions; or by forwarding to the Commission's Division of Corrective

Actions reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer (or importer) shall report to the Commission unless the manufacturer (or importer) informs the distributor or retailer that a report has been made to the Commission. A report under this paragraph should contain the information detailed in paragraph (c) of this section insofar as it is known to the distributor or retailer. Unless further information is requested by the staff, this action will constitute a sufficient report insofar as the distributor or retailer is concerned.

(c) *Initial report.* Immediately after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule, a voluntary standard, contains a defect which could create a substantial risk of injury to the public, or creates an unreasonable risk of serious injury or death, the subject firm should provide the Division of Corrective Actions, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207 (telephone: 301–492–6608), with an initial report containing the information listed in paragraphs (c)(1) through (6) of this section. This initial report may be made by any means, but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. (See § 1115.14 for time computations.) The initial report should contain, insofar as is reasonably available and/or applicable:

* * * * *

(3) The nature and extent of the possible defect, the failure to comply, or the risk.

* * * * *

(d) *Full report.* Subject firms which file initial reports are required to file full reports in accordance with this paragraph. Retailers and distributors may satisfy their reporting obligations in accordance with § 1115.13(b). At any time after an initial report, the staff may modify the requirements detailed in this section with respect to any subject firm. If the staff preliminarily determines that there is no substantial product hazard, it may inform the firm that its reporting obligation has been fulfilled. However, a subject firm would be required to report if it later became aware of new information indicating a reportable defect, noncompliance, or risk, whether the new information related to the same or another consumer product. Unless modified by staff action, the following information, to the extent that it is reasonably available and/or applicable, constitutes a "full report," must be submitted to the staff, and must be supplemented or corrected as new or different information becomes known:

* * * * *

(4) A description of the nature of the defect, failure to comply, or risk. If technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, attach copies.

(5) The nature of the injury or the possible injury associated with the product defect, failure to comply, or risk.

(6) The manner in which and the date when the information about the defect, noncompliance, or risk (e.g., complaints, reported injuries, quality control testing) was obtained. * * *

* * * * *

(10) An explanation of any changes (e.g., designs, adjustments, and additional parts, quality control, testing) that have been or will be effected to correct the defect, failure to comply, or risk and of the steps that have been or will be taken to prevent similar occurrences in the future together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defect, noncompliance, or risk with a description of how this information has been or will be communicated. This shall include copies or drafts of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

* * * * *

8. Section 1115.14 is amended by revising the first sentence of paragraph (c) and paragraph (e) to read as follows:

§ 1115.14 Time computations.

* * * * *

(c) *Time when obligation to report arises.* The obligation to report under section 15(b) of the CPSA may arise upon receipt by a subject firm of the first information regarding a noncompliance, or a potential hazard presented by a product defect, or an unreasonable risk. * * *

* * * * *

(e) *Time to report.* Immediately, that is, within 24 hours, after a subject firm has obtained information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or voluntary consumer product safety standard, contains a defect which could create a substantial risk of injury to the public, or creates an unreasonable risk of serious injury or death, the firm should report. (See § 1115.13.) If a firm elects to conduct an investigation in order to evaluate the existence of reportable information, the 24-hour period begins when the firm has information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or voluntary consumer product safety standard upon which the Commission has relied under section 9, contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death. Thus, a firm could report to the Commission before the conclusion of a reasonably expeditious investigation and evaluation if the reportable information becomes known during the course of the investigation. In lieu of the investigation, the firm may report the information immediately

* * * * *

9. Part 1115 is amended by adding an Appendix to read as follows:

Appendix to Part 1115—Voluntary Standards on Which the Commission has Relied Under Section 9 of the Consumer Product Safety Act

The following are the voluntary standards on which the Commission has relied under section 9 of the Consumer Product Safety Act:

1. American National Standard for Power Tools—Gasoline-Powered Chain Saws—Safety Regulations, ANSI B175.1–1985, sections 4.9.4, 4.12, 4.15, 7 and 8.

2. American National Standard for Gas-Fired Room Heaters, Volume II, Unvented Room Heaters, ANSI Z21.11.2–1983 (Current version: ANSI Z21.11.2–1989 and addenda ANSI Z21.11.2a and b–1991), sections 1.8, 1.20.9, and 2.9. (Section references are to the current version of the standard.)

Dated: October 18, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91–25666 Filed 10–25–91; 8:45 am]

BILLING CODE 6355–01–M

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16 CFR Part 1116

Reporting Requirements Under Section 37 of the Consumer Product Safety Act; Proposed Interpretative Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed interpretative rule.

SUMMARY: The Consumer Product Safety Commission (the "Commission") publishes an interpretative rule advising manufacturers subject to section 37 of the Consumer Product Safety Act (15 U.S.C. 2084) how to comply with the requirement that they report to the Commission certain information relating to settled civil actions and judgments in favor of plaintiffs. Since enactment of this provision of the law in November, 1990, the Commission has received a number of inquiries concerning the procedures for making such reports to the Commission and the Commission's interpretation of various provisions of section 37.

DATES: Comments from the public are due no later than December 27, 1991.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207 or delivered to room 420, 5401 Westbard Avenue, Bethesda, Maryland 20816. All comments should be identified as such on the first page of the submission.

FOR FURTHER INFORMATION CONTACT: Michael Gidding, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207, (301) 492–6626.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed into law the Consumer Product Safety Improvement Act of 1990. In addition to amending several provisions of the existing Consumer Product Safety Act (CPSA), the statute created a new section 37 requiring a manufacturer of a consumer product to report to the Commission if (1) a particular model of the product is the subject of three or more civil actions filed in Federal or State Court, (2) each such suit alleges the involvement of the model in death or grievous bodily injury (as defined in section 37(e)(1)), and (3) at least three of the actions result in a final settlement involving the manufacturer or in a judgment for the plaintiff within one of the two year periods specified in section 37(b). A report must be filed within 30 days after the settlement or judgment in the third such civil action. Each subsequent final settlement or judgment in favor of a plaintiff in a civil action that alleges that the particular model was involved in death or grievous injury and that occurs during the same two year period must also be reported within 30 days after entry of that settlement or judgment.

Under section 19(a)(11) of the CPSA, 15 U.S.C. 2068(a)(11), it is a prohibited act to fail to report as required by section 37. Firms that violate the reporting requirement of section 37 are subject to a civil penalty of up to $5,000 for each product involved up to a maximum penalty of $1.25 million for a related series of violations. 15 U.S.C. 2069.

Section 37(c)(1) specifies the information that must be included in a report. Section 37(c)(2) permits a reporting manufacturer to supply voluntarily any additional information that it chooses, including whether a judgment has been or is expected to be appealed. This section further provides that a manufacturer need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.

The law prohibits the Commission from requiring any manufacturer to disclose the amount paid in final settlement of a civil action that is reportable under section 37 and further specifies that a section 37 report of the resolution of a civil action shall not constitute an admission of an unreasonable risk of injury, a defect in the product, a substantial product hazard, an imminent hazard, or liability under any statute or common law. Under section 6(e) of the Consumer Product Safety Act, 15 U.S.C. 2055(e), section 37 reports are specifically exempt from any public disclosure (with two limited exceptions relating to disclosure to a reporting manufacturer or to authorized committees of Congress), and are not subject to subpoena or discovery in any civil action in a State or Federal Court or in any administrative proceeding. The latter prohibition does not apply to actions under sections 20, 21, and 22 of the Consumer Product Safety Act for the failure to furnish the information required by section 37.

The reporting requirements of section 37 went into effect on January 1, 1991, the day on which the initial two year window for filing reports began. On February 14, 1991, the Commission published a Federal Register notice that recited the provisions of the law and notified the public that section 37 reports should be filed with the Division of Corrective Actions of the Office of Compliance and Enforcement. Since that time, the Commission has received a number of inquiries concerning the agency's interpretation of many of the requirements of section 37. In light of these inquiries, the Commission believes that the publication of an interpretative rule through a notice-and-comment proceeding is an appropriate vehicle to notify the public of how the Commission intends to interpret and implement section 37. The Commission notes that section 37 plays a complementary role to the substantial product hazard reporting requirements of section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)), which were also amended by the Consumer Product Safety Improvement Act of 1990. Therefore, individuals reviewing this proposed interpretative rule should also consult the proposed revisions to the rule interpreting the requirements of section 15(b) (16 CFR part 1115), published elsewhere in this issue of the **Federal Register.**

PROPOSED EFFECTIVE DATE: The Commission proposes that this part become effective 30 days after the date of publication of the final interpretative rule in the **Federal Register.**

List of Subjects in 16 CFR Part 1116

Administrative practice and procedure, Business and industry, Confidential business information, Consumer protection, Reporting and recordkeeping requirements.

Therefore, in accordance with the provisions of 5 U.S.C. 553 and under the authority of the Consumer Product Safety Act, 15 U.S.C. 2052 et seq., the Commission proposes to amend Title 16, Chapter II, of the Code of Federal Regulations by adding to Subchapter B, a new part 1116, to read as follows:

PART 1116—REPORTS SUBMITTED PURSUANT TO SECTION 37 OF THE CONSUMER PRODUCT SAFETY ACT

Sec.

Authority: 15 U.S.C. 2055(e), 2084.

§ 1116.1 Purpose.

The purpose of this part 1116 is to establish procedures for filing with the Consumer Product Safety Commission ("the Commission") reports required by section 37 of the Consumer Product Safety Act (CPSA) (5 U.S.C 2084) and to set forth the Commission's interpretation of the provisions of section 37.

§ 1116.2 Definitions.

(a) A *24-month period(s)* means the 24-month period beginning on January 1, 1991, and each subsequent 24-month period beginning on January 1 of the calendar year that is two years following the beginning of the previous 24-month period. The first statutory two year period ends on December 31, 1992. The second begins on January 1, 1993 and ends on December 31, 1994, and so forth.

(b) A *grievous bodily injury* includes any of the following categories of injury: mutilation, amputation, dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorder, severe burn, severe electric shock, and injuries likely to require extended hospitalization.

(c) A *particular model* of a consumer product is one that is distinctive in functional design, construction, warnings or instructions related to safety, function, user population, or other characteristics which could affect the product's safety related performance. 15 U.S.C. 2084(e)(2).

(1) The *functionol design* of a product refers to those design features that directly affect the ability of the product to perform its intended use or purpose.

(2) The *construction* of a product refers to its finished assembly or fabrication, its materials, and its components.

(3) *Warnings or instructions reloted to sofety* include statements of the principal hazards associated with a product, and statements of precautionary or affirmative measures to take during the use, handling, or storage of a product, to the extent that a reasonable person would understand such statements to be related to the safety of the product. Warnings or instructions may be written or graphically depicted and may be attached to the product or appear on the product itself, in operating manuals, or in other literature that accompanies or describes the product.

(4) The *function* of a product refers to its intended use or purpose.

(5) *User populotion* refers to the group or class of people by whom a product is principally used. While the manufacturer's stated intent may be relevant to an inquiry concerning the nature of the user population, the method of distribution, the availability of the product to the public and to specific groups, and the identity of purchasers or users of the product should be considered.

(6) *Other characteristics which could offect o product's safety reloted performonce* include safety features incorporated into the product to protect against foreseeable risks that might arise during the use, handling, or storage of a product.

(d) The term *manufocturer* means any person who manufactures or imports a consumer product. 15 U.S.C. 2052(a)(4).

§ 1116.3 Persons who must report under section 37.

A manufacturer of a consumer product must report if:

(a) A particular model of the product is the subject of at least 3 civil actions filed in Federal or State Court;

(b) Each suit alleges the involvement of that particular model in death or grievous bodily injury; and

(c) During one of the 24-month periods defined in § 1116.2(a), each of the three actions results in either a final settlement involving the manufacturer or in a court judgment in favor of the plaintiff.

§ 1116.4 Where to report.

Reports must be sent in writing to the Commission's Office of Compliance and Enforcement, Division of Corrective Actions, 5401 Westbard Avenue, Bethesda, Maryland 20207 (telephone (301) 492–6608).

§ 1116.5 When must a report be made.

(a) A manufacturer must report to the Commission within 30 days after the final settlement or court judgment in the last of the three civil actions referenced in § 1116.3.

(b) If a manufacturer has filed a section 37 report within one of the 24-month periods defined in § 1116.2(a), the manufacturer must also report the information required by section 37(c)(1) for any subsequent settlement or judgment in a civil action that alleges that the same particular model of the product was involved in death or grievous bodily injury and that takes place during the same 24-month period. Each such supplemental report must be filed within 30 days of the settlement or final judgment in the reportable civil action.

§ 1116.6 Contents of section 37 reports.

(a) *Required informotion.* With respect to each of the civil actions that is the subject of a report under section 37, the report must contain the following information:

(1) The name and address of the manufacturer of the product that was the subject of each civil action;

(2) The model and model number or designation of the consumer product subject to each action;

(3) A statement as to whether the civil action alleged death or grievous bodily injury, and, in the case of an allegation of grievous bodily injury, a statement of the category of such injury;

(4) A statement as to whether the civil action resulted in a final settlement or a judgment in favor of the plaintiff; and

(5) In the case of a judgment in favor of the plaintiff, the name of the civil action, the number assigned to the civil action, and the court in which the civil action was filed.

(b) *Optional information.* A manufacturer furnishing a report may include:

(1) A statement as to whether any judgment in favor of the plaintiff is under appeal or is expected to be appealed [section 15 U.S.C. 2084(c)(2)(A)];

(2) Any other information that the manufacturer chooses to provide (15 U.S.C. 2084(c)(2)(B)); and

(3) A specific denial that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.

(c) *Stotement of amount not required.* A manufacturer submitting a section 37 report is not required by section 37 or any other provision of the Consumer Product Safety Act to provide a statement of any amount paid in final settlement of any civil action that is the subject of the report.

(d) *Admission of liobility not required.* A manufacturer reporting to the Commission under section 37 need not admit that the information it reports supports the conclusion that its consumer product caused a death or grievous bodily injury. § 1116.7 Scope of section 37 and its relationship to section 15(b) of the CPSA.

(a) According to the legislative history of the Consumer Product Safety Improvement Act of 1990, the purpose of section 37 is to increase the reporting of information to the Commission that will assist it in carrying out its responsibilities.

(b) Section 37(c)(1) requires a manufacturer or importer (hereinafter "manufacturer") to include in a section 37 report a statement as to whether a civil action that is the subject of the report alleged death or grievous bodily injury. Furthermore, under section 37(c)(2), a manufacturer may specifically deny that the information it submits pursuant to section 37 reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury, and may also include any additional information that it chooses to provide. In view of the foregoing, the reporting obligation is not limited to those cases in which a product has been adjudicated as the

cause of death or grievous injury or to those settled cases in which the manufacturer has satisfied itself that the product was the cause of such trauma. Rather, when the original or amended complaint in a settled or adjudicated action alleges the involvement of the product in grievous bodily injury or death, the lawsuit falls within the scope of section 37. Should a manufacturer believe that its product is wrongly implicated in such an action, the statute expressly incorporates the mechanism for the manufacturer to communicate that belief to the Commission by denying in the report the involvement of the product. In addition, the statute imposes stringent confidentiality requirements on the disclosure by the Commission or the Department of Justice of information submitted pursuant to sections 37(c)(1) and 37(c)(2)(A). Moreover, it specifies that the reporting of a civil action shall not constitute an admission of liability under any statute or common law or under the relevant provisions of the Consumer Product Safety Act. In view of these safeguards, the reporting of lawsuits alleging the occurrence of death or grievous injury should have little adverse effect on manufacturers.

(c) Section 37 applies to judgments and "final settlements". Accordingly, the date on which a civil action is filed or the date on which the product that is the subject of such an action was manufactured is irrelevant to the obligation to report. A settlement is final upon the entry by a court of an order disposing of a civil action with respect to the manufacturer of the product that is the subject of the action, even though the case may continue with respect to other defendants.

(d) A judgment becomes reportable upon the entry of a final order by the trial court disposing of the matter in favor of the plaintiff and from which an appeal lies. Because section 37(c)(2) specifies that a reporting manufacturer may include a statement that a judgment in favor of a plaintiff is under appeal or is expected to be appealed, Congress clearly intended section 37 to apply prior to the exhaustion of or even the initiation of action to seek appellate remedies.

(e) No language in section 37 limits the reporting obligation to those litigated cases in which the plaintiff prevails completely. Therefore, if a court enters a partial judgment in favor of the plaintiff, the judgment is reportable, unless it is unrelated to the product that is the subject of the suit. For example, if a manufacturer's product is exonerated during a suit, but liability is assessed against another defendant, the manufacturer need not report under section 37.

(f)(1) Section 37 applies to civil actions that allege the involvement of a particular model of a consumer product in death or grievous bodily injury. Section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)) defines a "consumer product" as any article, or component part thereof, produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or for the personal use, consumption, or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. The term "consumer product" does not include any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer.

(2) Since section 37 focuses on consumer products, it is the responsibility of the manufacturer of a product implicated in a civil action to determine whether the production or distribution of the product satisfies the statutory criteria of section 3(a). If it does, the action falls within the ambit of section 37. True industrial products are beyond the scope of section 37. However, if a lawsuit is based on an allegation of injury involving a consumer product, that suit falls within the scope of section 37, even though the injury may have occurred during the use of the product in employment. By the same token, occupational injuries arising during the fabrication of a consumer product are not reportable if the entity involved in the injury is not a consumer product at the time the injury occurs. In determining whether a product meets the statutory definition, manufacturers may wish to consult the relevant case law and the advisory opinions issued by the Commission's Office of General Counsel.

(g) The definition of "consumer product" also encompasses a variety of products that are subject to regulation under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*), the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*). Lawsuits involving such products are also subject to section 37, notwithstanding the fact that the products may be regulated or subject to regulation under one of the other statutes.

(h) *Relationship of section 37 to section 15 of the CPSA.* (1) Section 37 plays a complementary role to the reporting requirements of section 15(b) of the CPSA (15 U.S.C. 2064(b)). Section 15(b) establishes a substantial obligation for firms to review information as it becomes available to determine whether an obligation to report exists. Accordingly, the responsibility to report under section 15(b) may arise long before enough lawsuits involving a product are resolved to create the obligation to report under section 37. The enactment of section 15(b)(3) in the Consumer Product Safety Improvement Act of 1990 reinforces this expectation. Under this amendment, manufacturers must report to the Commission when they obtain information that reasonably supports the conclusion that a product creates an unreasonable risk of serious injury or death. Previously, the reporting obligation for unregulated products only arose when available information indicated that the product in question was defective and created a substantial product hazard because of the pattern of the defect, the severity of the risk of injury, the number of products distributed in commerce, etc. The effect of the 1990 amendment is discussed in detail in the Commission's interpretative rule relating to the reporting of substantial product hazards at 16 CFR part 1115.[1]

(2) The new substantive reporting requirements of section 15(b)(3) support the conclusion that Congress intended section 37 to capture product-related accident information that has not been reported under section 15. Between the time a firm learns of an incident or problem involving a product that raises safety-related concerns and the time that a lawsuit involving that product is resolved by settlement or adjudication, the firm generally has numerous opportunities to evaluate whether a section 15 report is appropriate. Such evaluation might be appropriate, for example, after an analysis of product returns, the receipt of an insurance investigator's report, a physical examination of the product, the interview or deposition of an injured party or an eyewitness to the event that gave rise to the lawsuit, or even preparation of the firm's responses to plaintiff's discovery requests. Even if a manufacturer does not believe that a report is required prior to the resolution of a single lawsuit, an obligation to

[1] Amendments to part 1115 were published as a proposed interpretative rule elsewhere in this issue of the Federal Register. The Commission intends to publish the final revisions to part 1115 simultaneously with the publication of the final rule interpreting section 37 (16 CFR part 1116).

investigate whether a report is appropriate may arise if, for example, a verdict in favor of the plaintiff raises the issue of whether the product in question creates an unreasonable risk of death or serious injury.

(3) In contrast, the application of section 37 does not involve the discretionary judgment and subjective analyses of hazard and causation associated with section 15 reports. Once the statutory criteria of three settled or adjudicated civil actions alleging grievous injury or death in a two year period are met, the obligation to report under section 37 is automatic. For this reason, the Commission regards section 37 as a "safety net" to surface product hazards that remain unreported either intentionally or by inadvertence. The provisions in the law limiting such reports to cases in which three or more lawsuits alleging grievous injury or death are settled or adjudicated in favor of plaintiffs during a two year period provide assurance that the product involved presents a sufficiently grave risk of injury to warrant consideration by the Commission. Indeed, once the obligation to report under section 37 arises, the obligation to file a section 15 report concurrently may exist if the information available to the manufacturer meets the criteria established in section 15(b) for reporting.

§ 1116.8 Determination of particular model.

(a) The obligation rests with the manufacturer of a product to determine whether a reasonable basis exists to conclude that a product that is the subject of a settled or adjudicated lawsuit is sufficiently different from other similar products to be regarded as a "particular model" under section 37. The proper inquiry should be directed toward the degree to which a product differs from other comparable products in one or more of the characteristics enumerated in section 37(e)(2). Information relevant to this determination includes the manufacturer's description of the features and uses of the products in question in instruction manuals, descriptive brochures, or marketing or promotional programs; and the differences or similarities between products in their observable physical characteristics and in components or features that are not readily observable and that are incorporated in those products for safety related purposes. A product is "distinctive" if, after an analysis of information relating to all of the statutory characteristics, a reasonable person would conclude that the difference between that product and other items of the same product class manufactured or imported by the same manufacturer is substantial and material. Variations in appearance, ornamentation, color, or other cosmetic features are not ordinarily sufficient to justify such a differentiation. The use of component parts that are interchangeable with or that perform substantially the same function as comparable components in other units does not afford a basis for distinguishing between models, nor is the retail price, manufacturer's designation, model number, or private label designation controlling.

(b) The definition of "consumer product" expressly applies to components of consumer products. Should a component manufacturer be joined in a civil action against a manufacturer of a consumer product, the section 37 reporting requirements may apply to the component manufacturer after a combination of three judgments or settlements during a two year period, even though the manufacturer of the finished product is exempt from such reporting because the lawsuits do not involve the same particular model of a consumer product. The same proposition holds true for common components used in different consumer products. If the manufacturer of such a component is a defendant in three suits and the requisite statutory criteria are met, the reporting obligations apply.

(c) Section 37 expressly defines the reporting obligation in terms of the particular model of a product rather than the manner in which a product was involved in an accident. Accordingly, even if the characteristic of a product that caused or resulted in the deaths or grievous injuries alleged in three or more civil actions is the same in all of the suits, the requirement to report under section 37 would arise only if the same particular model was involved in at least three of the suits. However, the existence of such a pattern would strongly suggest that the obligation to file a report under section 15(b) (2) or (3), 15 U.S.C. 2064(b) (2) or (3), exists because the information reasonably supports the conclusion that the product contains a defect that could present a substantial risk of injury to the public or creates an unreasonable risk of serious injury or death.

(d) On the other hand, section 37 does not require that the same category of injury be involved in multiple lawsuits for the reporting obligation to arise. As long as a particular model of a consumer product is the subject of at least three civil actions that are settled or adjudicated in favor of the plaintiff in one of the statutory two year periods, the manufacturer must report, even though the category of injury and the alleged causal relationship of the product to the injury in each suit may differ.

§ 1116.9 Confidentiality of reports.

(a) Pursuant to section 6(e) of the Consumer Product Safety Act (15 U.S.C. 2055(e)), no member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may publicly disclose information furnished to the Commission under section 37(c)(1) and section 37(c)(2)(A) of the Act, except that:

(1) An authenticated copy of a section 37 report furnished to the Commission by or on behalf of a manufacturer may, upon written request, be furnished to the manufacturer or its authorized agent after payment of the actual or estimated cost of searching the records and furnishing such copies; or

(2) Any information furnished to the Commission under section 37 shall, upon written request of the Chairman or Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee or such committee, be provided to the Chairman or Ranking Minority Member for purposes that are related to the jurisdiction of such committee or subcommittee.

(b) The prohibition contained in section 6(e) (15 U.S.C. 2055(e)) against the disclosure of information submitted pursuant to section 37 only applies to the specific items of information that a manufacturer is required to submit under section 37(c)(1) and to statements under section 37(c)(2)(A) relating to the possibility or existence of an appeal of a reported judgment adverse to a manufacturer. Section 6(e)(1) does not, by its terms, apply to information that the manufacturer voluntarily chooses to submit pursuant to section 37(c)(2)(B). Thus, disclosure of such information is governed by the other provisions of section 6 of the CPSA (15 U.S.C. 2055) and by the interpretative rules issued by the Commission (16 CFR Parts 1101 and 1015). For example, if a manufacturer includes information otherwise reportable under section 15 as part of a section 37 report, the Commission will treat the information reported pursuant to section 15 as "additional information" submitted pursuant to section 37(c)(2)(B). Generally, any issue of the public disclosure of that information will

be controlled by the relevant provisions of section 6(b), including section 6(b)(5) relating to the disclosure of substantial product hazard reports, and section 6(a) relating to the disclosure of confidential or trade secret information. However, to the extent the section 15 report reiterates or references information reported under section 37, the confidentiality provisions of section 37(e) still apply to the reiteration or reference.

§ 1116.10 Restrictions on use of reports.

No member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may use information provided to the Commission under section 37 for any purpose other than to carry out the responsibilities of the Commission.

§ 1116.11 Reports of civil actions under section 37 not admissions.

Pursuant to section 37(d), the reporting of a civil action under section 37 shall not constitute an admission of—

(a) An unreasonable risk of injury;

(b) A defect in the consumer product which was the subject of the civil action;

(c) A substantial product hazard;

(d) An imminent hazard; or

(e) Any other liability under any statute or any common law.

§ 1116.12 Commission response to section 37 reports.

Upon receipt of a section 37 report, the Commission will evaluate the information contained in the report and any relevant information contained in its files or data bases to determine what, if any, follow-up or remedial action by the Commission is appropriate. If the Commission requires additional information, it will notify the manufacturer in writing of the specific information to provide. The Commission will treat any subsequent submission of information by the manufacturer as a submission under section 37(c)(2)(B), subject to the restrictions on public disclosure contained in sections 6(a) and (b) of the Consumer Product Safety Act.

Dated: October 15, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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Part III

Department of Education

34 CFR Parts 425 et al.
Adult Education and Literacy Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 425, 426, 431, 432, 433, 434, 435, 436, 437, 438, 441, 460, 461, 462, 463, 464, 471, 472, 473, 474, 475, 476, 477, 489, 490, and 491

RIN 1830-AA10

Adult Education and Literacy Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend existing regulations that govern various adult education and literacy programs and to add regulations for four new programs: State Literacy Resource Centers, National Workforce Literacy Strategies, Functional Literacy for State and Local Prisoners, and Life Skills for State and Local Prisoners. These amendments are needed to implement the recently enacted National Literacy Act of 1991 and certain new program authorities enacted in Public Law 102-103. The proposed regulations would incorporate statutory changes and provide rules for applying for and expending the Federal funds under these programs.

DATES: Comments must be received on or before December 27, 1991.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Dr. Thomas L. Johns, U.S. Department of Education, 400 Maryland Avenue, SW., room 4523, Mary E. Switzer Building, Washington, DC 20202-7120.

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

FOR FURTHER INFORMATION CONTACT: Joan Seamon, U.S. Department of Education, 400 Maryland Avenue, SW., room 4428, Mary E. Switzer Building, Washington, DC 20202-7120. Telephone: (202) 732-2270. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: These proposed regulations would implement the National Literacy Act (Pub. L. 102-73), enacted July 25, 1991, as amended by Public Law 102-103, enacted August 17, 1991. The National Literacy Act was enacted by Congress to address the serious problems with literacy faced by millions of adults in the United States. The Act is intended to help ensure that all adults have the literacy and basic skills needed to take advantage of better employment opportunities. The Act strengthens coordination among adult literacy programs at the Federal, State, and local levels, including programs involving workplace literacy.

The National Literacy Act is an important step forward in carrying out AMERICA 2000 and addressing the National Education Goals. Specifically, the Act addresses Goal 5, that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. AMERICA 2000 addresses this goal through its challenge to all of us to become a "Nation of students."

Through strengthening and expanding programs to promote adult literacy, the National Literacy Act and these proposed regulations implementing the Act directly address these challenges and opportunities.

Summary of Major Provisions

The following is a summary of the major statutory provisions in the National Literacy Act that would be incorporated in the Department's regulations for adult education and literacy programs. The summary also describes any regulations that the Secretary is proposing in this NPRM to implement those statutory provisions. The NPRM also includes some minor technical corrections to existing regulations. These minor technical corrections are not discussed.

Reorganization of Adult Education and Literacy Regulations

To accommodate new regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 and the National Literacy Act, it is necessary to redesignate the part numbers for existing regulations that govern the Department's adult education and literacy programs. The reorganization is presented in a distribution table to aid readers in referring between this NPRM and current regulations. The proposed reorganization would group State-administered program regulations together and discretionary grant program regulations together. In the current Code of Federal Regulations, these regulations are interspersed. All references in the following discussion are to the proposed redesignated part numbers.

Part 460—Adult Education—General Provisions

Section 460.3 What Regulations Apply to the Adult Education Programs?

This section of the existing regulations has been updated to reflect the new program authorities added by the National Literacy Act. In addition, the Secretary proposes to exempt the adult education and literacy discretionary grant programs from a provision in the Education Department General Administrative Regulations (EDGAR) that limits financial and performance reports to annual submissions. In some cases, to ensure that grant projects are making adequate progress, the Secretary may propose to require reports more frequently than annually. Any such reporting requirements would first be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

Section 460.4 What Definitions Apply to the Adult Education Programs?

The National Literacy Act defines "literacy," but only as that term is used in the National Literacy Act. To ensure uniform administration of all of the Department's adult education and literacy programs, the Secretary proposes to make the definition apply to all of the regulations for these programs.

The statutory definition of "literacy" includes a reference to the ability to compute and solve problems. The Secretary does not, however, believe that Congress intended that problem-solving be limited to mathematical computations. The proposed definition would clarify that computation and problem-solving are separate abilities.

The NPRM would delete the definition of the term "expansion" from existing regulations. The current definition was designed to encourage States to increase the number of agencies, institutions, and organizations, in addition to local educational agencies, that provide adult education and support services. Because the National Literacy Act makes these entities fully eligible to participate as direct award recipients, the definition of "expansion" is no longer needed.

To have uniform terminology throughout the regulations for adult education and literacy programs, the Secretary proposes to add a definition of "Governor," which would include the chief executive officer of each State. The Adult Education Act uses the terms "Governor," "chief executive officer," and "chief administrative officer" interchangeably.

The NPRM would conform to amendments in the National Literacy

Act concerning Palau by referencing the amended statutory definition of "State."

Part 461—Adult Education State-Administered Basic Grant Program

Section 461.1 What Is the Adult Education State-Administered Basic Grant Program?

This section of the existing regulations would not be substantively changed, but would be revised to recognize the extensive services that are provided under the program to adults with limited English proficiency. A similar amendment would be made in § 461.10(b)(7).

Section 461.3 What Are the General Responsibilities of the State Educational Agency?

The National Literacy Act requires States, by July 25, 1993 (two years following enactment of the statute), to develop and implement indicators of program quality to be used to evaluate adult education programs assisted under the basic grant program. The indicators must be developed and implemented in consultation with a widely representative group of appropriate experts, educators, and administrators. The indicators must be used to determine whether the programs are effective, including whether the programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served under those programs. This statutory requirement is incorporated in proposed § 461.3(b)(7).

The National Literacy Act also requires the Secretary, within one year of enactment of the Act, to develop indicators of program quality that can be used by State and local programs as models to judge the success of those programs. The Secretary will develop these models in consultation with appropriate experts, educators, and administrators. Pursuant to the Act, these indicators will address, among other matters, success in recruitment and retention of students and improvement in the literacy skills of students. The indicators will also take into account different conditions under which programs operate and are to be modified as better means of assessing program quality are developed.

The Secretary encourages States, to the extent appropriate, to develop indicators that are consistent with any similar standards developed under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, or the Job Opportunities and Basic Skills Program.

Section 461.5 What Definitions Apply?

The National Literacy Act amends section 313(b) of the Adult Education Act to provide for annual allotments of $100,000 each to the Federated States of Micronesia and the Republic of the Marshall Islands. The amendment does not address which requirements of the Adult Education Act apply to these allotments. Under proposed § 461.5(b), these jurisdictions would be made subject to the same requirements as the other jurisdictions included in the Act's definition of "State."

Section 461.12 What Must the State Plan Contain?

The National Literacy Act adds several significant requirements for new State plan provisions and makes other revisions, all of which are incorporated in the NPRM, as follows:

- Proposed § 461.12(a) (2) and (3) reflect statutory requirements that State plans: (1) Describe and provide for fulfillment of the literacy needs of individuals in the State; (2) set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State; and (3) describe a comprehensive approach for achieving those goals, including the development of indicators of program quality as required by section 331(a)(2) of the Act and proposed § 461.3(b)(7).
- Proposed § 461.12(a)(16) incorporates a statutory requirement for the State plan to report the amount of administrative funds spent on program improvements. Because it would, in most cases, be very difficult for States to report past uses of administrative funds for program improvements, the Secretary, in the proposed regulations, interprets the requirement to apply to future expenditures only.
- Proposed § 461.12(a)(17) incorporates a new State plan requirement that the State provide assurances that financial assistance provided under the Act will be used to assist and expand existing programs and to develop new programs for adults whose lack of basic skills either—(i) Renders them unemployable; (ii) Keeps them, whether employed or unemployed, from functioning independently in society; or (iii) Severely reduces their ability to have a positive effect on the literacy of their children.

The Secretary also proposes the following additional amendments to existing State plan requirements:

- A note would be added to § 461.12(a)(20) recognizing that a potential additional source of funding for the optional State advisory council now exists under section 356(g) of the Act and proposed part 464, the State Literacy Resource Centers Program. However, SEAs would not be required to report the use of those funds in the State plan, since the funds would be provided under a separate program authority. Further, unlike funds used under the basic grant program for this purpose, funds used under section 356(g) would not count against an SEA's allocation for administrative costs. (See § 461.50.)
- Existing § 461.12(b), which addresses State prohibitions on funding entities other than local educational agencies, would be deleted. This provision is no longer necessary, due to the expansion of eligible parties noted above.
- A new § 461.12(b) would be added to incorporate a new statutory requirement that each State plan provide assurance that local educational agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve educationally disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this part. The proposed regulations would implement this requirement by providing that direct and equitable access must include: (1) The right to submit applications directly to the SEA for those funds; and (2) use by the SEA of a process for selecting recipients of those funds that gives each agency, institution, and organization a fair chance of receiving an award. The Secretary is particularly interested in receiving information from States on how the proposed regulations would affect existing systems of distributing basic grant funds. The Secretary wants to provide as much flexibility to States as possible within the statutory constraints.

Section 461.13 What Procedures Does a State Use To Submit Its State Plan?

The Secretary proposes to amend § 461.13(b)(2) to make clear that a State must provide, with its State plan, a copy of all timely and substantive objections of the State advisory council, as well as the State's response to those objections. This change would make the State's treatment of comments from the State advisory council consistent with its treatment of comments from other entities under paragraph (c).

Section 461.14 When Are Amendments to a State Plan Required?

Paragraph (b) of this section would be added to require each SEA to amend its plan to include the indicators of program quality that must be developed under section 331 of the revised Adult Education Act and proposed § 461.3(b)(7). The amendment to the plan would not be required until July 25, 1993, the statutory deadline for developing and implementing the indicators.

Section 461.14 would also be amended by correcting a cross-reference to the applicable sections of the Education Department General Administrative Regulations (EDGAR) that govern amendments to State plans.

Section 461.30 Who Is Eligible for a Subgrant or Contract?

The National Literacy Act expands the types of recipients eligible to receive subgrants from the State. Proposed paragraph (a) of this section would be amended to reflect the change. The Secretary notes that the new statutory requirement for direct and equitable access to funds under this program (see proposed § 461.12(b)) applies to a slightly different list of entities than the statutory list of eligible entities reflected in proposed § 461.30. Both lists include LEAs, public or private nonprofit agencies, community-based organizations, correctional education agencies, and postsecondary educational institutions. However, the statutory list of eligible parties, repeated in § 461.30, also includes other institutions that have the ability to provide literacy services to adults and families. The statutory access requirement in § 461.12(b) does not specifically include these institutions but does include institutions that serve educationally disadvantaged adults. The Secretary invites comments on how best to reconcile these statutory requirements.

A paragraph (c) would be added to incorporate a new statutory requirement that States use funds provided under the basic grant program for competitive 2-year grants to public housing authorities for literacy programs and related activities. The Act requires that any public housing authority that receives a grant under this provision consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this provision is to be referred to as a "Gateway Grant." The Secretary proposes to give States flexibility in determining the amount of funds to be used for this purpose.

The term "public housing authority" is not defined in the Act. The Secretary wants to ensure that as much consistency as possible is maintained among Federal programs, and that Gateway Grants are made to entities that are capable of carrying out the intent of Congress in creating these grants. For these reasons, the Secretary will consider adopting in the final regulations the following definition suggested by the Department of Housing and Urban Development: "Public housing authority" means a public housing agency, as defined in 42 U.S.C. 1437a(b)(6), that participates in public housing, as defined in 42 U.S.C. 1437a(b)(1). Public comments are invited on this proposed definition.

Section 461.31 How Does a State Award Funds?

This section has been conformed to statutory changes made by the National Literacy Act, including the following: (1) The current regulations contain a statutory preference for local applicants that have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults. The National Literacy Act adds to this preference a focus on areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent. (2) A requirement is added that local applications include the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals. (3) Requirements are added that the SEA consider, in deciding which local projects to fund, the past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by those adults), the degree to which the applicant will coordinate and utilize other literacy and social services available in the community, and the commitment of the applicant to serve individuals in the community who are most in need of literacy services.

Section 461.32 What Are Programs for Corrections Education and Education for Other Institutionalized Adults?

The Secretary is proposing to clarify paragraph (a)(4) of this section respecting the training that may be included in corrections education programs. No substantive change is intended from the current regulations.

Section 461.33 What Are Special Experimental Demonstration Projects and Teacher Training Projects?

This section would be amended to reflect minimum funding requirements enacted in the National Literacy Act for special experimental demonstration projects and teacher training projects. The National Literacy Act also adds a provision, reflected in this proposed section, for the State to use these funds for training professional teachers, volunteers, and administrators, with particular emphasis on (1) training full-time professional adult educators, minority adult educators, and educators of adults with limited English proficiency; and (2) training teachers to recognize, and to serve more effectively, illiterate individuals with learning disabilities and individuals who have reading ability below the fifth-grade level.

Section 461.43 Under What Circumstances May the Secretary Waive the Maintenance of Effort Requirement?

Minor clarifying changes are proposed in this section. There is no intent to change the substance of the current regulations.

Section 461.46 What Requirements for Program Reviews and Evaluations Must Be Met by a State?

This proposed section reflects the statutory requirement that an SEA must, each year during the four-year period of the State plan, evaluate in qualitative and quantitative terms the effectiveness of programs, services, and activities conducted by at least 20 percent of the local recipients of funds so that, at the end of that period, 80 percent of all local recipients will have been evaluated once. The Secretary would consider the 80 percent requirement to have been met, if, for example, the SEA evaluated an unduplicated 20 percent of its local recipients in each of the four years. However, the Secretary wants to provide States as much flexibility as possible in carrying out these evaluations, and therefore has not proposed to regulate beyond the statutory language. The Secretary will carefully consider any public comments in deciding whether to include further clarifications in the final regulations.

The section would also be revised to include new statutory requirements that an evaluation consider the projected goals of the recipient, as described in its application pursuant to section 322(a)(4) of the Act, and the success of the recipient in meeting the State's indicators of program quality after those

indicators are developed as required by section 331(a)(2) of the Act.

The section would be further amended to incorporate a statutory requirement that the SEA make public within the State, as well as submit to the Secretary, with respect to local recipients: (1) The number and percentage of grant recipients that are local educational agencies, community-based organizations, volunteer groups, and other organizations, and (2) results of the evaluations carried out in the year preceding the year for which the data are submitted. The latter requirement means that evaluation data would be submitted to the Department in the year following the year in which the evaluation takes place. For example, evaluations conducted in program year 1992 would be reported in program year 1993.

Section 461.50 What Are a State's Responsibilities Regarding a State Advisory Council on Adult Education and Literacy?

This section incorporates several statutory changes, including a change of name of the State advisory council to include a reference to literacy. Because funding for the State advisory council can now be derived from two sources, as noted above, paragraph (b)(3) would be amended to refer only to funds provided under the basic grant program.

Section 461.51 What Are the Membership Requirements of a State Advisory Council?

Paragraph (a)(1) of this proposed section incorporates the revised statutory requirements for membership of a State advisory council.

In paragraph (b)(1), the Secretary proposes to require that the State, rather than the SEA, certify the establishment of, and membership of, the State advisory council. This change is proposed because the National Literacy Act provides that the council must be responsible to the Governor. Given this change, the Secretary prefers to allow the State to decide which State officer or entity will provide the certification. The proposed change would conform the regulations to the language in the Adult Education Act.

Section 461.52 What Are the Responsibilities of a State Advisory Council?

Paragraphs (a) and (d)(1)–(6) incorporate statutory provisions enacted in the National Literacy Act respecting the responsibilities of a State advisory council.

The "Federal Interagency Task Force on Literacy" referred to in paragraph (d)(6) is the task force on literacy established by the President's Domestic Policy Council. Proposed paragraph (d)(6), in accordance with the Act, requires councils to develop reporting requirements, standards for outcomes, performance measures, and program effectiveness in State programs, that are consistent with those proposed by the Federal Interagency Task Force on Literacy. The Task Force has not announced its proposals to date. The Secretary will provide further advice on this matter as developments occur.

Part 462—State-Administered Workplace Literacy Program and

Part 472—National Workplace Literacy Program

For both of these programs, the proposed regulations incorporate a statutory amendment that permits all entities in a partnership to receive full reimbursement for administrative costs incurred in establishing a project, rather than just SEAs and LEAs. As in the current regulations, the Secretary interprets these administrative costs to mean the costs incurred during the start-up phase of a project, a period which must be minimized, and which may not exceed 90 days. After this initial phase, all recipients are reimbursed for 70 per cent of their costs, as provided by the statute.

The proposed regulations also incorporate, in proposed § 472.20(c), a statutory requirement that priority be given to applications from partnerships that include small businesses. The Secretary interprets this requirement as applying to the National Workplace Literacy Program and the National Workforce Literacy Strategies Program, but not as applying to the State-administered program under part 462. Under the State-administered program, States with approved applications receive an allotment of funds under a statutory formula. Unlike the other two programs, partnerships do not apply to the Secretary for funds.

Part 464—State Literacy Resource Centers Program

The National Literacy Act creates a new State-administered program to create a network of State or regional adult literacy resource centers. Each year, the Secretary, on the basis of a statutory formula, would allot funds to States with approved applications. The proposed regulations incorporate various statutory provisions respecting how States apply and the allowable uses of funds. The following highlights key points in the Secretary's proposed regulatory provisions to implement the statute.

Section 464.10 How do States Apply?

The Secretary interprets the statute to allow a State to apply individually for a State adult literacy resource center, as part of a group of States for a regional adult literacy resource center, or both.

Because the statute requires that the chief executive officer of each State award a competitive contract to operate the center, the proposed regulations specify that the Governor of the State is responsible for submitting an application to the Secretary. The regulations would provide for an application that, once approved, would continue in force during the term of the State plan under the basic grant program. This would avoid the necessity of annual submissions from States under this program. Any necessary amendments would be submitted to the Secretary for approval in accordance with the Education Department General Administrative Regulations.

The statute requires that the State consult with the State advisory council, if there is one, as appropriate. The proposed regulations would leave that decision to the discretion of the State.

Section 464.21 May the Secretary Require a State to Participate in a Regional Center?

The Act provides that if, in any fiscal year, a State's allotment under this program is less than $100,000, the Secretary may designate that State to receive the funds only as part of a regional center. However, this does not apply to a State that demonstrates that the total amount of Federal, State, local, and private funds expended to carry out the purposes of this part would equal or exceed $100,000. The proposed regulations would require a State to make such a demonstration in its application to the Secretary.

Section 464.30 With Whom Must a State Contract?

The Act specifically provides that a competitive contract must be awarded by a State to establish a State center, but does not reference regional centers as being subject to this requirement. The proposed regulations reiterate the statutory provision. However, the Secretary will consider the following options for inclusion in the final regulations, or others suggested in comments received by the public:

- Apply the same rules to a regional center that apply to a State center. Require that the group of States that are establishing a regional center designate

one State to award a competitive contract for the regional center;

- Provide in the regulations that the method for establishing a regional center must be agreed to by the States involved, leaving the method to their discretion; or
- Leave the regulations silent on this question.

Section 464.31 Who may not Review a Proposal for a Contract?

The Act prohibits a party applying for a contract under this program from reviewing its own proposal. To avoid conflicts of interest, the proposed regulations would also prohibit the party from reviewing the proposals of the parties with whom it is competing for the contract.

Section 464.40 May a State use Funds to Establish a State Advisory Council?

The National Literacy Act provides that States may use up to five percent of its funds under this program to establish a State advisory council on adult education and literacy under section 332 of the Act or to support an established State council to the extent that the State council meets the requirements of section 332 of the Act. The Secretary has included two interpretations in the proposed regulations.

First, the Secretary interprets the five percent limit to apply whether the State is establishing a new council or is supporting an existing council. It is extremely unlikely that Congress intended that the five percent limit apply only to establishing a new council.

Second, the Secretary believes that Congress did not intend to preclude use of the funds to support a council properly established under section 322 of the Act. It would be an anomalous result to permit use of the funds to establish such a council but deny use of the funds for continued support.

Part 473—National Workforce Literacy Strategies Program

In any fiscal year in which the amount appropriated by Congress for programs for business, industry, labor, and education partnerships for workplace literacy under section 371 of the Adult Education Act equals or exceeds $25 million, the National Literacy Act requires the Secretary to reserve not more than $5 million for a new discretionary grant program for national workforce literacy strategies.

The proposed regulations incorporate statutory requirements governing the activities that may be funded, cost-sharing, and the contents of an application. The proposed regulations also contain certain provisions drawn from existing regulations under the National Workplace Literacy Program (34 CFR part 432; proposed to be redesignated as 34 CFR part 472), which is also funded under section 371 of the Adult Education Act.

The Secretary also proposes funding priorities that could be selected for a grant competition in a particular fiscal year (proposed § 473.4) and definitions for certain statutory terms (proposed § 473.6(c)).

Section 473.4 What Priorities does the Secretary Establish?

The Secretary proposes certain funding priorities that may be established for specific competitions. This proposed section of the regulations also contains the statutorily required priority for applications from partnerships that include small businesses.

Section 473.6 What Definitions Apply?

The Secretary proposes definitions for three terms used in the statute: Communications skill building, interpersonal skill building, and problem solving.

Section 473.21 What Selection Criteria Does the Secretary Use?

The Secretary proposes selection criteria for competitions that may be conducted under this authority. The criterion in proposed § 473.21(d) implements a statutory requirement that the Secretary give priority to projects that include cooperative arrangements with organizations involved in providing literacy and basic skills training, including adult education organizations, vocational education organizations, community and junior colleges, community-based organizations, State-level agencies, and private industry councils.

Part 489—Functional Literacy for State and Local Prisoners Program and

Part 490—Life Skills for State and Local Prisoners Program

On August 17, 1991, the National Literacy Act was amended by Public Law 102–103. The amendment authorizes two discretionary grant programs, to be administered by the Secretary, for improving functional literacy and life skills of State and local prisoners.

The proposed regulations incorporate statutory requirements concerning allowable activities, the content of applications, and required reports. The Secretary interprets these authorities as applying only to adult prisoners, not juveniles, due to the focus of the Congress on adults in its consideration of these provisions.

In proposed § 489.5, the Secretary interprets the statutory definition of "functional literacy" to mean that a nationally recognized literacy assessment is required to determine a functional criterion score, but is not required to determine whether an individual's literacy skills are at least at an eighth grade equivalence, since the latter can be determined by a broader range of tests. It is unlikely that Congress intended to restrict the types of tests that can be used for this purpose.

In proposed §§ 489.21(d) and 490.21(d), the Secretary, among other criteria relating to evaluation of projects, would award points in part on whether the evaluation methodology includes a one-year post-release follow-up of released prisoners to determine whether the project was successful. The assessment would only be required during the grant period. The Secretary invites comments on the feasibility of getting this information on released prisoners. The Secretary also proposes to encourage use of a random assignment evaluation design. Comments on this proposal are also specifically invited.

The statute requires, with respect to life skills projects, that the Secretary give priority to projects that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers. To implement this requirement, proposed § 490.22 would provide that those projects receive additional points in a grant competition.

Executive Order 12291

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

Regulatory Flexibility Act Certification

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

Some of the proposed regulations would affect only States and State agencies, and therefore would not have an impact on small entities. State and State agencies are not defined as "small entities" in the Regulatory Flexibility Act. The small entities that would be affected by these proposed regulations are small institutions and agencies eligible to apply for Federal funds under

these programs. However, the regulations would not have a significant economic impact on the small entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 461.10, 461.12, 461.13, 461.14, 461.22, 461.31, 461.44, 461.46, 461.51, 461.52, 464.11, 473.12, 473.21, 489.10, 489.21, 489.30, 490.10, and 490.21 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

State and local governments, businesses or other for-profit entities, non-profit institutions, and small businesses or organizations are eligible to apply for grants under these regulations. The Department needs and uses this collection of information to make grants and monitor the compliance of grantees with statutory and regulatory requirements. The annual reporting burden for this collection of information is estimated to average 2730 hours per response for 54 respondents affected by the State plan requirements, 170 hours per response for 2819 local program applicants affected by the Adult Education Act reporting requirements, 45 hours per response for 20 State Advisory Councils, and 90 hours per response for 300 respondents who submit an application under a discretionary grant program.

The annual reporting and recordkeeping burden for this collection includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

Intergovernmental Review

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

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

Invitation to Comment

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

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4050, 330 C. Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

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

Assessment of Educational Impact

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

List of Subjects

34 CFR Part 460

Adult education, General provisions, Reporting and recordkeeping requirements.

34 CFR Part 461

Adult education, State-administered grants, Corrections education, Literacy, Reporting and recordkeeping requirements.

34 CFR Part 462

Adult education, Workplace literacy, Technology, Reporting and recordkeeping requirements.

34 CFR Part 473

Adult education, Workforce literacy, Technology, Reporting and recordkeeping requirements.

34 CFR Part 489

Adult education, Prisoners, Literacy, Reporting and recordkeeping requirements.

34 CFR Part 490

Adult education, Prisoners, Literacy, Skills, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Numbers: 84.002 Adult Education State-Administered Basic Grant Program; 84.223 State-Administered English Literacy Program; 84.191 National Adult Education Discretionary Program; 84.198 National Workplace Literacy Program; 84.192 Adult Education for the Homeless Program. The following programs have not been assigned CFDA numbers: State-Administered Workplace Literacy Program, State Literacy Resource Centers Program, National Workforce Literacy Strategies Program, Adult Migrant Farmworker and Immigrant Education Program, National Adult Literacy Volunteer Training Program, State Program Analysis Assistance and Policy Studies Program, Functional Literacy for State and Local Prisoners Program, Life Skills for State and Local Prisoners Program.)

Dated: October 21, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend chapter IV of title 34 of the Code of Federal Regulations as follows:

1. Parts 425, 426, 431, 432, 433, 434, 435, 436, 437, 438, and 441 are redesignated in accordance with the following redesignation table:

REDESIGNATION TABLE

Old part	Title	New part
425	Adult Education—General Provisions.	460
426	Adult Education State-Administered Basic Grant Program.	461
431	National Adult Education Discretionary Program.	471
432	National Workplace Literacy Program.	472
433	State-Administered Workplace Literacy Program.	462
434	State-Administered English Literacy Program.	463
435	National English Literacy Demonstration Program for Individuals of Limited English Proficiency.	474
436	Adult Migrant Farmworker and Immigrant Education Program.	475
437	National Adult Literacy Volunteer Training Program.	476
438	State Program Analysis Assistance and Policy Studies Program.	477
441	Adult Education for the Homeless Program.	491

PART 460—ADULT EDUCATION—GENERAL PROVISIONS

Redesignated part 460 is further amended as follows:

1a. In the redesignated parts, cross references to redesignated sections will be amended in the final rule document.

2. The authority citation for part 460 continues to read as follows:

Authority: 20 U.S.C. 1201 *et seq.*, unless otherwise noted.

3. Section 460.2 is amended by redesignating paragraphs (e) through (h) as paragraphs (g) through (j), respectively; by redesignating paragraph (b) as paragraph (e), paragraphs (c) and (d) as paragraphs (b) and (c), respectively, and by adding new paragraphs (d), (f), (k), and (l), to read as follows:

§ 460.2 What programs are authorized by the Adult Education Act?

* * * * *

(d) State Literacy Resource Centers Program (34 CFR part 464).

* * * * *

(f) National Workforce Literacy Strategies Program (34 CFR part 473).

* * * * *

(k) Functional Literacy for State and Local Prisoners Program (34 CFR part 489).

(l) Life Skills for State and Local Prisoners Program (34 CFR part 490).

* * * * *

4. Section 460.3 is revised to read as follows:

§ 460.3 What regulations apply to the adult education programs?

The following regulations apply to the adult education programs:

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

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

(2) 34 CFR part 75 (Direct Grant Programs) (applies to parts 472, 473, 474, 475, 476, 477, 489, and 490), except that 34 CFR 75.720(b), regarding the frequency of certain reports, does not apply.

(3) 34 CFR part 76 (State-Administered Programs) (applies to parts 461, 462, 463, and 464, except that 34 CFR 76.101 (The general State application) does not apply).

(4) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 460.

(c) The regulations in 34 CFR parts 461, 462, 463, 464, 472, 473, 474, 475, 476, 477, 489, and 490.

(Authority: 20 U.S.C. 1201 *et seq.*)

5. Section 460.4 is amended by adding, in alphabetical order in paragraph (a), the term "State", by removing the definitions of "expansion" and "State" in paragraph (c), and by adding, in alphabetical order in paragraph (c), definitions of the terms "Governor" and "literacy", to read as follows:

§ 460.4 What definitions apply to the adult education programs?

(a) * * *

State

* * * * *

(c) * * *

Governor includes the chief executive officer of a State that does not have a Governor.

* * * * *

Literacy means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and to develop one's knowledge and potential.

* * * * *

6. Redesignated part 461 is revised to read as follows:

PART 461—ADULT EDUCATION STATE-ADMINISTERED BASIC GRANT PROGRAM

Subpart A—General

Sec.

461.1 What is the Adult Education State-administered Basic Grant Program?
461.2 Who is eligible for an award?
461.3 What are the general responsibilities of the State educational agency?
461.4 What regulations apply?
461.5 What definitions apply?

Subpart B—How Does a State Apply for a Grant?

461.10 What documents must a State submit to receive a grant?
461.11 How is the State plan developed?
461.12 What must the State plan contain?
461.13 What procedures does a State use to submit its State plan?
461.14 When are amendments to a State plan required?

Subpart C—How Does the Secretary Make a Grant to a State?

461.20 How does the Secretary make allotments?
461.21 How does the Secretary make reallotments?
461.22 What criteria does the Secretary use in approving a State's description of efforts relating to program reviews and evaluations?
461.23 How does the Secretary approve State plans and amendments?

Subpart D—How Does a State Make an Award to an Eligible Recipient?

461.30 Who is eligible for a subgrant or contract?
461.31 How does a State award funds?
461.32 What are programs for corrections education and education for other institutionalized adults?
461.33 What are special experimental demonstration projects and teacher training projects?

Subpart E—What Conditions Must Be Met by a State?

461.40 What are the State and local administrative costs requirements?
461.41 What are the cost-sharing requirements?
461.42 What is the maintenance of effort requirement?
461.43 Under what circumstances may the Secretary waive the maintenance of effort requirement?
461.44 How does a State request a waiver of the maintenance of effort requirement?
461.45 How does the Secretary compute maintenance of effort in the event of a waiver?
461.46 What requirements for program reviews and evaluations must be met by a State?

Subpart F—What Are the Administrative Responsibilities of a State?

461.50 What are a State's responsibilities regarding a State advisory council on adult education and literacy?
461.51 What are the membership requirements of a State advisory council?
461.52 What are the responsibilities of a State advisory council?
461.53 May a State establish an advisory body other than a State advisory council?

Authority: 20 U.S.C. 1201 *et seq.*, unless otherwise noted.

Subpart A—General

§ 461.1 What is the Adult Education State-administered Basic Grant Program?

The Adult Education State-administered Basic Grant Program (the program) is a cooperative effort between the Federal Government and the States to provide adult education. Federal funds are granted to the States on a formula basis. Based on need and resources available, States fund local programs of adult basic education, programs of adult secondary education,

and programs for adults with limited English proficiency.

(Authority: 20 U.S.C. 1203)

§ 461.2 Who is eligible for an award?

State educational agencies (SEAs) are eligible for awards under this part.

(Authority: 20 U.S.C. 1203)

§ 461.3 What are the general responsibilities of the State educational agency?

(a) A State that desires to participate in the program shall designate the SEA as the sole State agency responsible for the administration and supervision of the program under this part.

(b) The SEA has the following general responsibilities:

(1) Development, submission, and implementation of the State application and plan, and any amendments to these documents.

(2) Evaluation of activities, as described in section 352 of the Act and § 461.46.

(3) Consultation with the State advisory council, if a State advisory council has been established under section 332 of the Act and § 461.50.

(4) Consultation with other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under the Act.

(5)(i) Assignment of personnel as may be necessary for State administration of programs under the Act.

(ii) The SEA must ensure that—

(A) These personnel are sufficiently qualified by education and experience; and

(B) There is a sufficient number of these personnel to carry out the responsibilities of the State.

(6) If the State imposes any rule or policy relating to the administration and operation of programs under the Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guidance), the SEA shall identify the rule or policy as a State-imposed requirement.

(7) By July 25, 1993, development and implementation, in consultation with a widely representative group of appropriate experts, educators, and administrators, of indicators of program quality to be used to evaluate programs assisted under this part, as required by section 352 of the Act and § 461.46, to determine whether those programs are effective, including whether those programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served under those programs.

(Authority: 20 U.S.C. 1205 (a) and (b))

§ 461.4 What regulations apply?

The following regulations apply to the program:

(a) The regulations in this part 461.

(b) The regulations in 34 CFR part 460.

(Authority: 20 U.S.C. 1201 *et seq.*)

§ 461.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) For the purposes of this part, "State" includes the Federated States of Micronesia and the Republic of the Marshall Islands.

(Authority: 20 U.S.C. 1201 *et seq.*)

Subpart B—How Does a State Apply for a Grant?

§ 461.10 What documents must a State submit to receive a grant?

An SEA shall submit the following to the Secretary as one document:

(a) A State plan, developed once every four years, that meets the requirements of the Act and contains the information required in § 461.12.

(b) A State application consisting of program assurances, signed by an authorized official of the SEA, to provide that—

(1) The SEA will provide such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) Federal funds granted to the State under the Act will be used to supplement, and not supplant, the amount of State and local funds available for uses specified in the Act;

(3) Programs, services, and activities funded in accordance with the uses specified in section 322 of the Act are designed to expand or improve the quality of adult education programs, including programs for educationally disadvantaged adults, to initiate new programs of high quality, or, if necessary, to maintain programs;

(4) The SEA will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including Federal funds paid by the State to eligible recipients under the Act);

(5) The SEA has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public;

(6) The SEA will comply with the maintenance of effort requirements in section 361(b) of the Act;

Cross-Reference: See § 461.42, What is the maintenance of effort requirement?

(7) Adults enrolled in adult basic education programs, including programs for adults with limited English proficiency, will not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program;

(8) The SEA may use not more than 20 percent of the funds granted to the State under the Act for programs of equivalency for a certificate of graduation from secondary school;

(9) As may be required by the Secretary, the SEA will report information concerning special experimental demonstration projects and teacher training projects supported under section 353 of the Act; and

(10) The SEA annually will report information about the State's adult education students, programs, expenditures, and goals, as may be required by the Secretary.

(Authority: 20 U.S.C. 1203a(b)(2), 1206(a), 1206b, 1207a, 1208, and 1209(b))

§ 461.11 How is the State plan developed?

In formulating the State plan, the SEA shall—

(a) Meet with and utilize the State advisory council, if a council is established under section 332 of the Act and § 461.50;

(b) After providing appropriate and sufficient notice to the public, conduct at least two public hearings in the State for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups, an opportunity to present their views and make recommendations regarding the State plan;

(c) Make a thorough assessment of—

(1) The needs of adults, including educationally disadvantaged adults, eligible to be served as well as adults proposed to be served and those currently served by the program; and

(2) The capability of existing programs and institutions to meet those needs; and

(d) State the changes and improvements required in adult education to fulfill the purposes of the Act and the options for implementing these changes and improvements.

(Authority: 20 U.S.C. 1206a (a) (1) and (2), (b))

§ 461.12 What must the State plan contain?

(a) Consistent with the assessment described in § 461.11(c), a State plan shall, for the four-year period covered by the plan—

(1) Describe the adult education needs of all segments of the adult population

in the State identified in the assessment, including the needs of those adults who are educationally disadvantaged;

(2) Describe and provide for the fulfillment of the literacy needs of individuals in the State;

(3) Set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State and describe a comprehensive approach for achieving those goals, including the development of indicators of program quality as required by section 331(a)(2) of the Act and § 461.3(b)(7).

(4) Describe the curriculum, equipment, and instruments that are being used by instructional personnel in programs and indicate how current these elements are;

(5) Describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals of limited English proficiency, and adults with disabilities) through coordination by agencies, institutions, and organizations including the public school system, businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

(6) Describe the means by which representatives of the public and private sectors were involved in the development of the State plan and how they will continue to be involved in the implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

(7) Describe the capability of existing programs and institutions to meet the needs described in paragraph (a)(1) of this section, including the other Federal and non-Federal resources available to meet those needs;

(8) Describe the outreach activities that the State intends to carry out during the period covered by the plan, including specialized efforts—such as flexible course schedules, auxiliary aids and services, convenient locations, adequate transportation, and child care services—to attract and assist meaningful participation in adult education programs;

(9)(i) Describe the manner in which the SEA will provide for the needs of adults of limited English proficiency or no English proficiency by providing programs designed to teach English and, as appropriate, to allow these adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible.

(ii) These programs may, to the extent necessary, provide instruction in the native language of these adults or may provide instruction exclusively in English.

(iii) These programs must be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational and Applied Technology Education Act;

(10) Describe how the particular education needs of adult immigrants, the incarcerated, adults with disabilities, the chronically unemployed, homeless adults, the disadvantaged, and minorities in the State will be addressed;

(11)(i) Describe the progress the SEA has made in achieving the goals set forth in each State plan subsequent to the initial State plan filed in 1989; and

(ii) Describe how the assessment of accomplishments and the findings of program reviews and evaluations required by section 352 of the Act and § 461.46 were considered in establishing the State's goals for adult education in the plan being submitted;

(12) Describe the criteria the SEA will use in approving applications by eligible recipients and allocating funds made available under the Act to those recipients;

(13) Describe the methods proposed for joint planning and coordination of programs carried out under the Act with programs conducted under applicable Federal and State programs, including the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to ensure maximum use of funds and to avoid duplication of services;

(14) Describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out under section 382 of the Act and 34 CFR part 476, but only to the extent that those volunteers supplement and do not supplant salaried employees;

(15) Describe the measures to be taken to ensure that adult education programs, services, and activities under the Act will take into account the findings of program reviews and evaluations required by section 352 of the Act and § 461.46; Cross-Reference: See 34 CFR 461.22.

(16) Report the amount of administrative funds to be spent on program improvements;

(17) Contain assurances that financial assistance provided under this part is used to assist and expand existing programs and to develop new programs for—

(i) Adults whose lack of basic skills renders them unemployable;

(ii) Adults whose lack of basic skills keeps them, whether employed or unemployed, from functioning independently in society; and

(iii) Adults whose lack of basic skills severely reduces their ability to have a positive effect on the literacy of their children;

(18) Describe the SEA's policies, procedures, and activities for carrying out special experimental demonstration projects and teacher training projects that meet the requirements of § 461.33;

(19) Describe the SEA's policies, procedures, and activities for carrying out corrections education and education for other institutionalized adults that meet the requirements of § 461.32;

(20) Describe the SEA's planned use of Federal funds for administrative costs under § 461.40(a), including any planned expenditures for a State advisory council under § 461.50; and

(Note: An additional source of funding exists under section 356(g) of the Act and 34 CFR part 464, but need not be reported under this paragraph.)

(21) Include a summary of recommendations received and the SEA's responses to the recommendations made through the State plan development process required under § 461.11(b).

(b) Each State plan must provide assurance that local educational agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve educationally disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this part, including—

(1) The right to submit applications directly to the SEA for those funds; and

(2) Use by the SEA of a process for selecting recipients of those funds that gives each agency, institution, and organization a fair chance of receiving an award.

(c) To be eligible to participate in the State-administered Workplace Literacy Program under section 371(b) of the Act, an SEA shall comply with the requirements in 34 CFR 462.10.

(d) To be eligible to participate in the State-administered English Literacy Program under section 372(a) of the Act, an SEA shall comply with the requirements in 34 CFR 463.10.

(e) In order for a State, or the local recipients within the State, to be eligible to apply for funds under the Adult Migrant Farmworker and Immigrant Education Program under section 381 of the Act and 34 CFR part 475, an SEA shall describe the types of projects appropriate for meeting the educational needs of adult migrant farm workers and immigrants under section 381 of the Act.

(Authority: 20 U.S.C. 1203a(a)(1); 1204; 1205(c); 1206a(a)(2), (b)(1)(B), (c), (d); 1208; 1211(b)(3)(A); 1211a(a)(2); and 1213(a))

§ 461.13 What procedures does a State use to submit its State plan?

(a) An SEA shall submit its State plan to the Secretary not later than 90 days prior to the first program year for which the plan is in effect.

(b)(1) Not less than sixty days prior to submitting the State plan to the Secretary, the SEA shall give the State advisory council, if one is established under section 332 of the Act and § 461.50, an opportunity to review and comment on the plan.

(2) The SEA shall respond to all timely and substantive objections of the State advisory council and include with the State plan a copy of those objections and its response.

(c)(1) Not less than sixty days prior to submitting the State plan to the Secretary, the SEA shall give the following entities an opportunity to review and comment on the plan:

(i) The State board or agency for vocational education.

(ii) The State Job Training Coordinating Council under the Job Training Partnership Act.

(iii) The State board or agency for postsecondary education.

(2) Comments (to the extent those comments are received in a timely fashion) of entities listed in paragraph (c)(1) of this section and the SEA's response must be included with the State plan.

(Authority: 20 U.S.C. 1206(b) and 1206a(a)(3)(A) and (B))

§ 461.14 When are amendments to a State plan required?

(a) *General.* If an amendment to the State plan is necessary, the SEA shall submit the amendment to the Secretary not later than 90 days prior to the program year of operation to which the amendment applies.

(b) *Indicators of program quality.* Each SEA shall amend its plan by July 25, 1993, to include the indicators of program quality required by section 331 of the Act and § 461.3(b)(7). Cross-Reference: See 34 CFR 76.140–76.142 Amendments.

(Authority: 20 U.S.C. 1207(a))

Subpart C—How Does the Secretary Make a Grant to a State?

§ 461.20 How does the Secretary make allotments?

The Secretary determines the amount of each State's grant according to the formula in section 313(b) of the Act.

(Authority: 20 U.S.C. 1201b(b))

§ 461.21 How does the Secretary make reallotments?

(a) Any amount of any State's allotment under section 313(b) of the Act that the Secretary determines is not required, for the period the allotment is available, for carrying out that State's plan, is reallotted to other States on dates that the Secretary may fix.

(b) The Secretary determines any amounts to be reallotted on the basis of—

(1) Reports, filed by the States, of the amounts required to carry out their State plans; and

(2) Other information available to the Secretary.

(c) Reallotments are made to other States in proportion to those State's original allotments for the fiscal year in which allotments originally were made, unless the Secretary reduces a State's proportionate share by the amount the Secretary estimates will exceed the sum the State needs and will be able to use under its plan.

(d) The total of any reductions made under paragraph (c) of this section is reallotted among those States whose proportionate shares were not reduced.

(e)(1) Any amount reallotted to a State during a fiscal year is deemed part of the State's allotment for that fiscal year.

(2) A reallotment of funds from one State to another State does not extend the period of time in which the funds must be obligated.

(Authority: 20 U.S.C. 1201b(c))

§ 461.22 What criteria does the Secretary use in approving a State's description of efforts relating to program reviews and evaluations?

The Secretary considers the following criteria in approving a State's description of efforts relating to program reviews and evaluations under section 342(c)(13) of the Act and § 461.12(a)(15):

(a) The extent to which the State will have effective procedures for using the findings of program reviews and evaluations to identify, on a timely basis, those programs, services, and activities under the Act that are not meeting the educational goals set forth in the State plan and approved applications of eligible recipients.

(b) The adequacy of the State's procedures for effecting timely changes that will enable programs, services, and activities identified under paragraph (a) of this section to meet the educational goals in the State plan and approved applications of eligible recipients.

(c) The extent to which the State will continue to review those programs, activities, and services, and effect further changes as necessary to meet those educational goals.

(Authority: 20 U.S.C. 1206a(c)(13) and 1207a)

§ 461.23 How does the Secretary approve State plans and amendments?

(a) The Secretary approves, within 60 days of receipt, a State plan or amendment that the Secretary determines complies with the applicable provisions of the Act and the regulations in this part.

(b) In approving a State plan or amendment, the Secretary considers any information submitted in accordance with § 461.13 (b) and (c).

(c) The Secretary notifies the SEA, in writing, of the granting or withholding of approval.

(d) The Secretary does not finally disapprove a State plan or amendment without first affording the State reasonable notice and opportunity for a hearing.

(Authority: 20 U.S.C. 1206(b), 1206a(a)(3), and 1207(b)).

Subpart D—How Does a State Make an Award to an Eligible Recipient?

§ 461.30 Who is eligible for a subgrant or contract?

(a) The following public or private nonprofit agencies, organizations, and institutions are eligible to apply to the SEA for an award:

(1) A local educational agency (LEA).

(2) A public or private nonprofit agency.

(3) A correctional education agency.

(4) A community-based organization.

(5) A postsecondary educational institution.

(6) Any other institution that has the ability to provide literacy services to adults and families.

(b) A public or private nonprofit agency, organization, or institution listed in paragraph (a) of this section may apply on behalf of a consortium that includes a for-profit agency, organization, or institution that can make a significant contribution to attaining the objectives of the Act.

(c) Each State shall also use an amount of funds provided under this part, as determined by the State given the State's needs and resources for adult education, for competitive 2-year grants to public housing authorities for literacy programs and related activities. Any public housing authority that receives a grant under this subparagraph shall consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this paragraph is referred to as a "Gateway Grant."

(Authority: 20 U.S.C. 1203a(a)(1), (2), (3)(A))

§ 461.31 How does a State award funds?

(a) In selecting local recipients, an SEA shall give preference to those local applicants that have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults, particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent.

(b) An SEA shall award funds on the basis of applications submitted by eligible recipients.

(c) In reviewing a local application, an SEA shall determine that the application contains the following:

(1) A description of current programs, activities, and services receiving assistance from Federal, State, and local sources that provide adult education in the geographic area proposed to be served by the applicant.

(2) A description of cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults.

(3) Assurances that the adult educational programs, services, or activities that the applicant proposes to provide are coordinated with and do not duplicate programs, services, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

(4) The projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals.

(5) Any other information the SEA considers necessary.

(d) In determining which programs receive assistance, the SEA shall consider—

(1) The past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by those adults);

(2) The degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

(3) The commitment of the applicant to serve individuals in the community who are most in need of literacy services.

(e) In reviewing a local application, an SEA may consider the extent to which the application—

(1) Identifies the needs of the population proposed to be served by the applicant;

(2) Proposes activities that are designed to reach educationally disadvantaged adults;

(3) Describes a project that gives special emphasis to adult basic education;

(4) Describes adequate outreach activities, such as—

(i) Flexible schedules to accommodate the greatest number of adults who are educationally disadvantaged;

(ii) Location of facilities offering programs that are convenient to large concentrations of the adult populations identified by the State in its four-year State plan or how the locations of facilities will be convenient to public transportation; and

(iii) The availability of day care and transportation services to participants in the project;

(5) Describes proposed programs, activities, and services that address the identified needs;

(6) Describes the resources available to the applicant—other than Federal and State adult education funds—to meet those needs (for example, funds provided under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, or the Domestic Volunteer Service Act, and local cash or in-kind contributions); and

(7) Describes project objectives that can be accomplished within the amount of the applicant's budget request.

(f) An SEA may not approve an application for a consortium that includes a for-profit agency, organization or institution unless the State has first determined that—

(1) The for-profit entity can make a significant contribution to attaining the objectives of the Act; and

(2) The public or private nonprofit agency, organization, or institution will enter into a contract with the for-profit agency, organization, or institution for the establishment or expansion of programs.

(g) If an SEA awards funds to a consortium that includes a for-profit agency, organization, or institution, the award must be made directly to the public or private nonprofit agency, organization, or institution that applies on behalf of the consortium.

(Authority: 20 U.S.C. 1203a(a) and 1206a(c)(4))

§ 461.32 What are programs for corrections education and education for other institutionalized adults?

(a) An SEA shall use not less than 10 percent of its grant for educational programs for criminal offenders in corrections institutions and for other institutionalized adults. Those programs may include—

(1) Academic programs for—

(i) Basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

(ii) Special education, as defined by State law;

(iii) Bilingual education or English-as-a-second-language instruction; and

(iv) Secondary school credit;

(2) Vocational training programs;

(3) Library development and library service programs;

(4) Corrections education programs, including training for teacher personnel specializing in corrections education, such as courses in social education, basic skills instruction, and abnormal psychology;

(5) Guidance and counseling programs;

(6) Supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

(7) Cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, that are designed to provide education and training.

(b)(1) An SEA shall establish its own statewide criteria and priorities for administering programs for corrections education and education for other institutionalized adults.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains the information in § 461.31(c) and any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1203a(b)(1) and 1204)

§ 461.33 What are special experimental demonstration projects and teacher training projects?

(a) An SEA shall use not less than 15 percent of its grant for—

(1) Special projects that—

(i) Will be carried out in furtherance of the purposes of the Act;

(ii) Will be coordinated with other programs funded under the Act; and

(iii) (A) Involve the use of innovative methods (including methods for educating adults with disabilities, homeless adults, and adults of limited English proficiency), systems, materials, or programs that may have national significance or will be of special value in promoting effective programs under the Act; or

(B) Involve programs of adult education, including education for adults with disabilities, homeless adults, and adults of limited English proficiency, that are part of community school programs, carried out in cooperation with other Federal, State, or local programs that have unusual promise in promoting a comprehensive or coordinated approach to the problems of adults with educational deficiencies;

(2) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act; and

(3) Training professional teachers, volunteers, and administrators, with particular emphasis on—

(i) Training—

(A) Full-time professional adult educators;

(B) Minority adult educators; and

(C) Educators of adults with limited English proficiency; and

(ii) Training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have reading ability below the fifth grade level.

(b) At least two-thirds (⅔) of the 15 percent reserved pursuant to paragraph (a) of this section must be used to carry out the provisions of paragraphs (a)(2) and (3) of this section.

(c) (1) An SEA shall establish its own statewide criteria and priorities for providing and administering special experimental demonstration projects and teacher training projects.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains—

(i) The information in § 461.31(c); and

(ii) Any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1208)

Subpart E—What Conditions Must Be Met by a State?

§ 461.40 What are the State and local administrative costs requirements?

(a) (1) Beginning with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appropriated in the fiscal year 1991 appropriation), an SEA may use no more than 5 percent of its grant or $50,000—whichever is greater—for necessary and reasonable State administrative costs.

(2) For grants awarded from funds appropriated for fiscal years prior to fiscal year 1991 (grants awarded before July 1, 1991), an SEA may determine what percent of its grant is necessary and reasonable for State administrative costs.

(b) (1) At least 95 percent of an eligible recipient's award from the SEA must be expended for adult education instructional activities.

(2) The remainder may be used for local administrative costs—noninstructional expenses, including planning, administration, evaluation, personnel development, and coordination—that are necessary and reasonable.

(3) If the administrative cost limits under paragraph (b)(2) of this section are insufficient for adequate planning, administration, evaluation, personnel development, and coordination of programs supported under the Act, the SEA shall negotiate with local grant recipients in order to determine an adequate level of funds to be used for noninstructional purposes.

(Authority: 20 U.S.C. 1203b and 1205(c))

§ 461.41 What are the cost-sharing requirements?

(a) The Federal share of expenditures made under a State plan for any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico may not exceed—

(1) 90 percent of the costs of programs carried out with the fiscal year 1988 grant (a grant that is awarded on or after July 1, 1988 from funds appropriated in the fiscal year 1988 appropriation);

(2) 90 percent of the costs of programs carried out with the fiscal year 1989 grant (a grant that is awarded on or after July 1, 1989 from funds appropriated in the fiscal year 1989 appropriation);

(3) 85 percent of the costs of programs carried out with the fiscal year 1990 grant (a grant that is awarded on or after July 1, 1990 from funds appropriated in the fiscal year 1990 appropriation);

(4) 80 percent of the costs of programs carried out with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appropriated in the fiscal year 1991 appropriation); and

(5) 75 percent of the costs of programs carried out with the fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation) and from each grant thereafter.

(b) The Federal share for American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Virgin Islands is 100 percent.

(c) The Secretary determines the non-Federal share of expenditures under the State plan by considering—

(1) Expenditures from State, local, and other non-Federal sources for programs, services, and activities of adult education, as defined in the Act, made by public or private entities that receive from the State Federal funds made available under the Act or State funds for adult education; and

(2) Expenditures made directly by the State for programs, services, and activities of adult education as defined in the Act.

(Authority: 20 U.S.C. 1209(a); 48 U.S.C. 1681)

§ 461.42 What is the maintenance of effort requirement?

(a) *Basic standard.* (1)(i) Except as provided in § 461.43, a State is eligible for a grant from appropriations for any fiscal year only if the Secretary determines that the State has expended for adult education from non-Federal sources during the second preceding fiscal year (or program year) an amount not less than the amount expended during the third preceding fiscal year (or program year)

(ii) The Secretary determines maintenance of effort on a per student expenditure basis or on a total expenditure basis.

(2) For purposes of determining maintenance of effort, the "second preceding fiscal year (or program year)" is the fiscal year (or program year) two years prior to the year of the grant for which the Secretary is determining the

State's eligibility. The "third preceding fiscal year (or program year)" is the fiscal year (or program year) three years prior to the year of the grant for which the Secretary is determining the State's eligibility.

Example

Computation based on fiscal year. If a State chooses to use the fiscal year as the basis for its maintenance of effort computations, the Secretary determines whether a State is eligible for the fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation) by comparing expenditures from the second preceding fiscal year—fiscal year 1990 (October 1, 1989–September 30, 1990)—with expenditures from the third preceding fiscal year—fiscal year 1989 (October 1, 1988–September 30, 1989). If there has been no decrease in expenditures from fiscal year 1989 to fiscal year 1990, the State has maintained effort and is eligible for its fiscal year 1992 grant.

Computation based on program year. If a State chooses to use a program year running from July 1 to June 30 as the basis for its maintenance of effort computation, the Secretary determines whether a State is eligible for funds for the fiscal year 1992 grant by comparing expenditures from the second preceding program year—program year 1990 (July 1, 1989–June 30, 1990)—with expenditures from the third preceding program year—program year 1989 (July 1, 1988–June 30, 1989). If there has been no decrease in expenditures from program year 1989 to program year 1990, the State has maintained effort and is eligible for its fiscal year 1992 grant.

(b) *Expenditures to be considered.* In determining a States's compliance with the maintenance of effort requirement, the Secretary considers the expenditures described in § 461.41(c).

(Authority: 20 U.S.C. 1209(b))

§ 461.43 Under what circumstances may the Secretary waive the maintenance of effort requirement?

(a) The Secretary may waive, for one year only, the maintenance of effort requirement in § 461.42 if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances. These circumstances include, but are not limited to, the following:

(1) A natural disaster.

(2) An unforeseen and precipitous decline in financial resources.

(b) The Secretary does not consider a tax initiative or referendum to be an exceptional or uncontrollable circumstance.

(Authority: 20 U.SC. 1209(b)(2))

§ 461.44 How does a State request a waiver of the maintenance of effort requirement?

An SEA seeking a waiver of the maintenance of effort requirement in § 461.42 shall—

(a) Submit to the Secretary a request for a waiver; and

(b) Include in the request—

(1) The reason for the request; and

(2) Any additional information the Secretary may require.

(Authority: 20 U.S.C. 1209(b)(2))

§ 461.45 How does the Secretary compute maintenance of effort in the event of a waiver?

If a State has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant from appropriations for a fiscal year, the Secretary determines whether the State has met that requirement for the grant to be awarded for the year after the year of the waiver by comparing the amount spent for adult education from non-Federal sources in the second preceding fiscal year (or program year) with the amount spent in the fourth preceding fiscal year (or program year).

Example

Because exceptional or uncontrollable circumstances prevented a State from maintaining effort in fiscal year 1990 (October 1, 1989–September 30, 1990) or in program year 1990 (July 1, 1989–June 30, 1990) at the level of fiscal year 1989 (October 1, 1988–September 30, 1989) or program year 1989 (July 1, 1988–June 30, 1989), respectively, the Secretary grants the State a waiver of the maintenance of effort requirement that permits the State to receive its fiscal year 1992 grant (a grant that is awarded on or after July 1, 1992 from funds appropriated in the fiscal year 1992 appropriation). In order to determine whether a State has met the maintenance of effort requirement and therefore is eligible to receive its fiscal year 1993 grant (the grant to be awarded for the year after the year of the waiver), the Secretary compares the State's expenditures from the second preceding fiscal year (or program year)—fiscal year 1991 (October 1, 1990–September 30, 1991) or program year 1991 (July 1, 1990–June 30, 1991)—with expenditures from the fourth preceding fiscal year—fiscal year 1989 (October 1, 1988–September 30, 1989) or program year 1989 (July 1, 1988–June 30, 1989). If the expenditures from fiscal year (or program year) 1991 are not less than the expenditures from fiscal year (or program year) 1989, the State has maintained effort and is eligible for its fiscal year 1993 grant.

(Authority: 20 U.S.C. 1209(b)(2))

§ 461.46 What requirements for program reviews and evaluations must be met by a State?

(a) An SEA shall provide for program reviews and evaluations of all State-administered adult education programs, services, and activities it assists under the Act. The SEA shall use its program reviews and evaluations to assist LEAs and other recipients of funds in planning and operating the best possible programs of adult education and to improve the State's programs of adult education.

(b) In reviewing programs, an SEA shall, during the four-year period of the State plan, gather and analyze data—including standardized test data—on the effectiveness of all State-administered adult education programs, services, and activities to determine the extent to which—

(1) The State's adult education programs are achieving the goals in the State plan, including the goal of serving educationally disadvantaged adults; and

(2) Grant recipients have improved their capacity to achieve the purposes of the Act.

(c) (1) An SEA shall, each year during the four-year period of the State plan, evaluate in qualitative and quantitative terms the effectiveness of programs, services, and activities conducted by at least 20 percent of the local recipients of funds so that at the end of that period 80 percent of all local recipients have been evaluated once.

(2) An evaluation must consider the following factors:

(i) The projected goals of the recipient as described in its application pursuant to section 322(a)(4) of the Act and § 461.31(c)(4).

(ii) Planning and content of the programs, services, and activities.

(iii) Curriculum, instructional materials, and equipment.

(iv) Adequacy and qualifications of all personnel.

(v) Achievement of the goals set forth in the State plan.

(vi) Extent to which educationally disadvantaged adults are being served.

(vii) Extent to which local recipients of funds have improved their capacity to achieve the purposes of the Act.

(viii) The success of the recipient in meeting the State's indicators of program quality after those indicators are developed as required by section 331(a)(2) of the Act and § 461.3(b)(7).

(ix) Other factors that affect program operations, as determined by the SEA.

(d)(1) Within 90 days of the close of each program year, the SEA shall submit to the Secretary and make public within the State the following:

(i) With respect to local recipients—

(A) The number and percentage of local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients; and

(B) Results of the evaluations carried out as required by paragraph (c)(1) of this section in the year preceding the year for which the data are submitted.

(ii) The information required under § 461.10(b)(10).

(iii) A report on the SEA's activities under paragraph (b) of this section.

(iv) A report on the SEA's activities under paragraph (c) of this section.

(2) The reports described in paragraphs (d)(1)(ii) and (iii) of this section must include—

(i) The results of any program reviews and evaluations performed during the program year, and a description of how the SEA used the program reviews and evaluation process to make necessary changes to improve programs; and

(ii) The comments and recommendations of the State advisory council, if a council has been established under § 461.50.

(e) If an SEA has established a State advisory council, the SEA shall—

(1) Obtain approval of the plan for program reviews and evaluation from the State advisory council; and

(2) Inform the State advisory council of the results of program reviews and evaluations so that the State advisory council may perform its duties under section 332(f)(7) of the Act.

Note to § 461.48: In addition to the Adult Education State-administered Basic Grant Program in this part 461, State-administered adult education programs include the State-administered Workplace literacy Program (See 34 CFR Part 462) and the State-administered English Literacy Program (See 34 CFR part 463).

(Authority: 20 U.S.C 1205a(f)(7) and 1207a))

Subpart F—What are the Administrative Responsibilities of a State?

§ 461.50 What are a State's responsibilities regarding a State advisory council on adult education and literacy?

(a) A State that receives funds under section 313 of the Act may—

(1) Establish a State advisory council on adult education and literacy; or

(2) Designate an existing body as the State advisory council.

(b) If a State elects to establish or designate a State advisory council on adult education, the following provisions apply:

(1) The State advisory council must comply with § § 461.51 and 461.52.

(2) Members to the State advisory council must be appointed by, and be responsible to, the Governor. The Governor shall appoint members in accordance with section 332(e) of the Act.

(3) Costs incurred for a State advisory council that are paid for with funds under this part must be counted as part of the allowable State administrative costs under the Act.

(4) The Governor of the State shall determine the amount of funding available to a State advisory council.

(5) A State advisory council's staffing may include professional, technical, and clerical personnel as may be necessary to enable the council to carry out its functions under the Act.

(6) Members of a State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and compensation in accordance with State law and regulations and State practices applicable to persons performing comparable duties and services.

(Authority: 20 U.S.C. 1205a(a)(1), (d)(1), (e))

§ 461.51 What are the membership requirements of a State advisory council?

(a) (1) The membership of a State advisory council must be broadly representative of citizens and groups within the State having an interest in adult education and literacy. The council must consist of—

(i) Representatives of public education;

(ii) Representatives of private and public sector employment;

(iii) Representatives of recognized State labor organizations:

(iv) Representatives of private literacy organizations, voluntary literacy organizations, and community-based literacy organizations;

(v) The Governor of a State, or the designee of the Governor;

(vi) Representatives of—

(A) The SEA;

(B) The State job training agency;

(C) The State human services agency;

(D) The State public assistance agency;

(E) The State library program; and

(F) The State economic development agency;

(vii) Officers of the State government whose agencies provide funding for literacy services or who may be designated by the Governor or the Chairperson of the council to serve whenever matters within the jurisdiction of the agency headed by such an officer are to be considered by the council; and

(viii) Classroom teachers who have demonstrated outstanding results in teaching children or adults to read.

(2) The State shall ensure that there is appropriate representation on the State advisory council of—

(i) Urban and rural areas;

(ii) Women;

(iii) Persons with disabilities; and

(iv) Racial and ethnic minorities.

(b) (1) A State shall certify to the Secretary the establishment of, and membership of, its State advisory council.

(2) The certification must be submitted to the Secretary prior to the beginning of any program year in which the State desires to receive a grant under the Act.

(c) Members must be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council must be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(Authority: 20 U.S.C. 1205a (a)(1), (b), and (c))

§ 461.52 What are the responsibilities of a State advisory council?

(a) Subject to paragraphs (b) and (c) of this section, the State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor of the State), and the number, time, place, and conduct of meetings.

(b) The State advisory council shall meet at least four times each year. At least one of those meetings must provide an opportunity for the general public to express views concerning adult education in the State.

(c) One member more than one half of the members on the council constitute a quorum for the purpose of transmitting recommendations and proposals to the Governor of the State, but a lesser number of members may constitute a quorum for other purposes.

(d) A State advisory council shall—

(1) Meet with the State agencies responsible for literacy training during the planning year to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of the individuals in the State;

(2) Advise the Governor, the SEA, and other State agencies concerning—

(i) The development and implementation of measurable State literacy and adult education goals consistent with section 342(c)(2) of the Act, especially with respect to—

(A) Improving levels of literacy in the State by ensuring that all appropriate State agencies have specific objectives and strategies for those goals in a comprehensive approach;

(B) Improving literacy programs in the State; and

(C) Fulfilling the long-term literacy goals of the State;

(ii) The coordination and monitoring of State literacy training programs in order to progress toward the long-term literacy goals of the State;

(iii) The improvement of the quality of literacy programs in the State by supporting the integration of services, staff training, and technology-based learning and the integration of resources of literacy programs conducted by various agencies of State government; and

(iv) Private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships;

(3) Review and comment on the plan submitted pursuant to section 356(h) of the Act and submit those comments to the Secretary;

(4) Measure progress on meeting the goals and objectives established pursuant to paragraph (d)(2)(i) of this section;

(5) Recommend model systems for implementing and coordinating State literacy programs for replication at the local level;

(6) Develop reporting requirements, standards for outcomes, performance measures, and program effectiveness in State programs, that are consistent with those proposed by the Federal Interagency Task Force on Literacy; and

(7) (i) Approve the plan for the program reviews and evaluations required in section 352 of the Act and § 461.46 and participate in implementing and disseminating the program reviews and evaluations. In approving the plan for the program reviews and evaluations, the State advisory council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved;

(ii) Advise the Governor, the State legislature, and the general public of the State with respect to the findings of the program reviews and evaluations; and

(iii) Include in any reports of the program reviews and evaluations the council's comments and recommendations.

(Authority: 20 U.S.C. 1205a (d) and (f), 1206a(a)(3)(B))

§ 461.53 May a State establish an advisory body other than a State advisory council?

(a) A State may establish an advisory body that is funded solely from non-Federal sources.

(b) The advisory body described in paragraph (a) of this section is not required to comply with the requirements of section 332 of the Act and this part.

(c) The non-Federal funds used to support the advisory body may not be included in the non-Federal share of expenditures described in § 461.41(c).

(Authority: 20 U.S.C. 1205a and 1209)

PART 462—STATE-ADMINISTERED WORKPLACE LITERACY PROGRAM

7. The authority citation for redesignated Part 462 continues to read as follows:

Authority: 20 U.S.C. 1211a(b), unless otherwise noted.

8. Redesignated § 462.50 is amended by revising paragraph (d) to read as follows:

§ 462.50 What other requirements must be met under this program?

* * * * *

(d) An award under this program may be used to pay—

(1) 100 percent of the administrative costs incurred in establishing a project during the start-up period under paragraph (e) of this section by an SEA, LEA, or other entity described in § 462.30(a), that receives a grant or subgrant under this part; and

(2) 70 percent of the costs of a project after the start-up period.

* * * * *

9. A new part 464 is added to read as follows:

PART 464—STATE LITERACY RESOURCE CENTERS PROGRAM

Subpart A—General

Sec.

464.1 What is the State Literacy Resource Centers Program?
464.2 Who is eligible for a grant?
464.3 What kinds of activities may be assisted?
464.4 What regulations apply?
464.5 What definitions apply?

Subpart B—How Does a State Apply for a Grant?

464.10 How do States apply?
464.11 What must an application contain?
464.12 How may States agree to develop a regional center?

Subpart C—How Does the Secretary Make a Grant to a State?

464.20 What payment does the Secretary make?
464.21 May the Secretary require a State to participate in a regional center?
464.22 May a State participating in a regional center use part of its allotment for a State center?

Subpart D—How Does a State Award Contracts?

464.30 With whom must a State contract?
464.31 Who may not review a proposal for a contract?

Subpart E—What Post-Award Conditions Must Be Met by a State?

464.40 May a State use funds to establish a State advisory council?
464.41 What alternative uses may be made of equipment?
464.42 What limit applies to purchasing computer hardware and software?

Authority: 20 U.S.C. 1208aa, unless otherwise noted.

Subpart A—General

§ 464.1 What is the State Literacy Resource Centers Program?

The State Literacy Resource Centers program assists State and local public and private nonprofit efforts to eliminate illiteracy through a program of State literacy resource center grants to—

(a) Stimulate the coordination of literacy services;

(b) Enhance the capacity of State and local organizations to provide literacy services; and

(c) Serve as a reciprocal link between the National Institute for Literacy and service providers for the purpose of sharing information, data, research, and expertise and literacy resources.

(Authority: 20 U.S.C. 1208aa(a))

§ 464.2 Who is eligible for a grant?

States are eligible to receive grants under this part.

(Authority: 20 U.S.C. 1208aa(c))

§ 464.3 What kinds of activities may be assisted?

(a) The Secretary makes grants under this part for purposes of establishing a network of State or regional adult literacy resource centers.

(b) Each State shall use funds provided under this part to conduct activities to—

(1) Improve and promote the diffusion and adoption of state-of-the-art teaching methods, technologies, and program evaluations;

(2) Develop innovative approaches to the coordination of literacy services within and among States and with the Federal government;

(3) Assist public and private agencies in coordinating the delivery of literacy services;

(4) Encourage government and industry partnerships, including partnerships with small businesses, private nonprofit organizations, and community-based organizations;

(5) Encourage innovation and experimentation in literacy activities that will enhance the delivery of literacy services and address emerging problems;

(6) Provide technical and policy assistance to State and local governments and service providers to improve literacy policy and programs and access to those programs;

(7) Provide training and technical assistance to literacy instructors in reading instruction and in—

(i) Selecting and making the most effective use of state-of-the-art methodologies, instructional materials, and technologies such as—

(A) Computer-assisted instruction;

(B) Video tapes;

(C) Interactive systems; and

(D) Data link systems; or

(ii) Assessing learning style, screening for learning disabilities, and providing individualized remedial reading instruction; or

(8) Encourage and facilitate the training of full-time professional adult educators.

(Authority: 20 U.S.C. 1208aa(b), (d))

§ 464.4 What regulations apply?

The following regulations apply to the State Literacy Resource Centers program:

(a) The regulations in this part 464.

(b) The regulations in 34 CFR part 460.

(Authority: 20 U.S.C. 1208aa)

§ 464.5 What definitions apply?

The definitions in 34 CFR part 460 apply to this part.

(Authority: 20 U.S.C. 1208aa)

Subpart B—How Does a State Apply for a Grant?

§ 464.10 How do States apply?

(a) The Governor of a State may submit an application to the Secretary for a grant for a State adult literacy resource center.

(b) The Governors of a group of States may submit an application to the Secretary for a grant for a regional adult literacy resource center.

(c) A State may apply for and receive both a grant for a State adult literacy resource center and, as part of a group of States, a grant for a regional adult literacy resource center.

(d) If appropriate, a State shall obtain the review and comments of the State council on the application.

(e) An approved application remains in effect during the period of the State plan under 34 CFR part 461.

(Authority: 20 U.S.C. 1208aa(h))

§ 464.11 What must an application contain?

An application must describe how the State or group of States will—

(a) Develop a literacy resource center or expand an existing literacy resource center;

(b) Provide services and activities with the assistance provided under this part;

(c) Ensure access to services of the center for the maximum participation of all public and private programs and organizations providing or seeking to provide basic skills instruction, including local educational agencies, agencies responsible for corrections education, service delivery areas under the Job Training Partnership Act, welfare agencies, labor organizations, businesses, volunteer groups, and community-based organizations;

(d) Address the measurable goals for improving literacy levels as set forth in the plan submitted under section 342 of the Act; and

(e) Develop procedures for the coordination of literacy activities for statewide and local literacy efforts conducted by public and private organizations, and for enhancing the systems of service delivery.

(Authority: 20 U.S.C. 1208aa(h))

§ 464.12 How may States agree to develop a regional center?

A group of States may enter into an interstate agreement to develop and operate a regional adult literacy resource center for purposes of receiving assistance under this part if the States determine that a regional approach is more appropriate for their situation.

(Authority: 20 U.S.C. 1208aa(j)(1))

Subpart C—How Does the Secretary Make a Grant to a State?

§ 464.20 What payment does the Secretary make?

(a) From sums available for purposes of making grants under this part for any fiscal year, the Secretary allots to each State, that has an application approved under §§ 464.10–464.11, an amount that bears the same ratio to those sums as the amount allotted to the State under section 313(b) of the Act for the purpose of making grants under section 321 of the Act bears to the aggregate amount allotted to all States under that section for that purpose.

(b) (1) The Secretary pays to each State the Federal share of the cost of activities described in the application.

(2) For purposes of this section, the Federal share—

(i) For each of the first two fiscal years in which the State receives funds under this part, may not exceed 80 percent;

(ii) For each of the third and fourth fiscal years in which the State receives funds under this part, may not exceed 70 percent; and

(iii) For the fifth and each succeeding year in which the State receives funds under this part, may not exceed 60 percent.

(3) If a State receives funds under this part for participation in a regional center, the State is only required to provide 50 percent of the non-Federal share under paragraph (b)(2) of this section.

(4) The non-Federal share of payments under this section may, in accordance with 34 CFR 80.24, be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(Authority: 20 U.S.C. 1208aa(c)(1), (i), (j)(2))

§ 464.21 May the Secretary require a State to participate in a regional center?

(a) If, in any fiscal year, a State's allotment under this part is less than $100,000, the Secretary may designate that State to receive the funds only as part of a regional center.

(b) Paragraph (a) of this section does not apply to a State that demonstrates, in its application to the Secretary, that the total amount of Federal, State, local, and private funds expended to carry out the purposes of this part would equal or exceed $100,000.

(Authority: 20 U.S.C. 1208aa(j) (3), (4))

§ 464.22 May a State participating in a regional center use part of its allotment for a State center?

In any fiscal year in which § 464.20(b)(3) applies, the Secretary may allow certain States that receive funds as part of a regional center to reserve a portion of those funds for a State adult literacy resource center under this part.

(Authority: 20 U.S.C. 1208aa(j)(5))

Subpart D—How Does a State Award Contracts?

§ 464.30 With whom must a State contract?

To operate a State literacy resource center, the Governor of each State that receives funds under this part shall contract on a competitive basis with—

(a) The SEA;

(b) One or more local educational agencies;

(c) A State office on literacy;

(d) A volunteer organization;

(e) A community-based organization;

(f) An institution of higher education; or

(g) Another non-profit entity.

(Authority: 20 U.S.C. 1208aa(c)(2))

§ 464.31 Who may not review a proposal for a contract?

A party participating in a competition under § 464.30 may not review its own proposal for a contract or any proposal of a competitor for that contract.

(Authority: 20 U.S.C. 1208aa(c)(2))

Subpart E—What Post-Award Conditions Must Be Met by a State?

§ 464.40 May a State use funds to establish a State advisory council?

(a) Each State receiving funds under this part may use up to five percent of those funds—

(1) To establish and support a State advisory council on adult education and literacy under section 332 of the Act and 34 CFR 461.50–461.52; or

(2) To support an established State council to the extent that the State council meets the requirements of section 332 of the Act and 34 CFR 461.50–461.52.

(b) Each State receiving funds under this section to establish or support a State council under section 332 of the Act shall provide matching funds on a dollar-for-dollar basis.

(Authority: 20 U.S.C. 1208aa(g))

§ 464.41 What alternative uses may be made of equipment?

Equipment purchased under this part, when not being used to carry out the provisions of this part, may be used for other instructional purposes if—

(a) The acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this part;

(b) The equipment is used after regular program hours or on weekends; and

(c) The other use is—

(1) Incidental to the use of the equipment under this part;

(2) Does not interfere with the use of the equipment under this part; and

(3) Does not add to the cost of using the equipment under this part.

(Authority: 20 U.S.C. 1208aa(e))

§ 464.42 What limit applies to purchasing computer hardware and software?

Not more than ten percent of funds received under any grant under this part may be used to purchase computer hardware or software.

(Authority: 20 U.S.C. 1208aa(f))

PART 472—NATIONAL WORKPLACE LITERACY PROGRAM

10. The authority citation for redesignated part 472 continues to read as follows:

Authority: 20 U.S.C. 1211(a), unless otherwise noted.

11. Redesignated § 472.20 is amended by adding a new paragraph (c), to read as follows:

§ 472.20 What priorities may the Secretary establish?

* * * * *

(c) In making awards under this part, the Secretary gives priority to applications from partnerships that include small businesses.

* * * * *

12. Redesignated § 472.30 is amended by removing and reserving paragraph (c) and by revising paragraph (d) to read as follows:

§ 472.30 What other requirements must be met under this program?

* * * * *

(c) [Reserved]

(d) An award under this program may be used to pay—

(1) 100 percent of the administrative costs incurred in establishing a project during the start-up period under paragraph (e) of this section by an SEA, LEA, or other entity described in § 472.2(a), that receives a grant under this part; and

(2) 70 percent of the costs of a project after the start-up period.

* * * * *

13. A new part 473 is added to read as follows:

PART 473—NATIONAL WORKFORCE LITERACY STRATEGIES PROGRAM

Subpart A—General

Sec.

Subpart B—How Does a Partnership Apply for an Award?

Subpart C—How Does the Secretary Make an Award?

Authority: 20 U.S.C. 1211, unless otherwise noted.

Subpart A—General

§ 473.1 What is the National Workforce Literacy Strategies program?

In any fiscal year in which amounts appropriated pursuant to section 371(e) of the Act equal or exceed $25,000,000, the Secretary establishes a National Workforce Literacy Strategies program to provide awards to assist unions, unions in collaboration with programs eligible for assistance under the Act and businesses, and small and medium-sized businesses, to facilitate the design and implementation of national strategies to effectively provide literacy and basic skills training to workers.

(Authority: 20 U.S.C. 1211(c)(1))

§ 473.2 Who is eligible for an award?

(a) Awards under this part are provided to exemplary partnerships between—

(1) A business, industry, or labor organization, or private industry council; and

(2) A State educational agency (SEA), a local educational agency (LEA), an institution of higher education, or a school (including an area vocational school, an employment and training agency, or a community-based organization).

(b) A partnership must include as partners at least one entity from paragraph (a)(1) of this section and at least one entity from paragraph (a)(2) of this section, and may include more than one entity from each group.

(c) (1) The partners shall apply jointly to the Secretary for funds.

(2) The partners shall enter into an agreement, in the form of a single document signed by all partners, designating one member of the partnership as the applicant and grantee. The agreement must also detail the role each partner plans to perform, and must bind each partner to every statement and assurance made in the application.

(Authority: 20 U.S.C. 1211(a)(1))

§ 473.3 What activities may the Secretary fund?

The Secretary provides awards under this part to establish large-scale national strategies in workforce literacy, which may include the following activities:

(a) Basic skills training that is—

(1) Cost-effective;

(2) Needed by employees; and

(3) Required by employers to establish a trainable workforce that can take advantage of further job-specific training and advance the productivity of the labor force on an individual, industry, or national level.

(b) Specific program offerings, which may include—

(1) English-as-a-second-language instruction;

(2) Communications skill building;

(3) Interpersonal skill building;

(4) Reading and writing skill building; and

(5) Computation and problem solving.

(c) Appropriate assessments of the literacy and basic skills needs of individual workers and the skill levels required by business.

(d) Cooperative arrangements with other organizations involved in providing literacy and basic skills training, including adult education organizations, vocational education organizations, community and junior colleges, community-based organizations, State-level agencies, and private industry councils.

(e) The establishment, as appropriate, of technology-based learning environments, such as computer-based learning centers.

(Authority: 20 U.S.C. 1211(c)(2))

§ 473.4 What priorities does the Secretary establish?

(a) In making awards under this part, the Secretary gives priority to applications from partnerships that include small businesses.

(b) Each year the Secretary may establish as a priority one or more of the types of projects described in paragraph (d) of this section.

(c) The Secretary announces these priorities in a notice published in the Federal Register.

(d) The Secretary may give priority to projects modeling a national strategy that—

(1) Is targeted to a business or industry type—

(i) That has been severely and adversely impacted by global competition; and

(ii) For whose workers basic skills training is expected to result in increased global competitiveness and productivity;

(2) Demonstrates new methods of involving workers in all aspects of program development, including project design, job task analysis, curriculum development, governance, and evaluation, that is integrated with team-based management or cross-training approaches to be used in the workplace; or

(3) Includes in project activities the identification, design, and testing of evaluation approaches and indicators that can relate learning gains to workplace outcomes such as increased employee readiness for promotion, and reductions in waste, turnover, and lost management time.

(Authority: 20 U.S.C. 1211(c))

§ 473.5 What regulations apply?

The following regulations apply to the National Workforce Literacy Strategies program:

(a) The regulations in this part 473.

(b) The regulations in 34 CFR part 460.

(Authority: 20 U.S.C. 1211(c))

§ 473.6 What definitions apply?

(a) The definitions in 34 CFR part 460.3 apply to this part.

(b) The definitions in 34 CFR part 472 also apply to this part.

(c) The following definitions also apply to this part:

Communications skill building means not only speaking and listening in the context of work, but also communicating and receiving directions, presenting and interpreting work activities to other employees and supervisors, participating in meetings on quality, and giving and receiving information to and from customers.

Interpersonal skill building means training in such matters as corporate culture, job readiness, team skills, and cross-cultural training.

Problem solving means training that may include, but is not limited to, mathematics, and also may include general training in analysis, sequencing, and decision-making.

(Authority: 20 U.S.C. 1211(c))

Subpart B—How Does a Partnership Apply for an Award?

§ 473.10 Are preapplications required?

The Secretary may require applicants to submit preapplications by including that requirement in an application notice published in the Federal Register.

(Authority: 20 U.S.C. 1211(c))

§ 473.11 How does the Secretary consider a preapplication?

(a) The Secretary considers a preapplication if—

(1) The applicant complies with the procedural rules that govern submission of the preapplication; and

(2) The preapplication is submitted in response to an applications notice that requires preapplications.

(b) If the Secretary requires preapplications and an applicant does not preapply, the applicant may not apply for a grant.

(c) If an applicant submits a preapplication—

(1) The Secretary—

(i) Informs the applicant that it is eligible and encourages it to apply for a grant;

(ii) Informs the applicant that is eligible but does not encourage it to apply for a grant; or

(iii) Informs the applicant that it is ineligible for assistance, and explains why the applicant is ineligible; and

(2) An applicant may apply for a grant even if the Secretary has not encouraged it to apply, as described in paragraph (c)(1)(ii) of this section.

(Authority: 20 U.S.C. 1211(c))

§ 473.12 How does a partnership apply for an award?

(a) Any partnership described in § 473.2 that desires to receive an award under this part shall submit an application to the Secretary.

(b)(1) The application must contain a plan—

(i) Specifying a strategy for designing and implementing workforce literacy and basic skills training for workers; and

(ii) Justifying the national, statewide, or industry-wide importance of this strategy.

(2) The application must include—

(i) A demonstration of need for literacy and basic skills training;

(ii) A description of the business or industry for which the strategy is to be established;

(iii) A statement of specific, measurable goals and participant outcomes;

(iv) A strategy for achieving the goals, including a description of the process to identify literacy and basic skills required by employers and the skills of individual workers, and a description of the specific services to be provided; and

(v) A description of the costs of the activities to be undertaken.

(Authority: 20 U.S.C. 1211(c)(3))

Subpart C—How Does the Secretary Make an Award?

§ 473.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 473.21.

(b) The Secretary awards up to 100 points for these criteria, including 10 points that the Secretary assigns in accordance with paragraph (d) of this section.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For each competition under this part, the Secretary, in a notice published in the **Federal Register**, assigns 10 points among the criteria in § 473.21.

(Authority: 20 U.S.C. 1211(c))

§ 473.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Program factors.* (15 points) The Secretary reviews each application to determine the extent to which the project—

(1) (i) Will have a significant impact—

(A) On a workforce in a particular type of business or industry, such as textile manufacture or health care;

(B) On businesses and industries of a specific size, such as small businesses and industries; or

(C) On businesses and industries in a specific type of geographic area, such as urban or rural businesses and industries; or

(ii) Has an innovative approach, such as an interactive video curriculum or peer mentoring, that will provide a model that is replicable in other businesses or industries of a similar type, size, or geographic area;

(2) Demonstrates a strong relationship between instruction and the literacy requirements of actual jobs, especially the increased skill requirements of the changing workplace;

(3) Is targeted to adults with inadequate basic skills for whom the training described is expected to mean new employment, continued employment, career advancement, or increased productivity;

(4) Involves workers in designing and implementing the project and in evaluating its outcomes;

(5) Includes support services designed to overcome the barriers experienced by small- and medium-sized businesses and their employees in participating in the project. Support services may include educational counseling, transportation, and child care during non-working hours while adult workers are participating in the project;

(6) Demonstrates the active commitment of all partners to accomplishing the goals of the project and the participant outcomes to be achieved; and

(7) Demonstrates the partnership's ability to continue the program when Federal funds are no longer available.

(b) *Extent of need for the project.* (12 points) The Secretary reviews each application to determine the extent to which the project meets specific needs, including consideration of—

(1) The extent to which the project will focus on demonstrated national needs for workforce literacy training of adult workers;

(2) The adequacy of the applicant's documentation of the national needs to be addressed by the project;

(3) How well those national needs will be met by the project;

(4) The benefits to adult workers and their businesses and industries that will result from meeting those national needs; and

(5) The extent to which the application demonstrates a relationship between the basic skills training to be provided to adult workers and subsequent job-specific training to be provided to those workers.

(c) *Quality of training.* (15 points) The Secretary reviews each application to determine the quality of training to be provided by the project, including the extent to which the project will—

(1) Use curriculum materials that are designed for adults and that reflect the needs of the workplace;

(2) Use individualized educational plans developed jointly by instructors and adult learners;

(3) Take place in a readily accessible environment conducive to adult learning; and

(4) Provide training through the partner that is an SEA, a local educational agency, an institution of higher education, or a school (including an area vocational school, an employment and training agency, or a community-based organization), unless transferring this activity to another partner is necessary and reasonable within the framework of the project.

(d) *Cooperative arrangements.* (5 points) The Secretary considers—

(1) The extent to which the project includes cooperative arrangements with organizations, other than partners, that are involved in providing literacy and basic skills training, including adult education organizations, vocational education organizations, community and junior colleges, community-based organizations, State level agencies, and private industry councils;

(2) The adequacy of the description of the roles of the organizations with whom these cooperative arrangements are made; and

(3) The extent to which the application demonstrates the active commitment of each of those organizations to accomplishing the goals of the project and the participant outcomes to be achieved.

(e) *Plan of operation.* (12 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project goals and participant outcomes—

(i) Will accomplish the purposes of the National Workforce Literacy Strategies program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are susceptible to evaluation;

(iv) Are objective and measurable; and

(v) For a multi-year project, include specific objectives to be met, during each budget period, that can be used to determine the progress of the project toward meeting its intended goals and participant outcomes;

(3) The extent to which the plan of management is effective, ensures proper and efficient administration of the project, and includes—

(i) A description of the respective roles of each member of the partnership in carrying out the plan;

(ii) A description of the activities to be carried out by any contractors under the plan; and

(iii) A description of the respective roles, including any cash or in-kind contributions, of any organizations that are not members of the partnership;

(4) The quality of the applicant's plan to use resources and personnel to achieve the objectives, goals, and intended participant outcomes described in the application;

(5) The quality of the applicant's plan to effectively disseminate, on a national, State, or local level, promising practices developed and found successful during the project period; and

(6) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition.

(f) *Applicant's experience and quality of key personnel.* (11 points)

(1) The Secretary reviews each application to determine the extent of the applicant's experience in providing literacy services to adult workers.

(2) The Secretary also reviews each application to determine the quality of key personnel that the applicant plans to use on the project, including—

(i) The qualifications of the project director, in relation to the purposes of the project;

(ii) The qualifications of each of the other key personnel, in relation to the purposes of the project;

(iii) The time that each person referred to in paragraphs (f)(2) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(3) To determine personnel qualifications, the Secretary considers—

(i) Experience and training in fields related to the objectives, goals, and intended participant outcomes described in the application;

(ii) Experience and training in project management.

(g) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are clearly explained and appropriate to the project;

(2) Will be conducted by an independent evaluator;

(3) Will assess the impact of improving basic skills on workforce or industry productivity variables such as job turnover, attendance, waste or error rates, hourly production, and lost management time;

(4) Include formative evaluation activities to help assess student progress and program management and improve program operations;

(5) Are applied systematically throughout the project period and will determine how successful the project is in meeting its intended objectives, goals, and participant outcomes; and

(6) To the extent possible, are objective and produce data that are quantifiable.

(h) *Budget and cost-effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget and is cost effective.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the purposes of the project.

(Authority: 20 U.S.C. 1211(c))

§ 473.22 What additional factors does the Secretary consider?

In addition to the criteria in § 473.21, the Secretary may consider geographic factors, such as rural and urban areas and national distribution.

(Authority: 20 U.S.C. 1211(c)(7))

§ 473.23 May the Secretary limit the design phase of a project?

The Secretary may limit the design phase of a project to a reasonable period.

(Authority: 20 U.S.C. 1211(c))

§ 473.24 May the Secretary limit the amount of funds for technology-based learning environments?

The Secretary may limit the amount or percentage of an award, or the amounts or percentages of all awards in a fiscal year, that may be used for technology-based learning environments, including amounts for hardware and software.

(Authority: 20 U.S.C. 1211(c))

§ 473.25 What is the Federal share of projects funded under this part?

An award under this part may not exceed 70 percent of the cost of a project.

(Authority: 20 U.S.C. 1211(c)(2), (5))

14. A new part 489 is added to read as follows:

PART 489—FUNCTIONAL LITERACY FOR STATE AND LOCAL PRISONERS PROGRAM

Subpart A—General

Sec.

Subpart B—How Does One Apply for a Grant?

Subpart C—How Does the Secretary Make an Award?

Subpart D—What Conditions Must be Met after an Award?

Authority: 20 U.S.C. 1211–2, unless otherwise noted.

Subpart A—General

§ 489.1 What is the Functional Literacy for State and Local Prisoners Program?

(a) The Secretary makes grants to eligible entities that elect to establish a demonstration or system-wide functional literacy program for adult prisoners, as described § 489.3.

(b) Grants under this part may be used for establishing, improving, expanding, or carrying out a program, and for developing the plans and submitting the reports required by this part.

(Authority: 20 U.S.C. 1211–2(a), (d)(1))

§ 489.2 Who is eligible for a grant?

A State correctional agency, a local correctional agency, a State correctional education agency, or a local correctional education agency is eligible for a grant under this part.

(Authority: 20 U.S.C. 1211–2(f)(1))

§ 489.3 What activities may the Secretary fund?

(a) To qualify for funding under § 489.1, a functional literacy program must—

(1) To the extent possible, make use of advanced technologies, such as interactive video- and computer-based adult literacy learning: and

(2) Include—

(i) A requirement that each person incarcerated in the system, prison, jail, or detention center who is not functionally literate, except a person described in paragraph (b) of this section, shall participate in the program until the person—

(A) Achieves functional literacy, or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(B) Is granted parole;

(C) Completes his or her sentence; or

(D) Is released pursuant to court order; and

(ii) A prohibition on granting parole to any person described in paragraph (a)(2)(i) of this section who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) Adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the

system or at the prison, jail, or detention center.

(b) The requirement of paragraph (a)(2)(i) does not apply to a person who—

(1) Is serving a life sentence without possibility of parole;

(2) Is terminally ill; or

(3) Is under a sentence of death.

(Authority: 20 U.S.C. 1211–2(b))

§ 489.4 What regulations apply?

The following regulations apply to the Functional Literacy for State and Local Prisoners program:

(a) The regulations in this part 489.

(b) The regulations in 34 CFR part 460.3.

(Authority: 20 U.S.C. 1211–2)

§ 489.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) As used in this part—

Functional literacy means at least an eighth grade equivalence, or a functional criterion score, on a nationally recognized literacy assessment.

(Authority: 20 U.S.C. 1211–2(f)(2))

Subpart B—How Does One Apply for a Grant?

§ 489.10 How does an eligible entity apply for a grant?

An eligible entity may receive a grant under this part if the entity submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, but not limited to, the following:

(a) An assurance that the entity will provide the Secretary such data as the Secretary may request concerning the cost and feasibility of operating the functional literacy programs authorized by § 489.1(a), including the annual reports required by § 489.30.

(b) A detailed plan outlining the methods by which the provisions of §§ 489.1 and 489.3 will be met, including specific goals and timetables.

(Authority: 20 U.S.C. 1211–2(d)(2))

Subpart C—How Does the Secretary Make an Award?

§ 489.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 489.21.

(b) The Secretary awards up to 100 points for these criteria, including 15 points that the Secretary assigns in accordance with paragraph (d) of this section.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For each competition under this part, the Secretary, in a notice published in the Federal Register, assigns 15 points among the criteria in § 489.21.

(Authority: 20 U.S.C. 1211–2)

§ 489.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Program factors.* (15 points) The Secretary reviews the application to determine the quality of the proposed project, including the extent to which the application includes—

(1) A clear description of the services to be offered;

(2) A complete description of the methodology to be used, including a thorough assessment of all offenders in the system and assessments necessary to identify offenders with disabilities affecting functional literacy;

(3) Flexibility in the manner that services are offered, including the provision of accessible class schedules;

(4) A strong relationship between skills taught and the literacy and skill requirements of the changing workplace; and

(5) An innovative approach, such as interactive video curriculum or peer tutoring that will provide a model that is replicable in other correctional facilities of a similar type or size; and

(6) Staff in-service education.

(b) *Educotional significance.* (15 points) The Secretary reviews each application to determine the extent to which the applicant proposes—

(1) Project objectives that contribute to the improvement of functional literacy;

(2) To use unique and innovative techniques to produce benefits that address functional literacy problems and needs that are of national significance; and

(3) To demonstrate how well those national needs will be met by the project.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are susceptible to evaluation;

(iv) Are objective and measurable; and

(v) For a multi-year project, include specific objectives to be met, during each budget period, that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are clearly explained and appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes, including an assessment of the effectiveness of the project in improving functional literacy of prisoners. To the extent feasible, the assessment must include a one-year post-release review, during the grant period, to measure the success of the project with respect to those prisoners who received services and were released. The assessment must involve comparison of the project to other existing education and training programs or no treatment for individuals, as appropriate. The evaluation must be designed to produce findings that, if positive and significant, can be used in submission of an application to the Department's Program Effectiveness Fanel. To assess program effectiveness, consideration may be given to implementing a random assignment evaluation design. (Review criteria for the Program Effectiveness Panel are provided in 34 CFR 786.12);

(3) Provide for an assessment of the efficiency of the program's replication efforts, including dissemination activities and technical assistance provided to other projects;

(4) Include formative evaluation activities to help assess program management and improve program operations; and

(5) To the extent possible, are objective and produce data that are quantifiable.

(e) *Demonstration and dissemination.* (10 points) The Secretary reviews each application to determine the efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan;

(2) Identification of target groups and provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting others to adopt and successfully implement the project or methods and techniques used by the project.

(f) *Key personnel.* (5 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to the objectives and planned outcomes of the project, of the project director;

(ii) The qualifications, in relation to the objectives and planned outcomes of the project, of each of the other key personnel to be used in the project, including any third-party evaluator;

(iii) The time that each person referred to in paragraphs (f)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii) of this section, the Secretary considers experience and training in project management and in fields related to the objectives and planned outcomes of the project.

(g) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project; and

(3) Proposes using non-Federal resources available from appropriate employment, training, and education agencies in the State to provide project services and activities and to acquire project equipment and facilities.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to devote adequate resources to the project. The Secretary considers the extent to which—

(i) Facilities that the applicant plans to use are adequate; and

(ii) Equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the applicant's commitment to the project, including the extent to which—

(i) Non-Federal resources are adequate to provide project services and activities, especially resources of the public and private sectors; and

(ii) The applicant has the capacity to continue, expand, and build upon the project when Federal assistance ends.

(Authority: 20 U.S.C. 1211–2)

Subpart D—What Conditions Must be Met after an Award?

§ 489.30 What annual report is required?

(a) Within 90 days after the close of the first calendar year in which a literacy program authorized by § 489.1 is placed in operation, and annually for each of the 4 years thereafter, a grantee shall submit a report to the Secretary with respect to its literacy program.

(b) A report under paragraph (a) of this section must disclose—

(1) The number of persons who were tested for eligibility during the preceding year;

(2) The number of persons who were eligible for the literacy program during the preceding year;

(3) The number of persons who participated in the literacy program during the preceding year;

(4) The name and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(5) The average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(6) Sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(7) Data on all direct and indirect costs of the program; and

(8) Information on progress toward meeting the program's goals.

(Authority: 20 U.S.C. 1211–2(c))

15. A new part 490 is added to read as follows:

PART 490—LIFE SKILLS FOR STATE AND LOCAL PRISONERS PROGRAM

Subpart A—General

Sec.

Subpart B—How Does One Apply for a Grant?

Subpart C—How Does the Secretary Make an Award?

Authority: 20 U.S.C. 1211–2, unless otherwise noted.

Subpart A—General

§ 490.1 What is the Life Skills for State and Local Prisoners Program?

The Secretary may make grants to eligible entities to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration of adult prisoners into society.

(Authority: 20 U.S.C. 1211–2(e)(1))

§ 490.2 Who is eligible for a grant?

A State correctional agency, a local correctional agency, a State correctional education agency, or a local correctional education agency is eligible for a grant under this part.

(Authority: 20 U.S.C. 1211–2(f)(1))

§ 490.3 What regulations apply?

The following regulations apply to the Life Skills for State and Local Prisoners program:

(a) The regulations in this part 490.

(b) The regulations in 34 CFR part 460.3.

(Authority: 20 U.S.C. 1211–2)

§ 490.4 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) As used in this part—

Life skills includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationship development, and stress and anger management.

(Authority: 20 U.S.C. 1211–2(f)(3))

Subpart B—How Does One Apply for a Grant?

§ 490.10 How does an eligible entity apply for a grant?

To receive a grant under this part, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require, including, but not limited to, an assurance that the entity will report annually to the Secretary on the participation rate, cost, and effectiveness of the program and any other aspect of the program on which the Secretary may request information.

(Authority: 20 U.S.C. 1211–2(e)(2))

Subpart C—How Does the Secretary Make an Award?

§ 490.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the criteria in § 490.21.

(b) The Secretary awards up to 100 points for these criteria, including 15 points that the Secretary assigns in accordance with paragraph (d) of this section.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For each competition under this part, the Secretary, in a notice published in the Federal Register, assigns 15 points among the criteria in § 490.21.

(Authority: 20 U.S.C. 1211–2)

490.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Program factors.* (15 points) The Secretary reviews the application to determine the quality of the proposed project, including the extent to which the application includes—

(1) A clear description of the services to be offered; and

(2) Life skills education designed to prepare adult offenders to reintegrate successfully into communities, schools and the workplace.

(b) *Educational significance.* (15 points) The Secretary reviews each application to determine the extent to which the applicant proposes—

(1) Project objectives that contribute to the improvement of life skills;

(2) To use unique and innovative techniques to produce benefits that address life skills problems and needs that are of national significance; and

(3) To demonstrate how well those national needs will be met by the project.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are susceptible to evaluation;

(iv) Are objective and measurable; and

(v) For a multi-year project, include specific objectives to be met, during each budget period, that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disabling condition.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are clearly explained and appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes, including an assessment of the effectiveness of the project in improving life skills of prisoners. To the extent feasible, the assessment must include a one-year post-release review, during the grant period, to measure the success of the project with respect to those prisoners who received services and were released. The assessment must involve comparison of the project to other existing education and training programs or no treatment for individuals, as appropriate. The evaluation must be designed to produce findings that, if positive and significant, can be used in submission of an application to the Department's Program Effectiveness Panel. To assess program effectiveness, consideration may be given to implementing a random assignment evaluation design. (Review criteria for the Program Effectiveness Panel are provided in 34 CFR 786.12);

(3) Provide for an assessment of the efficiency of the program's replication efforts, including dissemination activities and technical assistance provided to other projects;

(4) Include formative evaluation activities to help assess program management and improve program operations; and

(5) To the extent possible, are objective and produce data that are quantifiable.

(e) *Demonstration and dissemination.* (10 points) The Secretary reviews each application to determine the efficiency of the plan for demonstrating and disseminating information about project activities and results throughout the project period, including—

(1) High quality in the design of the demonstration and dissemination plan;

(2) Identification of target groups and provisions for publicizing the project at the local, State, and national levels by conducting or delivering presentations at conferences, workshops, and other professional meetings and by preparing materials for journal articles, newsletters, and brochures;

(3) Provisions for demonstrating the methods and techniques used by the project to others interested in replicating these methods and techniques, such as by inviting them to observe project activities;

(4) A description of the types of materials the applicant plans to make available to help others replicate project activities and the methods for making the materials available; and

(5) Provisions for assisting others to adopt and successfully implement the project or methods and techniques used by the project.

(f) *Key personnel.* (5 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications, in relation to the objectives and planned outcomes of the project, of the project director;

(ii) The qualifications, in relation to the objectives and planned outcomes of the project, of each of the other key personnel to be used in the project, including any third-party evaluator;

(iii) The time that each person referred to in paragraphs (f)(1) (i) and

(ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications under paragraphs (f)(1) (i) and (ii) of this section, the Secretary considers experience and training in project management and in fields related to the objectives and planned outcomes of the project.

(g) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which the budget—

(1) Is cost effective and adequate to support the project activities;

(2) Contains costs that are reasonable and necessary in relation to the objectives of the project; and

(3) Proposes using non-Federal resources available from appropriate employment, training, and education agencies in the State to provide project services and activities and to acquire project equipment and facilities.

(h) *Adequacy of resources and commitment.* (5 points)

(1) The Secretary reviews each application to determine the extent to which the applicant plans to devote adequate resources to the project. The Secretary considers the extent to which—

(i) Facilities that the applicant plans to use are adequate; and

(ii) Equipment and supplies that the applicant plans to use are adequate.

(2) The Secretary reviews each application to determine the applicant's commitment to the project, including the extent to which—

(i) Non-Federal resources are adequate to provide project services and activities, especially resources of the public and private sectors; and

(ii) The applicant has the capacity to continue, expand, and build upon the project when Federal assistance ends.

(Authority: 20 U.S.C. 1211–2)

§ 490.22 What additional factor does the Secretary consider?

In addition to the points awarded under the selection criteria in § 490.21, the Secretary awards up to 5 points to applications for projects that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(Authority: 20 U.S.C. 1211–2(e)(3))

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Monday
October 28, 1991

Part IV

Department of Housing and Urban Development

Office of the Secretary

Regulatory Waiver Requests Granted by the Department of Housing and Urban Development; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-91-3038; FR-2736-N-04]

Regulatory Waiver Requests Granted by the Department of Housing and Urban Development

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waiver requests: June 1, 1991 through August 31, 1991.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department (HUD) is required to make public all approval actions taken on waivers of regulations. This notice is the second of a series, to be published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Grady J. Norris, Assistant General Counsel for Regulations, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (Telephone 202-755-7055. This is not a toll-free number.) For information concerning a particular waiver action about which public notice is provided in this document, contact the person whose name and address is set out, for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by the Department. Section 106 of the Act (section 7(q)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q)(3)), provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by publishing a notice in the Federal Register. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purposes of today's document.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives Issued by HUD (56 FR 16337, April 22, 1991). This is the second notice of its kind to be published under section 106. The first notice, published on August 26, 1991, updated waiver-grant activity by the Department from the period immediately following passage of the Reform Act through the end of May 1991.

Today's document updates HUD's waiver-grant activity through August 31, 1991. In approximately three months, the Department will publish a similar notice, providing information about waiver-grant activity for the period from September 1, 1991 through November 30, 1991.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, 24 CFR 24.200 (involving the waiver of a provision in part 24) comes early in the sequence, while waivers in the section 8 and section 202 programs (24 CFR chapter VIII) are among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 811.105(b) and § 811.107(a) would appear sequentially in this listing under § 811.105(b).)

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occur between September 1 and November 30, 1991.

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the appendix that follows this notice.

Dated: October 18, 1991.

Alfred A. DelliBovi,

Deputy Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development through August 31, 1991.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 1 through 4 in this listing is: Morris E. Carter, Director, Single Family Development Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone (202) 708-2700.

1. *Regulation:* 24 CFR 200.163(a)(2).

Project/Activity: King's Grant Subdivision, Wilmington, DE.

Nature of Requirement: The Direct Endorsement Program excludes those mortgages which would be insured pursuant to 223(e), properties located in older, declining neighborhoods.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 5, 1991.

Reason Waived: The city of Wilmington has actively participated in the revitalization of this area and has provided financial assistance for new construction and rehabilitation. This request is consistent with Secretary Kemp's goal of expanding affordable housing opportunities for first-time homebuyers and low- and moderate-income families.

2. *Regulation:* 24 CFR 203.42.

Project/Activity: Eight homes in the Orchard Valley subdivision, Chattanooga, TN.

Nature of Requirement: The regulation prohibits insuring property to be rented if the mortgagor has any financial interest in 8 or more adjacent or contiguous properties.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 5, 1991.

Reason Granted: The proposal from Chattanooga Neighborhood Enterprise, a non-profit corporation, uses funding from HUD, the Tennessee Housing Development Agency, Department of Energy, and local financial institutions to purchase homes and hold for resale to qualifying assumptors. This request is consistent with Secretary Kemp's goal of

expanding affordable housing opportunities for first-time homebuyers and low- and moderate-income families.

3. *Regulation:* 24 CFR 203.42.

Project/Activity: 3375, 3415 and 3445 Franklin Avenue, Miami, FL.

Nature of Requirement: The regulation prohibits insuring property to be rented if the mortgagor has any financial interest in 8 or more adjacent or contiguous properties.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 5, 1991.

Reason Granted: The city of Miami has indicated that the properties are situated in a community redevelopment area. These fourplex units will be purchased and rehabilitated under 203(k) based on a plan by the city. This request is consistent with Secretary Kemp's goal of expanding affordable housing opportunities for first-time homebuyers and low- and moderate-income families.

4. *Regulation:* 24 CFR 280.320(b).

Project/Activity: Logan Avenue Infill Housing, Des Moines, IA.

Nature of Requirement: Nehemiah regulations prohibit funding of a homebuyer's downpayment by a governmental agency or instrumentality.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 3, 1991.

Reason Waived: The Iowa Finance Authority and the Federal Home Loan Bank are prepared to make downpayment assistance available to Nehemiah homebuyers who would not be able to afford the required 10 percent downpayment. This request is consistent with Secretary Kemp's goal of expanding affordable housing opportunities for first-time homebuyers and low-and moderate-income families.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 5 through 9 in this listing is: Mr. Jan C. Opper, Field Coordination Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 541 Seventh Street, SW., room 7270, Washington, DC 20410–7000, phone (202) 708–2565.

5. *Regulation:* 24 CFR 511.2, 24 CFR 511.11(f)(2), 24 CFR 511.11(g)(4), and 24 CFR 577.135(b).

Project/Activity: Community Life Family Services, Inc., Washington, DC. (Transitional Housing project number DC39T89–402) Use of section 8 Rental Certificates in Transitional Housing projects assisted with Rental Rehabilitation program funds.

Nature of Requirement: Supportive Housing Demonstration (Transitional Housing) regulations at 24 CFR 577.135(b) state that, "HUD will not assist a project * * *, if the project involves a structure that is assisted, or residents of the structure will receive assistance, under the United States Housing Act of 1937 * * *", which includes the section 8 program and the Rental Rehabilitation program. R

Rental Rehabilitation program regulations at 24 CFR 511.2 define an "owner" as "one or more individuals * * * or * * * legal entities that hold valid legal title to the project to be rehabilitated." and a "unit or dwelling unit", in part, to be "a place of permanent habitation or abode for a family * * *" Program regulations at 24 CFR 511.11(f)(2) preempts State and local laws or ordinances ". . . extending beyond one year from the date of completion of rehabilitation of a project, financial penalties for failure to achieve certain low income occupancy or rent projections * * *" Program regulations at 24 CFR 511.11(g)(4) states that Rental Rehabilitation grant amounts may not be used for "Housing subject to conditions of occupancy making the residents ineligible for section 8 assistance under 24 CFR parts 882 and 887."

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: July 18, 1991.

Reasons Waived: During the course of monitoring the subject grant, HUD discovered that the building used for transitional housing had been assisted with Rental Rehabilitation program funds, that residents were receiving assistance under the section 8 Rental Certificate program, and additional violations of regulations regarding valid title to the project to be rehabilitated and ground lease occupancy conditions. Though use of section 8 certificates was indicated in the application, HUD reviewers failed to note that. Failure to waive the cited regulations would undermine the basic financial structure of the project, and termination of the Transitional Housing assistance would diminish or eliminate the supportive services that the formerly homeless residents of the project were led to expect would be provided. Such undue hardship for the residents of the project is grounds for the waivers.

6. *Regulation:* 24 CFR 570.200(a)(5) and 24 CFR 570.200(h).

Project/Activity: Westland, Michigan. Reimbursement of pre-agreement costs to bid out and award a contract for Phase V of the Norwayne Water Main Project (upgrading an underground water main) in combination with Phase IV.

Nature of Requirement: 24 CFR 570.200(h) permits reimbursement of certain eligible costs incurred prior to the date of the grant agreement, but not the acquisition cost of real property. 24 CFR 570.200(a)(5) limits pre-agreement costs to those described in subparagraph 570.200(h).

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: June 3, 1991.

Reasons Waived: The city requested the waiver to bid and award Phase IV (funded from FY 1990 CDBG) and Phase V (to be funded from FY 1991 CDBG) as a single project. This would permit the project to be completed more quickly, lessening the possibility of a disruption in service, which would cause health problems and a safety hazard if adequate pressure did not exist for firefighting. In addition, it would decrease the overall cost of the project by an estimated $19,000. These phases of the project serve primarily low and moderate income persons in a CDBG target area. Failure to grant a waiver of pre-agreement cost regulations would cause undue hardship and adversely affect the purposes of the Act.

7. *Regulation:* 24 CFR 570.200(a)(5) and 24 CFR 570.200(h).

Project/Activity: Atlanta, Georgia. Reimbursement of pre-agreement costs for services to the homeless, elderly, and youth of the city, as well as costs for personnel, services, and on-going administration of CDBG activities.

Nature of Requirement: 24 CFR 570.200(h) permits reimbursement of certain eligible costs incurred prior to the date of the grant agreement, but not the acquisition cost of real property. 24 CFR 570.200(a)(5) limits preagreement costs to those described in subparagraph 570.200(a)(5).

Granted by: Paul Roitman Bardack, Acting Assistant Secretary for Community Planning and Development.

Date Granted: June 20, 1991.

Reasons Waived: FY 1991 CDBG funds were made available to the city ten days after the beginning of its program year, for reasons beyond the city's control. The city stated that to not permit the reimbursement of pre-agreement costs during that period would cause undue hardship on the ultimate beneficiaries of services critical to their health and safety. In granting the waiver, the Department finds that failure to do so would cause undue hardship and adversely affect the purposes of the Act.

8. *Regulation:* 24 CFR 570.200(a)(5) and 24 CFR 570.200(h).

Project/Activity: Wayne County, Michigan. Reimbursement of pre-agreement costs for construction of a senior citizens facility in the township of Brownstown.

Nature of Requirement: 24 CFR 570.200(h) permits reimbursement of certain eligible costs incurred prior to the date of the grant agreement, but not the acquisition cost of real property. 24 CFR 570.200(a)(5) limits pre-agreement costs to those described in subparagraph § 570.200(a)(5).

Granted by: Paul Roitman Bardack, Acting Assistant Secretary for Community Planning and Development.

Date Granted: August 21, 1991.

Reasons Waived: The County sought a waiver of pre-agreement cost requirements in order to be able to complete construction of the senior citizens facility by late 1991. This would result in an estimated $130,000 savings in construction costs and allow for reinstatement of the full range of services previously provided to senior citizens in the township. Failure to grant the waiver would cause undue hardship and adversely affect the purposes of the Act since senior citizens would be denied needed services until the facility could be constructed at a later date.

9. *Regulation:* 24 CFR 570.302(b)(1).

Project/Activity: East St. Louis, Illinois. FY 1991 CDBG Final Statement submission deadline.

Nature of Requirement: 24 CFR 570.302(b)(1) requires that the grantee submit its Final Statement no earlier than December 1 nor later than the first working day in September of the Federal fiscal year for which funds are appropriated.

Granted by: Anna Kondratas, Assistant Secretary for Community Planning and Development.

Date Granted: August 5, 1991.

Reasons Waived: HUD has sought to improve the city's performance through the use of special contract conditions, suspending the payment of CDBG funds, and proposing to terminate funds remaining in the city's line-of-credit and reduce future grants under the authority provided in sections 104(e) and 111(a) of the Housing and Community Development Act of 1974, as amended. In response, the city signed an agreement to appoint a person/entity selected by HUD to administer the city's CDBG program. Because the city had to procure the services of an administrator, it could not meet the cited requirement. Failure to grant a waiver would result in undue hardship to the community and result in loss of CDBG funds to the city and would adversely affect the purposes of the Act.

Note to reader: The person to be contacted for additional information about waiver-grant item number 10 in this listing is: Gerald Benoit, Director, Rental Assistance Division, Department of Housing and Urban Development, 451 Seventh Street, SW., room 6128, Washington, DC 20410, phone (202) 708-0477.

10. *Regulation:* 24 CFR 882.209(d) (1) and (2), 887.165 (a) and (b).

Project/Activity: Housing Authority of the city of Milwaukee.

Nature of Requirement: Regulations require the issuance of rental certificate or rental vouchers for an initial period of 60 days and an extension of not more than 60 additional days.

Granted by: Arthur J. Hill, Assistant Secretary for Housing-Federal Housing Commissioner, H.

Date Granted: June 14, 1991.

Reason Waived: To permit the Housing Authority of the city of Milwaukee to issue rental certificates and rental vouchers for a term of 120 calendar days without requiring an initial term of 60 days and an extension of not more than 60 additional days. This waiver was implemented in order to resolve a civil action through a settlement agreement.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 11 in this listing is: Madeline Hastings, Director, Moderate Rehabilitation Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 755-4969.

11. *Regulation:* 24 CFR 882.408(d)(3).

Project/Activity: Prohibition on changes in initial contract rents, except for certain circumstances during rehabilitation, Seattle Housing Authority, Moderate Rehabilitation program; Scargo Hotel.

Granted by: Arthur J. Hill, Assistant Secretary-Federal Housing Commissioner, H.

Date Granted: August 9, 1991.

Reason Waived: Installation of sprinklers is a statutory requirement in the SRO Mod Rehab program; current contract rents will not support the increased debt service to finance the installation of the required sprinkler system.

Note to Reader: The person to be contacted for additional information about waiver-grant items numbered 12 and 13 in this listing is: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 708-2730.

12. *Regulation:* 24 CFR 885—Loans for Housing for the Elderly or Handicapped § 885.5. Definitions, Housing and Related Facilities.

Project/Activity:

Project name	Project No.	Regional office
Sandwood Apartments.	054-HH004	Atlanta.
Bridgewood Apts	054-HH005	Atlanta.
Lansing Manor	043-EH324	Chicago.
Pres Woodrow Wilson.	136-EH111	San Francisco.
Vista Lane	122-EH367	San Francisco.

Nature of Requirement: The Regulations cited above prohibit section 202 assistance for intermediate care facilities due to the traditional medical nature of such facilities.

Granted by: Arthur J. Hill, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: Waivers approved between July 1, 1991 and August 31, 1991.

Reason Waived: Often borrowers have access to service funding that would not otherwise be available if a project is designed as an intermediate care facility. Therefore, under existing Departmental procedures, a borrower may receive a waiver if the facility is for the developmentally disabled and it provides evidence that the housing and services will not be medically oriented.

13. *Regulation:* 24 CFR 885—Loans for Housing for the Elderly or Handicapped § 885.230. Duration of section 202 Fund Reservations.

Project/Activity:

Project name	Project No.	Regional office
Worcester Area Assoc.	023-EH321	Boston.
Parkville Apts	012-EH618	New York.
Project Live II	031-EH220	New York.
Solvay Apartments.	014-EH226	New York.
St. Barnabas Hsg	012-EH629	New York.
Greenpoint Houses.	012-EH558	New York.
Project HOPE Senior.	012-EH633	New York.
Holy Spirit Apts	012-EH570	New York.
Latham Senior Hsg.	013-EH130	New York.
Everlasting Pines	012-EH447	New York.
Capitol Commons	000-EH157	Philadelphia.
Crossroads	052-EH138	Philadelphia.
Abundant Life II	052-EH116	Philadelphia.
Mountain Terrace	045-EH082	Philadelphia.
Colonial Apts	066-EH214	Atlanta.
Williamsburg Manor.	054-EH129	Atlanta.
Teamsters Retiree.	061-EH189	Atlanta.
Georgetown 202	054-EH137	Atlanta.
Padre Jose D. Boyd.	056-EH316	Atlanta.
Fernando Sierra	056-EH318	Atlanta.
Ginger Thomas Home.	056-EH324	Atlanta.
Carol Bay Terrace.	066-EH211	Atlanta.
Jewish Home Tower.	061-EH194	Atlanta.
Augustana Group Home.	071-EH490	Chicago.

Project name	Project No.	Regional office
Little Village Eldg...	071–EH430	Chicago.
Family Initiatives	042–EH418	Chicago.
Koinonia Village.....	042–EH344	Chicago.
Help Housing	042–EH430	Chicago.
Sterling Grove.....	064–EH151	Fort Worth.
Teamster Retiree Hsg.	085–EH146	Kansas City.
Hale Kanaloa	140–EH047	San Francisco.

Nature of Requirement: The Regulations cited above require the Department of Housing and Urban Development to cancel any section 202 fund reservation for which construction, rehabilitation or acquisition has not begun within 24 months after the notice of section 202 Fund Reservation is issued, unless a 12-month extension is granted by the Regional Administrator, for a total maximum 36-month period.

Granted by: Arthur J. Hill, Acting Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between July 1, 1991 and August 31, 1991.

Reason Waived: Circumstances beyond the control of the section 202 Borrowers delayed project development within the maximum period of 36 months. Further, sponsors had expended substantial funds to bring the projects to construction starts and development of these units furthered the Secretary's goal of expanding affordable housing opportunities. Waivers of this section granted authority to extend these fund reservations beyond 36 months to allow additional time to reach construction starts.

Note to reader: The person to be contacted for additional information about waiver-grant item number 14 in this listing is: Ed Winiarski, Technical Support Division, Office of Insured Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone 708–0624.

14. *Regulation:* 24 CFR 885.810(c)(3)(i).
Project/Activity:

Project name	Project No.	Field office
Dupont Street Senior Housing.	012–EH712	New York.
Senior Housing for the Clinton Comm.	012–EH555	New York.
Ridge Street Development.	012–EH649	New York.
Henry Brooks Senior Housing.	012–EH705	New York.
Greenpoint Houses.	012–EH558	New York.

Nature of Requirement: The Regulation cited above requires the Department of Housing and Urban Development to limit direct loan financing to the development cost limits set forth in paragraphs (c)(1) and (c)(2) of this section. Paragraph (c)(3)(i) authorizes the Assistant Secretary to increase the cost limits by up to 110 percent in any geographic area where the cost levels require, and to increase the cost limits by up to 140 percent on a project-by-project basis. Waivers of this section grant authority to increase the cost limits by up to 160 percent on a project-by-project basis for specific HUD Offices where development costs are consistently higher than anywhere else in the nation.

Granted by: Arthur J. Hill, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Waivers approved between June 1, 1991 and August 31, 1991.

Reason Waived: To not approve the above HCP waiver would cause hardship to the borrower which has expended substantial funds to reach this stage of processing. Further, if the project is cancelled, the funds will be lost and this much needed housing would not be built. Granting the waiver is, therefore, in the public interest and consistent with both programmatic objectives and the Secretary's goal of increasing affordable housing opportunities for low income families.

Note to reader: The person to be contacted for additional information about waiver-grant item number 15 in this listing is: Gary Van Buskirk, Director, Homeownership Division, Office of Resident Initiatives, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 708–4233.

15. *Regulation:* 24 CFR 904.110(c)(1); 904.114(a)(1); 904.115(b) and (c).
Project/Activity: Housing Authority of the City of Albuquerque, NM; Turnkey III Homeownership Opportunities Program; Projects NM 1–2, NM 1–2C, NM–3, NM 1–6A, NM 1–6B, NM 1–7A, NM 1–7B, NM–8, and NM–9.

Nature of Requirement: For a subsequent homebuyer, the purchase price of the home must be based on the appraised fair market value at the date of the new homebuyer agreement.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: August 6, 1991.

Reason Waived: To facilitate opportunities for low-income families to acquire ownership of the 64 existing public housing units that remain in the Housing Authority's ownership under the Turnkey III Homeownership Opportunities Program. This waiver allows a modified formula for establishing purchase prices on terms that will be affordable to families in subsequent homebuyer status.

Note to Reader: The person to be contacted for additional information about waiver-grant item number 16 in this listing is: Dom Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Phone (202) 708–1015.

16. *Regulation:* 24 CFR 905.610(f).
Project/Activity: Joint reviews of proposed modernization programs under the Comprehensive Improvement Assistance Program (CIAP). The Denver Office of Indian Programs, Oklahoma Office of Indian Programs, Anchorage Office of Indian Programs, and Chicago Office of Indian Programs were granted waivers for the attached list of Indian housing authorities.

Nature of Requirement: The Regulation cited above requires that IHAs and HUD conduct an on-site review to discuss the proposed modernization program, as set forth in the application, and reach tentative agreements on the IHA's needs; the joint review includes an on-site inspection of the property and resolution of relevant issues, as prescribed by HUD.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: June 3 and 19, 1991; July 3, 18, and 19, 1991.

Reason Waived: In order to maximize the use of existing staff, four Indian Program Field Offices requested a waiver of the requirement to conduct on-site Joint Reviews to discuss proposed modernization programs as set forth in the CIAP applications submitted by Indian Housing Authorities (IHAs). Each Field Office certified that the following conditions had been met:

1. The IHA's CIAP application was consistent with its Comprehensive Plan where required;

2. The IHA's CIAP application was complete and of acceptable quality;

3. An on-site review of the development was conducted during FY 1990, was fully documented and covered all of the items required by a Joint Review;

4. There were no work items in the FY 1991 application which were not covered by the FY 1990 on-site review;

5. The Joint Review Checklist was completed and covered all of the work items in the application; and

6. The material used to develop the waiver request is on file at the Field Office.

* On-site Joint Reviews were waived for the following IHAs: Blackfeet IHA, Ute Indian, Santee Sioux, Sisseton-Wahpeton, Southern Ute, Northern Cheyenne, Salish and Kootenai, Crow Tribal, Grand Portage, Sac and Fox,

Bois Forte, Minnesota Dakota, Lac Courte Oreilles, Sac and Fox of MO, Iowa Tribe of KS and NE, Poarch Creek, AVCP, Kodiak Island, Tlingit-Haida Regional, North Pacific Rim.

Note to Reader: The person to be contacted for additional information about the waiver-grant items numbered 17 and 18 in this listing is: Edward C. Whipple, Occupancy Division, Office of Management Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 708–0744.

17. *Regulation:* 24 CFR 913.107.

Project/Activity: Public housing projects owned and operated by the Housing Authority of LaSalle County, in LaSalle County, Illinois.

Nature of Requirement: 24 CFR 913.107 requires that the Total Tenant Payment required to be paid by public housing tenants be the greater of 30 percent of Monthly Adjusted Income, 10 percent of Monthly Income or, where, welfare benefits are determined on the basis of the family's actual housing costs, an amount equal to the portion of the grant designated for shelter and utilities.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Date Granted: July 3, 1991.

Reason Waived: To allow the Lasalle County Housing Authority to establish ceiling rents on the basis of the 1987 amendments to the United States Housing Act of 1937 which permits public housing agencies (PHAs), with the approval of the Secretary, to establish ceiling rents.

18. *Regulation:* 24 CFR 960.211(b)(2).

Project/Activity: Public housing projects owned and operated by the Chicago Housing Authority of Chicago, Illinois.

Nature of Requirement: 24 CFR 960.211(b)(2)(ii) limits the number of applicants without a Federal preference to be admitted before applicants with a Federal preference to 10 percent of the admissions in a year.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing

Date Granted: August 9, 1991.

Reason Waived: To allow the Chicago Housing Authority to exceed the 10 percent limitation set forth in 24 CFR 960.211. Section 501 of the National Affordable Housing Act of 1990 (NAHA), when implemented by regulation, will allow PHAs to pass over 30 percent of the families on their waiting lists with Federal preferences to house families without a Federal preference. The waiver will permit the Authority to achieve its objective of housing families with a broad range of incomes in two of its recently modernized projects.

Note to reader: The person to be contacted for additional information about the waiver-grant items numbered 19 and 20 in this listing is: Janice D. Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone: (202) 708–1800 .

19. *Regulation:* 24 CFR 968.210(f).

Project/Activity: Joint reviews of proposed modernization programs under the Comprehensive Improvement Assistance Program (CIAP). See attached list of housing agencies for which waivers have been approved.

Nature of Requirement: Requires that PHAs and HUD conduct an on-site review to discuss the proposed modernization program, as set forth in the application, and reach, tentative agreements on the PHAs' needs; the joint review includes an on-site inspection of the property and resolution of relevant issues, as prescribed by HUD.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Dates Granted: June 4–August 27, 1991.

Reason Waived: In order to maximize the use of existing staff, waivers of joint reviews were considered if the following conditions were met:

1. Application is consistent with its Comprehensive Plan for Modernization (CPM), where required;

2. Application is complete and of acceptable quality;

3. An on-site review of, the development was conducted during FY '90, was fully documented at the time of the on-site review and, at a minimum, covered all of the items covered by a joint review;

4. There are no items in the FY '91 application for the development, which were not covered by the FY '90 on-site review; and,

5. The joint review checklist on the FY '91 application is completed and covers all of the work items in the application for which the waiver is requested.

JOINT REVIEW WAIVERS GRANTED AS OF 8/27/91

Date of waiver approval	Housing authority	Project No.	Region
6/4/91	Hope, AR	AR 68–01	VI.
Do	Hope, AR	AR 68–02	Do.
Do	Kensett, AR	AR 146–01	Do.

JOINT REVIEW WAIVERS GRANTED AS OF 8/27/91—Continued

Date of waiver approval	Housing authority	Project No.	Region
Do	Wilson, AR	AR 54–01	Do.
Do	Wilson, AR	AR 54–02	Do.
6/6/91	Atchison, KS	KS 17–01	VII.
Do	Gaylord, KS	KS 51–01	Do.
Do	North Newton, KS.	KS 15–01	Do.
Do	Phillipsburg, KS.	KS 36–01	Do.
Do	Seneca, KS	KS 10–01	Do.
Do	Brookfield, MO.	MO 75–01	Do.
Do	Chillicothe, MO.	MO 65–01	Do.
Do	Mound City, MO.	MO 33–01	Do.
Do	Neosho, MO	MO 62–01	Do.
6/12/91	Cedartown, GA.	GA 25–01	IV.
Do	Blakely, GA	GA 114–04	Do.
Do	Morgantown, KY.	KY 41–01	Do.
Do	McCreary, KY	KY 81–01	Do.
Do	Maysville, KY	KY 17–04	Do.
Do	Madisonville, KY.	KY 07–01	Do.
Do	Hickman, KY	KY 37–02	Do.
Do	Hazard, KY	KY 24–03	Do.
Do	Danville, KY	KY 14–02	Do.
Do	Danville, KY	KY 14–01	Do.
Do	Cynthiana, KY	KY 21–02	Do.
Do	Cynthiana, KY	KY 21–01	Do.
Do	Berea, KY	KY 90–01	Do.
6/14/91	Grundy, TN	TN 92–04	Do.
Do	Troy, AL	AL 177–01	Do.
Do	Reform, AL	AL 66–02	Do.
Do	Atmore, AL	AL 154–02	Do.
Do	Abbeville, AL	AL 101–01	Do.
Do	Red Bay, AL	AL 51–03	Do.
Do	Tuscaloosa, AL.	AL 77–01	Do.
Do	Troy, AL	AL 177–02	Do.
Do	Enterprise, AL	AL 115–02	Do.
Do	Newton, AL	AL 142–01	Do.
Do	Newton, AL	AL 142–02	Do.
Do	Clayton, AL	AL 158–01	Do.
Do	Lanett, AL	AL 62–01	Do.
6/19/91	Ayden, NC	NC 82–01	Do.
Do	Durham, NC	NC 13–07	Do.
Do	Fayetteville, NC.	NC 9–01	Do.
Do	Fayetteville, NC.	NC 9–03	Do.
Do	Fayetteville, NC.	NC 9–09	Do.
Do	Farmville, NC	NC 76–01	Do.
6/19/91	Greenville, NC	NC 22–02	IV.
Do	High Point, NC.	NC 6–03	Do.
Do	High Point, NC.	NC 6–04	Do.
Do	Gastonia, NC	NC 57–01	Do.
Do	Goldsboro, NC.	NC 15–05	Do.
Do	Kinston, NC	NC 4–03	Do.
Do	Lumberton, NC.	NC 14–07	Do.
Do	Mid-East Regional, NC.	NC 87–01	Do.
Do	Monroe, NC	NC 65–01	Do.
Do	Morganton, NC.	NC 49–01	Do.
Do	Morganton, NC.	NC 49–02	Do.
Do	Morganton, NC.	NC 49–03	Do.
Do	New Bern, NC	NC 5–01	Do.

JOINT REVIEW WAIVERS GRANTED AS OF 8/27/91—Continued

Date of waiver approval	Housing authority	Project No.	Region
Do	New Bern, NC	NC 5-02	Do.
Do	New Bern, NC	NC 5-03	Do.
Do	New Bern, NC	NC 5-04	Do.
Do	Pembroke, NC	NC 114-01	Do.
Do	Pembroke, NC	NC 114-02	Do.
Do	Pembroke, NC	NC 114-03	Do.
Do	Plymouth, NC	NC 78-01	Do.
Do	Raleigh, NC	NC 2-05	Do.
Do	Raleigh, NC	NC 2-06	Do.
Do	Raleigh, NC	NC 2-12	Do.
Do	Roxboro, NC	NC 60-01	Do.
Do	Roxboro, NC	NC 60-03	Do.
Do	Shelby, NC	NC 34-01	Do.
Do	Thomasville, NC.	NC 71-04	Do.
Do	Whiteville, NC	NC 37-01	Do.
Do	Winston-Salem, NC.	NC 12-01	Do.
Do	Winston-Salem, NC.	NC 12-02	Do.
Do	Winston-Salem, NC.	NC 12-03	Do.
Do	Winston-Salem, NC.	NC 12-04	Do.
Do	Winston-Salem, NC.	NC 12-05	Do.
Do	Winston-Salem, NC.	NC 12-06	Do.
Do	Winston-Salem, NC.	NC 12-07	Do.
7/02/91	Albuquerque, NM.	NM 1-03	VI.
Do	Bernalillo County, NM.	NM 57-01	Do.
Do	Taos Town, NM.	NM 11-01	Do.
Do	Taos Town, NM.	NM 11-02	Do.
Do	Truth Or Consequences, NM.	NM 20-01	Do.
Do	Truth Or Consequences, NM.	NM 20-02	Do.
Do	Bayard, NM	NM 24-01	Do.
Do	Bayard, NM	NM 24-02	Do.
Do	Bernalillo County, NM.		
Do	Santa Fe County, NM.	NM 50-01	Do.
Do	Santa Fe County, NM.	NM 50-02	Do.
Do	Santa Fe County, NM.	NM 50-03	Do.
Do	Town, NM	NM 35-01	Do.
Do	Clayton, NM	NM 55-01	Do.
Do	Region VI, NM	NM 63-01	Do.
Do	Springer, NM	NM 22-01	Do.
Do	Springer, NM	NM 22-02	Do.
Do	Alamogordo, NM.	NM 4-01	Do.
Do	Alamogordo, NM.	NM 4-02	Do.
Do	Lordsburg, NM.	NM 34-01	Do.
Do	Raton, NM	NM 8-03	Do.
Do	Raton, NM	NM 8-02	Do.
Do	Raton, NM	NM 8-01	Do.
Do	Albuquerque, NM.	NM 1-04	Do.
Do	Albuquerque, NM.	NM 1-05	Do.
Do	Albuquerque, NM.	NM 1-11	Do.

JOINT REVIEW WAIVERS GRANTED AS OF 8/27/91—Continued

Date of waiver approval	Housing authority	Project No.	Region
Do	Albuquerque, NM.	NM 1-12	Do.
Do	Albuquerque, NM.	NM 1-13	Do.
Do	Albuquerque, NM.	NM 1-15	Do.
Do	Albuquerque, NM.	NM 1-16	Do.
Do	Albuquerque, NM.	NM 1-17	Do.
Do	Albuquerque, NM.	NM 1-18	Do.
Do	Albuquerque, NM.	NM 1-19	Do.
Do	Albuquerque, NM.	NM 1-20	Do.
Do	Albuquerque, NM.	NM 1-21	Do.
Do	Albuquerque, NM.	NM 1-14	Do.
7/09/91	Yuma County, AZ.	AZ 13-01	IX.
Do	Yuma County, AZ.	AZ 13-02	Do.
Do	Pinal County, AZ.	AZ 10-02	Do.
Do	Pinal County, AZ.	AZ 10-03	Do.
7/10/91	Cheyenne Wells, CO.	CO 26-01	VIII.
Do	Pueblo, CO	CO 2-05	Do.
Do	Wray, CO	CO 22-01	Do.
Do	Burleigh, ND	ND 21-01	Do.
Do	Webster, SD	SD 40-01	Do.
Do	Casper, WY	WY 4-05	Do.
Do	Lusk, WY	WY 8-01	Do.
Do	San Mateo County, CA.	CA 14-03	IX.
7/11/91	Harrison, OH	OH 67-01	V.
Do	Wayne, OH	OH 36-06	Do.
Do	Livonia, MI	MI 55-01	Do.
7/17/91	Dyersburg, TN	TN 21-03	IV.
Do	Jackson, TN	TN 7-06	Do.
Do	Jackson, TN	TN 7-07	Do.
Do	Cookeville, TN	TN 33-01	Do.
Do	Cookeville, TN	TN 33-07	Do.
Do	Cookeville, TN	TN 33-08	Do.
Do	Cookeville, TN	TN 33-09	Do.
Do	Cookeville, TN	TN 33-10	Do.
Do	Sparta, TN	TN 44-04	Do.
Do	Jackson, TN	TN 7-03	Do.
Do	Martin, TN	TN 69-02	Do.
Do	Cookeville, TN	TN 33-14	Do.
Do	Cookeville, TN	TN 33-12	Do.
Do	McMinnville, TN.	TN 53-07	Do.
Do	Sparta, TN	TN 44-02	Do.
Do	Sparta, TN	TN 44-03	Do.
Do	Cookeville, TN	TN 33-13	Do.
Do	Martin, TN	TN 69-03	Do.
Do	Martin, TN	TN 69-04	Do.
Do	Martin, TN	TN 69-05	Do.
Do	Martin, TN	TN 69-06	Do.
Do	Martin, TN	TN 69-07	Do.
Do	McMinnville, TN.	TN 53-01	Do.
Do	McMinnville, TN.	TN 53-02	Do.
Do	McMinnville, TN.	TN 53-05	Do.
Do	Murfreesboro, TN.	TN 20-03	Do.
Do	Dyersburg, TN	TN 21-01	Do.
Do	Martin, TN	TN 69-01	Do.
Do	Brownsville, TN.	TN 13-01	Do.

JOINT REVIEW WAIVERS GRANTED AS OF 8/27/91—Continued

Date of waiver approval	Housing authority	Project No.	Region
Do	Brownsville, TN.	TN 13-02	Do.
Do	Brownsville, TN.	TN 13-03	Do.
Do	Brownsville, TN.	TN 13-06	Do.
Do	Clarksville, TN	TN 10-04	Do.
Do	Lexington, TN	TN 40-03	Do.
Do	MDHA Nashville, TN.	TN 5-21	Do.
Do	Lebanon, TN	TN 17-03	Do.
Do	Winchester, TN.	TN 7-01	Do.
Do	Covington, TN	TN 41-01	Do.
Do	Covington, TN	TN 41-03	Do.
Do	Covington, TN	TN 41-04	Do.
Do	Covington, TN	TN 41-05	Do.
Do	Covington, TN	TN 41-06	Do.
Do	Dyersburg, TN	TN 21-06	Do.
Do	Cookeville, TN	TN 33-11	Do.
Do	Dyersburg, TN	TN 21-05	Do.
Do	Dyersburg, TN	TN 21-07	Do.
Do	Dyersburg, TN	TN 21-08	Do.
Do	Dyersburg, TN	TN 21-09	Do.
Do	Dyersburg, TN	TN 21-12	Do.
Do	Mendocino County, CA.	CA 84-02	IX.
7/19/91	Saline, IL	IL 43-01	V.
Do	Saline, IL	IL 43-12	Do.
Do	Alexander County, IL.	IL 7-02	Do.
Do	Decatur, IL	IL 12-03	Do.
Do	Decatur, IL	IL 12-04	Do.
Do	Fulton County, IL.	IL 84-02	Do.
Do	Jackson County, IL.	IL 53-01	Do.
Do	Jackson County, IL.	IL 53-14	Do.
Do	Logan County, IL.	IL 40-01	Do.
Do	Massac County, IL.	IL 41-01	Do.
Do	Menard County, IL.	IL 28-01	Do.
Do	Menard County, IL.	IL 28-09	Do.
Do	Warren County, IL.	IL 91-02	Do.
7/23/91	Alaska State, AK.	AK 1-32	X.
8/27/91	Clay Center, KS.	KS 31-01	VII.

20. *Regulation:* 24 CFR 968.210(g)(2).

Project/Activity: Limitation on number of stages of funding for the comprehensive modernization under the Comprehensive Improvement Assistance Program (CIAP) for the developments identified on the attached listing.

Nature of Requirement: Requires that the number of stages of funding for the comprehensive modernization of a development not exceed five stages.

Granted by: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing.

Dates Granted: See attached listing.

Reasan Waived: One additional year of funding will complete the comprehensive modernization of the developments.

WAIVERS OF LIMITATION ON THE NUMBER OF FUNDING STAGES UNDER MODERNIZATION

Region	Housing authority	Project No.	Date of waiver approval
II	Newark, NJ	NJ 02-01	8/14/91.
Do	Freeport, NY	NY 23-01	8/26/91.
Do	do	NY 23-03	Do.
Do	do	NY 23-04	Do.
Do	Hempstead, NY.	NY 46-1 thru NY 46-12	Do.
Do	Long Beach, NY.	NY 50-01	Do.
Do	Oyster Bay, NY	NY 55-01	Do.
Do	Ramapo, NY	NY 84-01	Do.
Do	Ramapo, NY	NY 84-02	Do.
Do	Spring Valley, NY.	NY 56-01	Do.
Do	Spring Valley, NY.	NY 56-02	Do.
Do	Spring Valley, NY.	NY 56-03	Do.
Do	Tarrytown, NY	NY 13-01	Do.
Do	Tarrytown, NY	NY 13-02	Do.
Do	White Plains, NY.	NY 42-01	Do.
Do	White Plains, NY.	NY 42-03	Do.
Do	Kingston, NY	NY 45-01	Do.

Note to reader: The person to be contacted for additional information about the waiver-grant items numbered 21 through 35 in this listing is: John Comerford, Director, Financial Management Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, phone (202) 708-1872.

21. *Regulation:* 24 CFR 990.104.
Project/Activity: Lowell, Mass. Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: June 17, 1991.
Reason Waived: To allow additional subsidy for units removed from the rent roll to promote the PHA's Narcotics Enforcement Program.

22. *Regulation:* 24 CFR 990.104.
Project/Activity: Conway, Arkansas Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 9, 1991.
Reason Waived: To allow additional subsidy for units removed from the rent roll to promote the PHA's anti-drug program.

23. *Regulation:* 24 CFR 990.104.
Project/Activity: Eufaula, AL Housing Authority.
Nature af Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 9, 1991.
Reason Waived: To allow additional subsidy for one unit used in support of an anti-drug program.

24. *Regulation:* 24 CFR 990.104.
Project/Activity: North Bend, Oregon Housing Authority.
Nature af Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 9, 1991.
Reasan Waived: To allow additional subsidy for units removed from the rent roll to house a child care and parent-child center program.

25. *Regulatian:* 24 CFR 990.104.
Project/Activity: Oklahoma City, Oklahoma Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 19, 1991.
Reasan Waived: To allow additional subsidy for units removed from the rent roll to promote the PHA's economic self-sufficiency and anti-drug activities.

26. *Regulation:* 24 CFR 990.104.
Project/Activity: Decatur, IL, Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units lost when dwelling units are reconfigured to combine two or more units to create a single larger dwelling unit.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 24, 1991.
Reason Waived: The Housing and Community Development Act of 1987 directs that 24 CFR part 990 be changed to preclude reduction of subsidy eligibility due to such reconfigurations. This waiver was granted in order to comply with Congressional intent pending publication of a final rule implementing this change.

27. *Regulatian:* 24 CFR 990.104.
Project/Activity: Seattle, WA Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units lost when dwelling units are reconfigured to combine two or more units to create a single larger dwelling unit.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 26, 1991.
Reasan Waived: The Housing and Community Development Act of 1987 directs that 24 CFR part 990 be changed to preclude reduction of subsidy eligibility due to such reconfigurations. This waiver was granted in order to comply with Congressional intent pending publication of a final rule implementing this change.

28. *Regulatian:* 24 CFR 990.104.
Project/Activity: Hope, Arkansas Housing Authority.
Nature af Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 30, 1991.
Reasan Waived: To allow additional subsidy for units removed from the rent roll to promote the PHA's anti-drug program.

29. *Regulation:* 24 CFR 990.104.
Project/Activity: King County, Washington Housing Authority.
Nature of Requirement: The operating subsidy calculation excludes funding for units removed from the dwelling rental inventory.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: August 14, 1991.
Reason Waived: To allow additional subsidy for units removed from the rent roll to promote the PHA's economic self-sufficiency program.

30. *Regulation:* 24 CFR 990.109(b)(3)(iv).
Project/Activity: Algoma, Wisconsin Housing Authority.
Nature of Requirement: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97%.
Granted by: Joseph G. Schiff, Assistant Secretary.
Date Granted: July 2, 1991.
Reason Waived: The PHA is a small agency with 40 units of elderly housing. Despite aggressive marketing, recent modernization, and allowing single non-elderly tenants to apply, only 21 of the units are currently rented. PHA was allowed to use goal of 53% for FY 1991. The HUD Field Office will monitor the occupancy level to see if the recently completed modernization program will result in increased occupancy.

31. *Regulation:* 24 CFR 990.109(b)(3)(iv).

Project/Activity: Tracy, MN, Housing and Redevelopment Authority.

Nature of Requirement: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97%.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: July 10, 1991.

Reason Waived: The PHA is a small agency with 60 units of elderly housing. It has been hampered in its efforts to reduce vacancies during the past seven years by competition from Farmer's Home Administration projects and relatively low private market rentals available in the area. PHA was allowed to use goal of 73% for FY 1991 and will work with the HUD Field Office to develop a plan to resolve the problem.

32. *Regulation:* 24 CFR 990.109(b)(3)(iv).

Project/Activity: Newman Grove, NE Housing Authority.

Nature of Requirement: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97%.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: July 24, 1991.

Reason Waived: The PHA is a small agency with 20 units of elderly housing. It has been hampered in its efforts to reduce vacancies by competition from a private rental complex and a nursing home. PHA was allowed to use goal of 40% for FY 1991 and will work with the HUD Field Office to develop a plan to resolve the problem.

33. *Regulation:* 24 CFR 990.118(a)(2)(ii).

Project/Activity: Perth Amboy, NJ Housing Authority.

Nature of Requirement: The regulation limits conditions under which a Comprehensive Occupancy Plan can be submitted.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: July 24, 1991.

Reason Waived: The PHA didn't submit a Comprehensive Occupancy Plan when first eligible, but subsequently there have been substantial management changes including a new Board, Executive Director, fee accountant, and attorney. Five year Plan allowed with goal of 92% for FY 1991. The PHA was also allowed to calculate eligibility for FY 1989 and FY 1990 using 92% and 93% respectively.

34. *Regulation:* 24 CFR 990.118(a)(2)(ii).

Project/Activity: Housing Authority of the Birmingham District.

Nature of Requirement: The regulation limits conditions under which a Comprehensive Occupancy Plan can be submitted.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: August 1, 1991.

Reason Waived: The PHA didn't submit a Comprehensive Occupancy Plan when first eligible but its management has changed substantially and it has recently developed a Memorandum of Agreement for HUD's approval. Two year plan allowed.

35. *Regulation:* 24 CFR 990.109(b)(3)(iv).

Project/Activity: Gilbert, MN Housing and Redevelopment Authority.

Nature of Requirement: The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan (COP) to use a projected occupancy percentage of 97%.

Granted by: Joseph G. Schiff, Assistant Secretary.

Date Granted: August 29, 1991.

Reason Waived: The PHA is a small agency with 49 units of elderly housing. It has been hampered in its efforts to reduce vacancies by local economic dislocations and loss of population. PHA was allowed to use goal of 82% for FY 1991 and will work with the HUD Field Office to develop a plan to resolve the problem.

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Monday
October 28, 1991

Part V

Equal Employment Opportunity Commission

29 CFR Part 1641

Department of Labor

Office of Federal Contract Compliance Programs
41 CFR Part 60–742

Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts; Proposed Rules

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1641

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–742

Procedures for Complaints/Charges of Employment Discrimination Based on Disability Filed Against Employers Holding Government Contracts or Subcontracts

AGENCIES: Equal Employment Opportunity Commission; and Office of Federal Contract Compliance Programs, Labor.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: On July 26, 1990, the Americans with Disabilities Act of 1990 (ADA) was signed into law. Section 107(b) of the ADA requires that the Equal Employment Opportunity Commission (EEOC or Commission), the Attorney General, and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) issue coordination regulations no later than January 26, 1992 setting forth procedures governing the processing of complaints that fall within the overlapping jurisdiction of both title I of the ADA and sections 503 and 504 of the Rehabilitation Act to ensure that such complaints are dealt with in a manner that avoids duplication of effort and prevents the imposition of inconsistent or conflicting standards. Pursuant to this mandate, the Commission and OFCCP are publishing a proposed joint rule implementing section 107(b) as it pertains to title I of the ADA and section 503 of the Rehabilitation Act of 1973. A proposed joint rule developed by EEOC and the Department of Justice implementing section 107(b) as it pertains to title I of the ADA and section 504 of the Rehabilitation Act will be published separately.

DATES: To be assured of consideration, comments must be in writing and must be received on or before November 27, 1991. Comments that are received after the closing date will be considered to the extent practicable.

ADDRESSES: Written comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507.

As a convenience to commenters, the Executive Secretariat will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat Staff at (202) 663–4078. (This is not a toll-free number.)

Comments received will be available for public inspection in the EEOC Library, room 6502, by appointment only, from 9 a.m. to 5 p.m. Monday through Friday except legal holidays, from November 12, 1991 until the Commission and OFCCP publish the rule in final form. Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule an appointment, call (202) 663–4630 (voice), (202) 663–4630 (TDD).

Copies of this notice of proposed rulemaking are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio-tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 or 663–4398 (voice) or (202) 663–4399 (TDD).

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Thornton, Deputy Legal Counsel, Equal Employment Opportunity Commission, (202) 663–4638 (voice), (202) 663–7026 (TDD); or Annie Blackwell, Director of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, (202) 523–9430 (voice).

SUPPLEMENTARY INFORMATION: Title I of the ADA prohibits discrimination against qualified individuals with disabilities in all aspects of employment. 42 U.S.C. 12101 *et seq.* title I of the ADA becomes effective on July 26, 1992, with respect to employers with 25 or more employees. On July 26, 1994, this coverage is extended to employers with 15 or more employees. EEOC is authorized to investigate and attempt to resolve charges of employment discrimination under the ADA.

Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. 793, requires government contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in their employment of qualified individuals with a handicap. OFCCP is authorized to investigate and attempt to resolve complaints of employment discrimination under section 503.

The substantive prohibitions and coverage of title I of the ADA overlap to a significant extent with the substantive prohibitions and coverage of section 503. There is, therefore, a potential for the imposition of inconsistent or conflicting legal standards, and duplicative efforts by EEOC and OFCCP in their processing of complaints under these laws.

Pursuant to the mandate of section 107(b) of the ADA, OFCCP and EEOC are therefore promulgating this proposed joint rule to establish procedures for coordinating the processing of complaints that fall within the overlapping jurisdiction of these statutes. A proposed joint rule developed by EEOC and the Department of Justice implementing section 107(b) as it pertains to title I of the ADA and section 504 of the Rehabilitation Act will be published separately.

OFCCP Processing

In brief, complaints filed with OFCCP under section 503 of the Rehabilitation Act will also be considered charges, simultaneously dual filed under the ADA, whenever the complaints also fall within the jurisdiction of the ADA. Joint filing of complaints/charges received by OFCCP under both section 503 and the ADA ensures that the aggrieved individual's rights under the ADA are preserved, including the private right to file a lawsuit.

Acting as EEOC's agent and applying consistent legal standards, OFCCP will process and resolve the ADA component of the section 503 complaint/ADA charge, except where the complaint/charge raises an issue designated to be a Priority List issue, defined as a limited number of controversial topics on which there is not yet definitive guidance as to EEOC's position, or where the complaint/charge also raises an allegation of discrimination on the basis of race, color, religion, sex, national origin or age. OFCCP will refer complaints/charges raising allegations of discrimination on the basis of race, color, religion, sex, national origin or age in their entirety to EEOC, provided that such complaints/charges do not include allegations of violation of affirmative action requirements under section 503. In such a situation, OFCCP will bifurcate the charges and refer only the allegations of discrimination on the basis of race, color, religion, sex, national origin or age. OFCCP will refer complaints/charges raising Priority List issues to EEOC for processing and final resolution. OFCCP will also refer to

EEOC for litigation review under the ADA any complaint/charge where a violation has been found, conciliation fails, and OFCCP declines to pursue administrative enforcement.

EEOC Processing

In brief, EEOC will refer ADA charges that are also covered by section 503 to OFCCP under two circumstances. First, ADA cause charges that also fall within the jurisdiction of section 503 and that the Commission has investigated but declines to litigate after the failure of conciliation will be referred to OFCCP for review of the file and any administrative action deemed appropriate. Second, ADA charges filed with EEOC, in which both allegations of discrimination under the ADA and violation of affirmative action requirements under section 503 are made, will be referred to their entirety to OFCCP for processing and resolution under section 503 and the ADA, unless the charges also include an allegation of discrimination on the basis of race, color, religion, sex, national origin or age, or include allegations involving Priority List issues, or the charges are otherwise deemed important to EEOC's enforcement of the ADA. In these three situations, EEOC will bifurcate the charges and retain the ADA component of the charges (and when applicable, the allegations pertaining to discrimination on the basis of race, color, religion, sex, national origin or age), referring the section 503 affirmative action component of the charges to OFCCP for processing and resolution under section 503.

For the purposes stated in the preceding paragraph, ADA charges also falling within the jurisdiction of section 503 will be considered complaints, simultaneously dual filed, under section 503.

Under the terms of the proposed rule, DOL and EEOC will review the final rule twenty-four months after the rule becomes effective to determine whether changes are necessary or desirable, and whether the rule should be continued.

The proposed rule is not a "major" rule as defined by section 1(b) of Executive Order 12291. The proposed rule simply coordinates EEOC and OFCCP investigation and enforcement of section 503 and ADA prohibitions of discrimination in employment on the basis of disability, and will not have a major or significant effect on the economy.

When adopted as final this report will be added to the rules of the Department of Labor at 41 CFR chapter 60 as a new part 60–742, and to the rules of the Equal Employment Opportunity Commission at 29 CFR chapter XIV as a new part 1641. Since the parts are identical, the text of the proposed joint rule is set out only once at the end of the joint preamble. The part heading, table of contents, and authority citation for the parts as they will appear in each CFR title follow the text of the proposed joint rule.

Text of Proposed Joint Rule

The text of the proposed joint rule, as adopted by the agencies specified in this document, appears below:

PART —PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

Sec.

§_____.1 Purpose and application.

The purpose of this part is to implement procedures for processing and resolving complaints/charges of employment discrimination filed against employers holding government contracts or subcontracts, where the complaints/charges fall within the jurisdiction of both section 503 of the Rehabilitation Act of 1973 (hereinafter "section 503") and the Americans with Disabilities Act of 1990 (hereinafter "ADA"). The promulgation of this part is required pursuant to section 107(d) of the ADA. Nothing in this part should be deemed to affect the Department of Labor's (hereinafter "DOL") Office of Federal Contract Compliance Programs' (hereinafter "OFCCP") conduct of compliance reviews of government contracts and subcontractors under section 503. Nothing in this part is intended to create rights in any person.

§_____.2 Exchange of information.

EEOC and OFCCP shall share any information relating to the employment policies and practices of employers holding government contracts or subcontracts that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, and complaints, charges, investigative files, and compliance review reports and files.

§_____.3 Confidentiality.

When the Department of Labor receives information obtained by EEOC, the Department of Labor shall observe the confidentiality requirements of sections 706(b) and 709(e) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), as incorporated by section 107(a) of the ADA, as would EEOC, except in cases where DOL receives the same information from a source independent of EEOC. Questions concerning confidentiality shall be directed to the Associate Legal Counsel for Legal Services, Office of Legal Counsel of EEOC.

§_____.4 Standards for investigations, hearings, determinations and other proceedings.

In any OFCCP investigation, hearing, determination or other proceeding involving a complaint/charge that is dual filed under both section 503 and the ADA, OFCCP will utilize legal standards consistent with those applied under the ADA in determining whether an employer has engaged in an unlawful employment practice. EEOC and OFCCP will coordinate the arrangement of any necessary training regarding the substantive or procedural provisions of the ADA, and of EEOC's implementing regulations (29 CFR part 1630; 29 CFR part 1601).

§_____.5 Processing of complaints filed with OFCCP.

(a) Complaints of employment discrimination filed with OFCCP will be considered charges, simultaneously dual filed, under the ADA whenever the complaints also fall within the jurisdiction of the ADA. OFCCP will act as EEOC's agent for the sole purposes of receiving, investigating and processing the ADA charge component of a section 503 complaint dual filed under the ADA, except as otherwise set forth in paragraph (e) of this section.

(b) Within ten days of receipt of a complaint of employment discrimination under section 503 (charge under the ADA), OFCCP shall notify the contractor/respondent that it has received a complaint of employment discrimination under section 503 (charge under the ADA). This notification shall state the date, place and circumstances of the alleged unlawful employment practice.

(c) Pursuant to agreements between EEOC and state and local agencies, the deferral period for section 503

complaints/ADA charges dual filed with OFCCP will be waived.

(d) OFCCP shall transfer promptly to EEOC a complaint of employment discrimination over which it does not have jurisdiction but over which EEOC may have jurisdiction. At the same time, OFCCP shall notify the complainant and the contractor/respondent of the transfer, the reason for the transfer, the location of the EEOC office to which the complaint was transferred and that the date OFCCP received the complaint will be deemed the date it was received by EEOC.

(e) OFCCP shall investigate and process as set forth below all section 503 complaints/ADA charges dual filed with OFCCP, except for those raising Priority List issues, as defined at § _____.8 of this part, and those which also include allegations of discrimination on the basis of race, color, religion, sex, national origin or age. Section 503 complaints/ADA charges raising Priority List issues will be referred by OFCCP to EEOC for investigation, processing and final resolution. Complaints/charges raising allegations of discrimination on the basis of race, color, religion, sex, national origin or age will be referred in their entirety by OFCCP to EEOC for investigation, processing and final resolution, provided that such complaints/charges do not include allegations of violation of affirmative action requirements under section 503. In such a situation, OFCCP will bifurcate the charges and refer only the allegations of discrimination on the basis of race, color, religion, sex, national origin or age.

(1) *No cause section 503 complaints/ADA charges.* If the OFCCP investigation of the section 503 complaint/ADA charge results in a finding of no violation under section 503 (no cause under the ADA). OFCCP will issue a determination of no violation/no cause under both section 503 and the ADA, and issue a right-to-sue letter under the ADA, closing the complaint/charge.

(2) *Cause Section 503 complaints/ADA charges*—(i) *Successful conciliation.* If the OFCCP investigation of the section 503 complaint/ADA charge results in a finding of violation under section 503 (cause under the ADA), OFCCP will issue a finding of violation/cause under both section 503 and ADA. OFCCP shall attempt conciliation to obtain appropriate make whole relief for the complainant (charging party), consistent with EEOC's remedies policy. (Copies of this policy can be obtained from Office of Communications and Legislative Affairs, EEOC, 801 L Street, NW., Washington, DC 20507.) If conciliation is successful and the contractor/respondent agrees to provide make whole relief, the section 503 complaint/ADA charge will be closed and the conciliation agreement will state that the complainant (charging party) agrees to waive the right to pursue the subject issues further under section 503 and/or the ADA.

(ii) *Unsuccessful conciliation.* All section 503 complaints/ADA charges not successfully conciliated will be considered for OFCCP administrative litigation under section 503, consistent with OFCCP's usual procedures. (See 41 CFR part 60–741, subpart B). If OFCCP pursues administrative litigation under section 503, OFCCP will close the complaint/charge at the conclusion of the litigation process, unless the complaint/charge is dismissed on procedural grounds or because of a lack of jurisdiction, or the contractor/respondent fails to comply with an order to provide make whole relief. In these three cases, OFCCP will close the complaint/charge and issue a notice of right-to-sue. If administrative enforcement is not pursued, OFCCP will close the section 503 component of the complaint/charge and refer the ADA charge component to EEOC for litigation review under the ADA. If EEOC declines to litigate, EEOC will close the ADA charge and issue a notice of right-to-sue.

(f) Consistent with the ADA procedures set forth at 29 CFR 1601.28, OFCCP shall promptly issue upon request a notice of right-to-sue after 180 days from the date the complaint/charge was filed. Issuance of a notice of right-to-sue shall terminate further OFCCP processing of any complaint/charge unless it is determined at that time or at a later time that it would effectuate the purposes of section 503 and/or the ADA to further process the complaint/charge.

(g) If an individual who has already filed a section 503 complaint with OFCCP subsequently attempts to file or files an ADA charge with EEOC covering the same facts and issues, EEOC will decline to accept the charge (or, alternatively, dismiss a charge that has been filed) on the grounds that such charge has already been filed under the ADA, simultaneous with the filing of the earlier section 503 complaint, and will be processed by OFCCP in accordance with the provisions of this section.

§ _____.6 Processing of charges filed with EEOC.

(a) *ADA cause charges falling within the jurisdiction of section 503 that the Commission has declined to litigate.* ADA cause charges that also fall within the jurisdiction of section 503 and that the Commission has declined to litigate will be referred to OFCCP for review of the file and any administrative action deemed appropriate under section 503. Such charges will be considered to be complaints, simultaneously dual filed under section 503, solely for the purposes of OFCCP review and administrative action described in this paragraph.

(b) *ADA charges which also include allegations of failure to comply with Section 503 affirmative action requirements.* ADA charges filed with EEOC, in which both allegations of discrimination under the ADA and violation of affirmative action requirements under section 503 are made, will be referred in their entirety to OFCCP for processing and resolution under Section 503 and the ADA, unless the charges also include an allegation of discrimination on the basis of race, color, religion, sex, national origin or age, or include allegations involving Priority List issues, or the charges are otherwise deemed important to EEOC's enforcement of the ADA. In such situations, EEOC will bifurcate the charges and retain the ADA component of the charges (and when applicable, the allegations pertaining to discrimination on the basis of race, color, religion, sex, national origin or age), referring the section 503 affirmative action component of the charges to OFCCP for processing and resolution under section 503. ADA charges which raise both discrimination issues under the ADA and section 503 affirmative action issues will be considered complaints, simultaneously dual filed under section 503, solely for the purposes of referral to OFCCP for processing, as described in this paragraph.

(c) EEOC shall transfer promptly to OFCCP a charge of disability-related employment discrimination over which it does not have jurisdiction but over which OFCCP may have jurisdiction. At the same time, EEOC shall notify the charging party and the contractor/respondent of the transfer, the reason for the transfer, the location of the OFCCP office to which the charge was transferred and that the date EEOC received the charge will be deemed the date it was received by OFCCP.

(d) Except as otherwise stated in paragraphs (a) and (b) of this section, individuals alleging violations of laws enforced by DOL and over which EEOC has no jurisdiction will be referred to DOL to file a complaint.

(e) If an individual who has already filed an ADA charge with EEOC subsequently attempts to file or files a section 503 complaint with OFCCP

covering the same facts and issues, OFCCP will accept the complaint, but will adopt as a disposition of the complaint EEOC's resolution of the ADA charge.

§_____.7 Review of this part.

This part shall be reviewed by the Chairman of the EEOC and the Director of OFCCP twenty-four months after [INSERT EFFECTIVE DATE OF FINAL RULE] to determine whether changes to the part are necessary or desirable, and whether the part should remain in effect.

§_____.8 Definitions.

As used in this part, the term:

ADA refers to Title I of Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

Affirmative action requirements refers to affirmative action requirements required by DOL pursuant to section 503 of the Rehabilitation Act of 1973, that go beyond the nondiscrimination requirements imposed by the ADA.

Chairman of the EEOC refers to the Chairman of the U.S. Equal Employment Opportunity Commission, or his or her designee.

Complaint/Charge means a section 503 complaint/ADA charge. The terms are used interchangeably.

Director of the Office of Federal Contract Compliance Programs refers to that individual or his or her designee.

DOL means the U.S. Department of Labor, and where appropriate, any of its headquarters or regional offices.

EEOC means the U.S. Equal Employment Opportunity Commission and, where appropriate, any of its headquarters, district, area, local, or field offices.

Government means the government of the United States of America.

Priority List refers to a document listing a limited number of controversial topics under the ADA on which there is not yet definitive guidance setting forth EEOC's position. The Priority List will be jointly developed and periodically reviewed by EEOC and DOL. Any policy documents involving Priority List issues will be coordinated between DOL and EEOC pursuant to Executive Order 12067 (3 CFR, 1978 Comp., p. 206) prior to final approval by EEOC.

OFCCP means the Office of Federal Contract Compliance Programs, and where appropriate, any of its regional or district offices.

Section 503 refers to section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793).

Section 503 complaint/ADA charge refers to a complaint that has been filed with OFCCP under section 503 of the Rehabilitation Act, and has been deemed to be simultaneously dual filed with EEOC under the ADA.

Proposed Adoption of the Joint Rule

The agency specific proposed adoption of the proposed joint rule, which appears at the end of the joint preamble, appears below:

TITLE 29—LABOR

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1641

List of Subjects in 29 CFR Part 1641

Administrative practice and procedure, Americans with disabilities, Equal employment opportunity, Government contracts.

Accordingly, title 29, chapter XIV of the Code of Federal Regulations is proposed to be amended as set forth below.

Signed at Washington, DC this 23rd day of October, 1991.

For the Commission:

Evan J. Kemp, Jr.,

Chairman.

Part 1641 is added to chapter XIV to read as set forth at the end of the joint preamble.

PART 1641—PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

Sec.

Authority: 42 U.S.C. 12117(b).

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

DEPARTMENT OF LABOR

41 CFR Part 60–742

List of Subjects in 41 CFR Part 60–742

Administrative practice and procedure, Americans with disabilities, Equal employment opportunity, Government contracts.

Accordingly, title 41, chapter 60 of the Code of Federal Regulations is proposed to be amended as set forth below.

Signed at Washington, DC this 22nd day of October, 1991.

For the Department:

Lynn Martin,

Secretary of Labor.

Cari M. Dominguez,

Assistant Secretary for Employment Standards.

Part 60–742 is added to chapter 60 to read as set forth at the end of the joint preamble.

PART 60–742—PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

Sec.

Authority: 42 U.S.C. 12117(b).

[FR Doc. 91–25866 Filed 10–25–91; 8:45 am]

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Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Public and Indian Housing Youth Sports Program; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public And Indian Housing

[Docket No. N-91-3294; FR-3060-N-01]

Public and Indian Housing Youth Sports Program; Notice of Funding Availability

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

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces HUD's FY 1991 funding of $7,500,000 for the Youth Sports Program (YSP) to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing projects. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, and application processing, including how to apply and how selections will be made.

DATES: Application is due on or before January 23, 1992.

FOR FURTHER INFORMATION CONTACT: Jose Marquez, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197 or 708-3502. A telecommunications device for deaf persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577-0140. The public reporting burden for each of these collections of information is estimated to include the time for reviewing and instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Information on the estimated public reporting burden is provided as follows:

Section of NOFA affected	Number of respondents	Number of respondents per response	Total annual responses	Hours per response	Total hours
III (entire)	500	1	500	24	12,000
Total Annual Reporting Burden					12,000

I. Purpose and Substantive Description

(a) Authority

This program is authorized by section 520 of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625). Implementing regulations for the Youth Sports Program are being proposed by HUD and will be promulgated through regular notice and comment rulemaking. This NOFA is being issued in conformity with the statutory requirements before the final rule is in place in order to make FY 1991 funding availability more timely.

(b) Allocation Amounts

Section 520(k) of NAHA provides that five percent of any funding appropriated for the Drug Elimination Program shall be available for Youth Sports Program grants. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1991 ("the 1991 Appropriations Act"), approved November 5, 1990, Public Law 101-507, appropriated $150 million for the Drug Elimination Program in FY 1991. Accordingly, $7.5 million is the amount available for the Youth Sports Program this fiscal year. Program funds are to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing projects.

Because of the limited amount of funding appropriated for this program, and to ensure that the program is implemented on a broad, nationwide basis, each applicant may submit only one application. The maximum annual Youth Sports grant amount per applicant is $125,000. As more fully explained below, applicants must supplement grant funds with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

The Department's FY 1992 appropriations, currently in H.R. 2519 (102d Cong., 1st Sess.), includes funding for Youth Sports. If this bill is enacted, the Department expects to make FY 1992 Youth Sports funds available under the same terms as those set forth in this NOFA. If the timing permits, the Department may publish a **Federal Register** notice for the FY 1992 funds that applies the terms of this NOFA to them, combines the application process for the FY 1991 and FY 1992 funds, and if necessary, extends the application due date to provide at least 30 days after the FY 1992 **Federal Register** notice to submit applications.

(c) Eligibility

(1) Eligible Applicants

Funding for this program in FY 1991 is limited to PHAs and IHAs. Although section 520 of NAHA lists seven categories of entities qualified to receive grants (States; units of general local government; local park and recreation districts and agencies; public housing agencies (PHAs); nonprofit organizations providing youth sports services programs; Indian tribes; and Indian housing authorities (IHAs)), the 1991 Appropriations Act, passed and effective several weeks before NAHA, limited the funding for the Drug Elimination Program to PHAs and IHAs only. Since the funding of the Youth Sports Program is dependent on the appropriation for the Drug Elimination Program, the limitations that apply to Drug Elimination affect Youth Sports as well. Therefore, for FY 1991, the first year of Youth Sports funding, only PHAs and IHAs are eligible applicants.

In designing an activity for funding, PHA and IHA applicants shall consult with RMCs/RCs where they exist, and with other entities that would be eligible for funding under this program, as listed above, with at least two years of experience in designing or operating sports, cultural, recreational,

educational or other activities for youth. Eligible local entities that are affiliates of national organizations may rely on the experience of the national organization for this purpose. These consultations will provide applicants with valuable resident input and will involve entities with experience in designing and implementing the eligible types of activities under this program with PHA and IHA applicants that may not have this type of experience. These experienced entities may establish a sub-contracting relationship, in accordance with 24 CFR Part 85, with the PHA/IHA if deemed appropriate by the grantee to further their public/private partnership. This consultation process will also provide entities that are not PHAs or IHAs with a greater appreciation and understanding of the operations and problems of public and Indian housing projects. The end result will be more effective program activities that make more efficient use of program funds. This result is expected because it draws upon and combines the expertise of PHA and IHA applicants with respect to the operations and problems of public and Indian housing projects, and the expertise of other entities with respect to designing and implementing youth activities.

(2) Eligible Activities

Youth Sports Program funds may be used to assist in carrying out sports, cultural, recreational, educational or other activities for youth in any of the following manners:

(i) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds is an eligible activity under the Youth Sports Program.

(A) Acquisition, construction or rehabilitation costs shall not be approved unless the applicant demonstrates the need for the type of facilities to be assisted by the grant (section III.(a)(3) of this NOFA).

(B) Facilities that receive Youth Sports funding must be used primarily for youth from the public or Indian housing projects in which the funded facility is operated (section III.(a)(2)(ii) and III.(a)(10)(iii) of this NOFA).

(C) Facilities (community centers, parks, or playgrounds) acquired, constructed, or rehabilitated under this program must be on or immediately adjacent to the premises of the public housing project identified in the application for assistance under this program. In the case of Indian Housing Authorities, the applicant must specify how youth from IHA projects will have access to the facility, since IHAs often cover large areas (section III.(a)(9) of this NOFA).

(D) Facilities receiving Youth Sports funding must comply with any applicable local or tribal building requirements for recreational facilities (section III.(a)(2)(iii) of this NOFA).

(E) Facilities receiving Youth Sports funding must be used exclusively for Youth Sports activities commensurate with the extent of the Youth Sports funding, unless a waiver is obtained from HUD. For example, if a facility is funded 60 percent by a Youth Sports grant, then it must be used at least 60 percent for Youth Sports activities, unless a waiver is obtained from HUD.

(F) In accordance with the requirements of 24 CFR 8.21, facilities should be designed and constructed to be readily accessible to and usable by individuals with handicaps. Alterations to existing facilities shall, to the maximum extent feasible, be made readily accessible to and usable by individuals with handicaps.

(G) In accordance with the requirements of 24 CFR 8.20, no qualified applicant with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in the program

(ii) Redesigning or modifying public spaces in public or Indian housing projects to provide increased utilization of the areas by Youth Sports activities is an eligible activity under this program.

(A) The construction of sports facilities on public or Indian housing property to implement Youth Sports activities is permitted under this program. These facilities may include, but not be limited to, baseball diamonds, basketball courts, football fields, tutoring centers, swimming pools, soccer fields, public or Indian housing community centers, and tennis courts.

(iii) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment are eligible activities under this program.

(A) Educational programs for youth relating to illegal drug use are permitted under this section. The program must be formally organized and provide the knowledge and skills youth need to make informed decisions on the potential and immediate dangers of drug abuse and involvement with illegal drugs. Grantees may contract with drug education professionals to provide the appropriate training or workshops. These educational programs may be part of organized sports activities or other eligible youth activities.

(B) Activities providing an economic/educational orientation for Youth Sports Program participants are eligible for funding as public services. These activities must provide, for public or Indian housing youth, the opportunities for interaction with, or referral to, higher educational or vocational institutions, and develop the skills of program participants to pursue educational, vocational, and economic goals. These activities may also provide public or Indian housing youth the opportunity to interact with private sector businesses in their community with the purpose of promoting the development of educational, vocational, and economic goals in public or Indian housing youth.

(C) The cost of the initial purchase of sports and recreation equipment to be used by program participants is permitted under this program.

(D) Cultural and recreational activities, such as ethnic heritage classes, and art, dance, drama and music appreciation and instruction programs are eligible Youth Sports Program activities.

(E) Youth leadership skills training for program participants is permitted under this program. These activities must provide opportunities designed to involve public and Indian housing youth in peer leadership roles in the implementation of program activities, for example, as team or activity captains, counselors to younger program participants, assistant coaches, and equipment or supplies managers. Grantees may contract with youth trainers to provide services which may include training in peer pressure reversal, resistance or refusal skills, goal planning, parenting skills, and other relevant topics.

(F) Transportation costs directly related to Youth Sports activities (for example, leasing a vehicle to transport a Youth Sports team to a game) are eligible program expenses.

(G) The purchase of vehicles under this program is prohibited.

(H) Liability insurance costs directly related to Youth Sports activities are eligible program expenses.

(3) Threshold Requirements for Funding

Every activity proposed for funding under the Youth Sports Program must satisfy each of the following requirements or it will not be considered for funding:

(i) The activity must be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related

problems in the public or Indian housing project or projects for which the activity is proposed. (See, section III.(a)(7), below, of this NOFA.)

(ii) The activity for which funding is sought must be conducted with respect to public or Indian housing sites that HUD determines have a substantial problem regarding the use or sale of illegal drugs.

(A) The determination required in paragraph (ii) will be made on the basis of information submitted in the applicant's plan as described below in "Checklist of Application Submission Requirements," section III.(a)(7).

(iii) The activities or facilities funded by Youth Sports grants must serve primarily youth from the public or Indian housing projects for which the activities or facilities are operated. (See, section III.(a)(10), below.)

(iv) Applicants must provide a workplan detailing a timeline for the implementation of activities and a budget for the activity or activities for which funding is sought, as required by sections III.(a) (4) and (5), below.

(v) Applicants must be able to supplement the amount provided by a grant under the Youth Sports Program with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant. (See, section III.(a)(2)(ii), below.) Funds from non-Federal sources are funds the applicant receives for the Youth Sports activities identified in its application from the following:

(A) States;

(B) Units of general local government or agencies of such governments;

(C) Indian tribes;

(D) Private contributions;

(E) Any salary paid to staff to carry out the Youth Sports activities of the applicant, computed as follows:

(1) Only that portion of staff salaries representing time that will be spent on new and additional duties directly involved with Youth Sports activities may qualify as funds from non-Federal sources;

(2) Staff salaries that are paid with Youth Sports funds do not qualify as funds from non-Federal sources for the purpose of this program;

(F) The value of the time and services contributed by volunteers to carry out the program of the grant recipient to be determined as follows:

(1) Except as set out in paragraph (2), below, the value of time and services contributed by volunteers is to be computed on the basis of five dollars per hour;

(2) Where the volunteer is a professional or a person with special training performing a service directly related to the profession or special training, the value of the service is to be computed on the basis of the usual and customary hourly rate paid for the service in the community where the Youth Sports activity is located;

(G) The value of any donated material, equipment, or building, computed on the basis of the fair market value of the donated item(s) at the time of the donation;

(1) The applicant must document the fair market value of donated items by referencing bills of sale, advertised prices, or appraisals, not more than one year old and taken from the community where the item or the Youth Sports activity is located (whichever is more appropriate), of identical or comparable items;

(H) The value of any lease on a building, or part of a building, computed on the basis of the fair market value of a lease for similar property similarly situated.

(1) The applicant must document the fair market value of a lease by referencing an existing, or no more than one year old, lease from the building involved; or evidence, such as advertisements or appraisals, of the value of leases for comparable buildings.

(vi) Grant funds provided under this program and any State, tribal, or local funds used to supplement grant funds under this program may not be used to replace other public funds previously used, or designated for use, for the purpose of this program. (See, section III.(a)(2)(vi).

(d) Selection Criteria

Each application for a grant award that is submitted in a timely manner to the local HUD field office or, in the case of IHAs, to the appropriate HUD Office of Indian Programs, and that otherwise meets the requirements of this NOFA, will be evaluated. An application must receive a minimum score of 75 points out of the maximum of 110 points awardable under this competition to be eligible for funding. Grants will be awarded to the three highest-ranked, eligible PHA applications within each region. In addition, grants will be awarded to the three highest-ranked, eligible IHA applications on a nation-wide basis. All of the remaining eligible applications, both PHAs and IHAs, will then be placed in overall nation-wide ranking order, with the remaining funds granted in order of rank until all funds are awarded. If FY 1992 funds are subsequently made available under the terms of this NOFA, a comparable process of PHA regional, IHA, and nationwide awards will be followed as specified in a **Federal Register** notice announcing the availability of the additional funds. The following criteria will be used to evaluate eligible applications:

(1) The extent to which the Youth Sports activities to be assisted with the grant address the particular needs of the area to be served by the activities and employs methods, approaches, or ideas in the design or implementation of the activities particularly suited to fulfilling the needs (whether such methods are conventional or unique and innovative). (Maximum points: 30). In assessing this criterion, HUD will consider the following factors:

(i) The appropriateness of the applicant's methods, approaches, or ideas in addressing the particular needs of the area to be served by the program, as reflected in the description of the services to be provided by the applicant's proposed Youth Sports Program (Section III.(a)(3) of this NOFA); (10 points)

(ii) The resources committed to each activity and service (Section III.(a)(5) of this NOFA) proposed for funding in the application; (10 points)

(iii) An estimate of the number of youth from public or Indian Housing projects that will be involved in the applicant's proposed activities, in accordance with Section III.(a)(8) of this NOPA. (5 points)

(iv) The applicant's explanation of the procedures that will be followed to ensure that the Youth Sports activities will serve primarily youth from the public or Indian housing project in which the program to be assisted by a grant is operated, as required by section III.(a)(10)(iii). (5 points)

(2) The technical merit of the application of the qualified applicant. (Maximum points: 10). In assessing this criterion HUD will consider the following factors:

(i) The quality and thoroughness of the statement required in the application (section III.(a)(6) of this NOFA) regarding the extent to which the applicant's proposed Youth Sports activities meet the selection criteria for this program; (10 points)

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application. (Maximum points: 15). In assessing this criterion HUD will consider the following factors:

(ii) The position descriptions of staff critical to achieving the objectives of the applicant's program, required under

section III.(a)(10)(ii) of this NOFA; (10 points)

(ii) The nature of the duties volunteers will perform, required under section III.(a)(10)(ii) of this NOFA. (5 points)

(4) The capabilities, related experience, facilities, and techniques of the applicant for carrying out its youth sports program and achieving the objectives of its program as described in the application, and the potential of the applicant for continuing the youth sports program. (Maximum points: 20) In assessing this criterion HUD will consider the following factors:

(i) The related experience of the applicant, as evidenced by its staff, and of the entity consulted by the applicant in preparing its application, in conducting the type of activities, in public or Indian housing, for which funding is requested (section III.(a)(10)(i) and (ii) of this NOFA); (5 points)

(ii) The appropriateness, in terms of need, size, location, and suitability, of the facilities to be used for youth activities (section III.(a)(9) of this NOFA); (5 points)

(iii) The applicant's workplan and implementation schedule for the Youth Sports activities for which funding is sought (section III.(a)(4) of this NOFA); (5 points)

(iv) The extent of the resources committed to continue the operation of Youth Sports activities and facilities beyond the grant term included in the applicant's description of plans to continue the Youth Sports activities in the future, as required in section III.(a)(12) of this NOFA. (5 points)

(5) The severity of the drug problem at the local public or Indian housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem. (Maximum points: 10) In assessing this criterion HUD will consider the following factors:

(i) The extent of the drug-related problems at the housing projects to be assisted, as established in the applicant's plan required by section III.(a)(7) of this NOFA; (5 points)

(ii) The extent of any planned or actual efforts to rid the housing projects to be assisted of their drug-related problem, as described in the applicant's plan required by section III.(a)(7) of this NOFA. (5 points)

(6) The extent to which local sports organizations or sports figures are involved. (Maximum points: 5 points) In assessing this criterion, HUD will consider the following factor:

(i) The documentation provided in the application of the level of on-site or other participation by local sports, cultural, recreational, educational, or other community organizations or figures that is focused on the specific youth activities for which the application is prepared (section III.(a)(11) of this NOFA); (5 points)

(7) The extent of the coordination of proposed activities with local resident management groups or resident associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of the Youth Sports program. (Maximum points: 10) In assessing this criterion, HUD will consider the following factors:

(i) The applicant's description of its consultations with resident management groups or resident associations, where they exist, and residents, as required by section III.(a)(7) of this NOFA; (5 points)

(ii) The extent to which the applicant demonstrates the relationship of the Youth Sports activities with other existing anti-drug activities, if any, in the housing projects to be assisted as reflected in the applicant's plan required by section III.(a)(7) of this NOFA. (5 points)

(8) The extent of non-Federal contributions that exceed the fifty percent amount of such funds required. (Maximum points: 5) In assessing this criterion, HUD will consider the following factor:

(i) The applicant's budget describing the share of the costs of the applicant's Youth Sports Program provided by a grant under this program and the share of the costs provided from funds from non-federal sources and other resources, such as the number of volunteers and volunteer hours committed, submitted in accordance with section III.(a)(5) of this NOFA. (5 points)

(9) The extent to which the applicant demonstrates local government or tribal support for the program. (Maximum points: 5) In assessing this criterion, HUD will consider the following factor:

(i) The applicant's description of local or tribal government support as evidenced by contributions from these entities listed under section III.(a)(5) of this NOFA. (5 points)

II. Application Process

(a) An application package may be obtained from the local HUD field office or by calling HUD's Drug Information and Strategy Clearinghouse on 800–245–2691. The application package contains information on all exhibits and certifications required under this NOFA.

(b) The deadline for the submission of grant applications under this NOFA is January 23, 1992. In order to be eligible, original and two copies of the application must be physically received by the close of business on the deadline date at the local HUD field office or, in the case of IHAs, in the local HUD Office of Indian Programs, with jurisdiction over the PHA or IHA, Attention: Public Housing Division Director, or Office of Indian Programs Director. A list of these offices is included as Appendix 1 to this NOFA. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable.

III. Checklist of Application Submission Requirements

(a) Each application for a grant under this program must include the following:

(1) Standard Grant Application Forms SF–424 and SF–424A with narrative showing breakdown by program and cost, to include all equipment.

(2) The following certifications, executed by the CEO of the applicant:

(i) A certification that the applicant will supplement the amount provided by a grant under this program with an amount of funds from non-federal sources equal to or greater than 50 percent of the amount provided by the grant;

(ii) A certification that the activities or facilities funded by the Youth Sports grant will serve primarily youth from the public or Indian housing projects in which the activities or facilities are operated;

(iii) A certification that facilities receiving Youth Sports funding comply with any applicable local or tribal building requirements for recreational facilities;

(iv) A certification that the applicant will maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1988, 24 CFR part 24, subpart F (Applicants may submit a copy of their most recent drug-free workplace certification, which must be dated within the past year.);

(v) A certification and disclosure in accordance with the requirements of Section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989), as implemented in HUD's interim final rule published in the **Federal Register** on February 26, 1990 (55 FR 6736) (This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and 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.);

(vi) A certification that grant funds provided under this program and any State, tribal, or local funds used to

supplement grant funds under this program will not be used to replace other public funds previously used, or designated for use, for the purpose of this program.

(vii) A certification that the applicant has assessed its potential liability arising out of Youth Sports activities, has considered any limitations on liability under State, local or tribal law, and that, upon being notified of a Youth Sports grant award, the applicant will obtain adequate insurance coverage to protect itself against any potential liability arising out of the eligible activities under this program.

(viii) A certification that the applicant will comply with Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

(3) A description of the nature of the services to be provided by the applicant's proposed Youth Sports Program, including an explanation of the way in which the activities or facilities proposed for funding address the particular needs of the area to be served by the program.

(4) A workplan with an 18 months maximum task timeline providing an implementation schedule for the Youth Sports activities.

(5) A budget describing the financial and other resources committed to each activity and service of the program. The budget must identify the share of the costs of the applicant's Youth Sports activities provided by a grant under this program and provide a narrative describing how the share of the costs provided from other sources of funds (e.g. local or tribal government, corporations, individuals), including funds from non-Federal sources, will be obtained.

(6) A statement regarding the extent to which the applicant's proposed Youth Sports activities meet the selection criteria in section I.(d), above.

(7) A plan designed to eliminate drugs and drug-related problems on the premises of the housing projects proposed for funding. Applicants are given a choice to satisfy this requirement in one of two ways. First, an applicant may submit a current-year plan prepared for the housing projects in accordance with 24 CFR 961.15 as a part of a Drug Elimination Program grant. In this case, the applicant must indicate how its proposed Youth Sports activities will be operated as, in conjunction with, or in furtherance of the § 961.15 plan. The other choice is that an applicant may submit an abbreviated plan prepared for this NOFA as follows:

(i) The plan must describe the drug-related problems in the projects that are proposed for funding under this program, using:

(A) Objective data, if available, from the local police precinct or the PHA's or IHA's records on the types, number and sources of drug-related crime in the projects proposed for assistance. If crime statistics are not available at the project or precinct level, the applicant may use other reliable, objective data including those derived from the records of Resident Management Corporations (RMCs), Resident Corporations (RCs), or other resident associations. The data should cover the past one-year period and, to the extent feasible, should indicate whether these data reflect a percentage increase or decrease in drug-related crime over the past several years.

(B) Information from other sources which have a direct bearing on drug-related problems in the projects proposed for assistance. Examples of these data are: resident/staff surveys on drug-related issues or on-site reviews to determine drug activity; vandalism costs and related vacancies attributable to drug-related crime; information from schools, health service providers, residents and police.

(ii) The plan must include a narrative discussion of the applicant's current activities, if any, to eliminate drug-related problems in the targeted projects. Any efforts being undertaken by community and governmental entities, residents of the project, Resident Management Corporations (RMCs), Resident Corporations, (RCs), other resident associations, or any other entities to address the drug-related problems in the projects proposed for assistance must be described. The applicant must also indicate how its proposed Youth Sports activities will be operated as, in conjunction with, or in furtherance of the other activities described in the plan.

(8) An estimate of the number of youth involved.

(i) The applicant must provide the total estimated number of youth involved for each proposed activity and participating in youth leadership assignments (for example, team managers, assistant managers, team captains) computed on an annual and, if applicable, a session or seasonal basis (for example, classes or league sports may be organized in sessions or seasons that run for a certain number of weeks or months, or more activities may take place and more youth may be involved on weekends than on weekdays).

(ii) The total estimated number given for each activity must be further broken down by categories of age (e.g., 5–8 years old, 9–12 years old, etc.), sex (male, female, co-ed), and residency in public or Indian housing.

(9) A description of the facilities used.

(i) Facilities to be used for Youth Sports activities must be described in the application with regard to their dimensions, location, and the number of youth that can be accommodated at one time.

(A) In the case of an Indian housing project, if a facility to be acquired, constructed, or rehabilitated is not located on or immediately adjacent to the premises of the project to be assisted, the application must specify how youth from the Indian housing project will have access to the facility (e.g., transportation will be provided, transportation service is readily available.)

(ii) Where applicable, the application must provide a detailed explanation of all facility acquisition, construction, rehabilitation, operation, redesign or modification proposed for funding under this program.

(A) The application must specify what percent of the facility will be used for youth activities (as opposed to, for example, senior citizen or adult activities). This percentage may not be less than the percentage of Youth Sports funding provided for the facility.

(iii) The application must identify the entity that will be responsible for the operation of any facility funded by a Youth Sports grant.

(10) A description of the organization of the applicant's proposed Youth Sports program, which must detail:

(i) The consultations entered into by the applicant with RMCs/RCs, where they exist, and other entities experienced in the design and implementation of the type of proposed youth sports activities;

(ii) The position descriptions of the staff that will be responsible for managing and operating the Youth Sports activities must be included in the application; if volunteers are involved, their number, job descriptions, and hours per week of involvement must be included;

(iii) The procedures that will be followed to ensure that the Youth Sports activities or facilities will serve primarily youth from the public or Indian housing project in which the program to be assisted by a grant is operated must be explained in the application.

(11) A description of the extent of involvement of local sports organizations or sports figures.

(i) The applicant must provide documentation of the level of on-site or other participation by local and

nationally affiliated sports organizations, except as provided in Section (i) below, with at least two years of organizational and operational experience. These may include, but are not limited to, strictly sports organizations, such as, Little Leagues, Midnight Basketball, or professional teams. Participation by cultural, recreational, or educational organizations is also permissible. The participation of these groups must be focused on the youth activities for which the application is prepared.

(ii) The applicant may demonstrate the involvement of local or national sports, cultural, recreational or educational figures, such as athletes, coaches, artists, entertainers and teachers in place of, or in addition to, the participation of organizations. The participation of these figures must be focused on the youth activities for which the application is prepared.

(12) A description of plans and resources to continue the Youth Sports activities beyond the grant term under this program, including the commitment of entities (e.g., local and tribal governments, corporations, community organizations) and individuals to continue their involvement in the applicant's Youth Sports activities and facilities.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of receipt of HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that:

(1) are not necessary for HUD review under selection criteria/ranking factors; and

(2) cannot be submitted after the application due date has expired, to improve the substantive quality of the proposal. An example of a technical deficiency would be the failure of an applicant to submit a certification with its proposal.

V. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20401. HUD will review all applications and their proposed activities in accordance with the environmental requirements of 24 CFR part 50.

(b) *Federalism Impact.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implications" within the meaning of the Order. The NOFA implements a program that provides positive sports, cultural, recreational, educational or other activities designed to appeal to youth as alternatives to the drug environment in public and Indian housing, and makes available grants to PHAs and IHAs to help them implement these activities. As such, the program helps PHAs and IHAs to combat serious drug-related crime problems in their projects, thereby strengthening their role as instrumentalities of the States. Further review under the Order is also unnecessary since the NOFA generally tracks the statute and involves little implementing discretion.

(c) *Family Impact.* The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA have the potential for significant positive impact on family formation, maintenance and general well-being within the meaning of the Order. The NOFA implements a program that provides positive sports, cultural, recreational, educational or other activities designed to appeal to youth as alternatives to the drug environment in public and Indian housing, and makes available grants to PHAs and IHAs to help them implement these activities. As such, the program is intended to improve the quality of life of public and Indian housing project residents by reducing the incidence of drug-related crime and should have a strong positive effect on family formation, maintenance and general well-being for PHAs and IHAs selected for funding. Further review under the Order is also not necessary since the NOFA essentially tracks the authorizing legislation and involves little exercise of HUD discretion.

(d) *Section 102 HUD Reform Act.* On March 14, 1991, the Department published in the Federal Register a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12, 56 FR 11032). Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department.

Since HUD makes assistance under this program available on a competitive basis, part 12 requires HUD to:

—Ensure that documentation and other information regarding each application submitted to the Department are sufficient to indicate the basis upon which assistance was provided or denied. HUD must make this material available for public inspection for a five-year period. (§ 12.14(b)) HUD will provide further guidance on how this material may be accessed in a later Notice published in the Federal Register.

—Publish a Notice in the Federal Register at least quarterly indicating the recipients of the assistance. (§ 12.16(a))

Subpart C of the rule requires applicants that seek assistance from HUD for a specific project or activity must make the disclosures required under § 12.32. This subpart will be made effective through later publication of a Notice in the Federal Register. Since it will apply to applications solicited on or after the effective date of the Notice, this NOFA is not subject to its provisions.

(a) *Section 103 HUD Reform Act.* HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, 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 limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. 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. (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 particular subject matter can be discussed with persons outside the Department, should contact his or her

Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(f) *Section 112 HUD Reform Act.* Section 13 of the Department of Housing and Urban Development Act 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 the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions regarding the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Authority: Sec. 520, National Affordable Housing Act (approved November 28, 1990, Pub. L. 101–625); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 28, 1991.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

Appendix 1—Names and Addresses of HUD Field/Indian Offices

Region I

Boston Regional Office, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Room 375, Boston, MA 02222, (617) 565–5234

Hartford Office, 330 Main St., First Floor, Hartford, CT 06106, (203) 240–4522

Manchester Office, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101, (603) 666–7681

Providence Office, 330 John O. Pastore Fed. Bldg., & U.S. Post Office—Kennedy Plaza, Providence, RI 02903, (401) 528–5351

Region II

New York Regional Office, 26 Federal Plaza, New York, NY 10278, (212) 264–6500

Buffalo Office, 465 Main St., Lafayette Ct., Buffalo, NY 14203 (716) 846–5755

Newark Office, Military Park Bldg., 60 Park Place, Newark, NJ 07102, (201) 877–1662

Region III

Philadelphia Regional Office, Liberty Square Bldg., 105 S 7th St., Philadelphia, PA 19106, (215) 597–2560

Baltimore Office, The Equitable Bldg., 3rd Fl., 10 N Calvert St., Baltimore, MD 21202, (301) 962–2520

Charleston Office, 405 Capitol St., Ste. 708, Charleston, WV 25301, (304) 347–7000

Pittsburgh Office, Old PO Courthouse Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219, (412) 644–6428

Richmond Office, 400 N. 8th St., PO Box 10170, Richmond, VA 23240, (804) 771–2721

Washington, D.C. Office, 820 First St., NE, Washington, D.C. 20002, (202) 275–8185

Region IV

Atlanta Regional Office, Richard B. Russell Fed. Bldg., 75 Spring St., SW, Atlanta, GA 30303, (404) 331–5136

Birmingham Office, Beacon Ridge Tower, 600 Beacon Pkwy. West, Ste. 300, Birmingham, AL 35209, (205) 731–1617

Caribbean Office, New San Juan Office Bldg., 159 Carlos E. Chardon Ave., San Juan, PR 00918, (809) 766–6121

Columbia Office, Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201, (803) 765–5592

Greensboro Office, 415 N. Edgeworth St., Greensboro, NC 27401, (919) 333–5361

Jackson Office, Dr. A. H. McCoy Fed. Bldg., 100 W Capitol St., Room 910, Jackson, MS 39269, (601) 965–5308

Jacksonville Office, 325 W Adams St., Jacksonville, FL 32202, (904) 791–2626

Knoxville Office, John J. Duncan Fed. Bldg., 710 Locust St., Third Floor, Knoxville, TN 37902, (615) 549–9384

Louisville Office, PO Box 1044, 601 W Broadway, Louisville, KY 40201, (502) 582–5251

Nashville Office, 251 Cumberland Bend Dr., Suite 200, Nashville, TN 37228, (615) 763–5213

Region V

Chicago Regional Office, 626 W. Jackson Blvd., Chicago, IL 60606, (312) 353–5680

Cincinnati Office, Fed. Office Bldg., Rm. 9002, 550 Main St., Cincinnati, OH 45202, (513) 684–2884

Cleveland Office, One Playhouse Sq., 1375 Euclid Ave., Rm 420, Cleveland, OH 44114, (216) 522–4058

Columbus Office, 200 N. High St., Columbus, OH 43215, (614) 469–5737

Detroit Office, Patrick V. McNamara Fed. Bldg., 477 Michigan Ave., Detroit, MI 48226, (313) 226–7900

Grand Rapids Office, 2922 Fuller Ave., NE, Grand Rapids, MI 49505, (616) 456–2100

Indianapolis Office, 151 N. Delaware St., Indianapolis, IN 46204, (317) 226–6306

Milwaukee Office, Henry S. Ruess Fed. Plaza, 310 W. Wisconsin Ave., Milwaukee, WI 53203, (414) 297–3214

Minneapolis-St. Paul Office, 220 Second St., S, Minneapolis, MN 55401, (612) 370–3000

Region VI

Ft. Worth Regional Office, 1600 Throckmorton, PO Box 2905, Ft. Worth, TX 76113, (817) 885–5401

Albuquerque Office, 625 Truman Street, NE, Albuquerque, NM 87110, (505) 262–6463

Houston Office, Norfolk Tower, 2211 Norfolk, Ste. 200, Houston, TX 77098, (713) 653–3274

Little Rock Office, Lafayette Bldg., Ste. 200, 523 Louisiana, Little Rock, AR 72201, (501) 378–5931

New Orleans Office, Fisk Federal Bldg., 1661 Canal St., New Orleans, LA 70112, (504) 589–7200

Oklahoma City Office, Office Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102, (405) 231–4181

San Antonio Office, Washington Square, 800 Dolorosa St., San Antonio, TX 78207, (512) 299–6800

Region VII

Kansas City Regional Office, 400 State Ave., Professional Bldg., Kansas City, KS 66101, (913) 236–2162

Des Moines Office, Federal Bldg., 210 Walnut St., Rm. 239, Des Moines, IA 50309, (515) 284–4512

Omaha Office, Braiker/Brandeis Bldg., 210 S. 16th St., Omaha, NE 68102, (402) 221–3703

St. Louis Office, 1222 Spruce St., St Louis, MO 63103, (314) 539–6560

Region VIII

Denver Regional Office, Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202, (303) 844–4513

Region IX

San Francisco Regional Office, 450 Golden Gate Ave., PO Box 36003, San Francisco, CA 94102, (415) 556–4752

Honolulu Office, 300 Ala Moana Blvd., Rm. 3318, Honolulu, HI 96850, (808) 541–1323

Los Angeles Office, 1615 W. Olympic Blvd., Los Angeles, CA 90015, (213) 251–7122

Phoenix Office, One N. First St., Ste. 300, PO Box 13468, Phoenix, AZ 85002, (602) 379–4434

Sacramento Office, 777 12th St., Ste. 200, Sacramento, CA 95814, (916) 551–1351

Region X

Seattle Regional Office, Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101, (206) 553–5414

Anchorage Office, 222 W. 8th Ave., #64, Anchorage, AK 99513, (907) 271–4170

Portland Office, 520 SW 6th Ave., Portland, OR 97204, (503) 326–2561

Indian Housing Offices

Office of Indian Programs, Chicago Regional Office, 626 W. Jackson Blvd., Chicago, IL 60606, (312) 886–4532, or 800–735–3239

Indian Programs Division, Oklahoma City Office, Office Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102, (405) 736–4101

Office of Indian Programs, Denver Regional Office, Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202, (303) 844–2963

Office of Indian Programs, Phoenix Office, Two Arizona Center, 400 North 5th Street, Suite 1650, Phoenix, AZ 85004, (602) 261–4156

Indian Housing Division, Anchorage Office, 222 W. 8th Ave., #64, Anchorage, AK 99513, (907) 271–4633

Office of Indian Programs, Seattle Regional Office, Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101, (206) 553–4633

[FR Doc. 91–25881 Filed 10–28–91; 8:45 am]

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federal register

Monday
October 28, 1991

Part VII

Department of the Interior

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Meetings

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Meetings

October 16, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct follow-up consultation meetings to obtain written and oral comments concerning changes in Indian education programs currently under consideration by the BIA; and, other potential changes or issues. Changes currently under consideration and included in consultation booklets to be issued are as follows:

1. Minimum Academic Standards for the Basic Education of Indian Children and National Criteria for Dormitory Situations—Proposed changes to 25 CFR part 36.

2. Johnson O'Malley—Proposed clarification to 25 CFR part 273.

3. Indian School Equalization Program (ISEP)—Proposed changes to 25 CFR part 39, including:

A. Student Transportation

B. Exceptional Education

4. Indian School Equalization Program (ISEP)—Review of the Indian School Equalization Formula (ISEP), A Special Report.

5. Indian America 2000—A Proposed Long-Range Education Plan.

6. Alternatives for the Distribution of Adult Education and Higher Education Grant Program funds, A Discussion Paper.

DATE AND TIME: January 6, 8, 10, 1992. 9 a.m. until 6 p.m. (local time) at each site listed below.

MEETING DATES AND SITES:

Locations and local contact	Telephone
January 6, 1992:	
California—Sacramento:	
Fayetta Babby	916/978-4660
New Mexico—Albuquerque:	
Val Cordova	505/766-3034
Oklahoma—Oklahoma City:	
Jim Baker	918/687-2460
Sam Johnson	405/247-6673
Minnesota—Minneapolis:	
Betty Walker	612/373-1090
January 8, 1992	
Oregon—Portland:	
Marlin Reimer	503/230-5682
New Mexico—Gallup:	
Larry Holman	505/786-6150
Tennessee—Nashville:	
Lena Sanders	703/235-3233
South Dakota—Aberdeen:	
Jim Davis	701/477-6471
January 10, 1992	
Alaska—Anchorage:	
Robert Pringle	907/271-4115
Arizona—Phoenix:	
Harvey Jacobs	602/562-3557
Montana—Billings:	
Larry Parker	406/657-6375

Written comments concerning the consultation meetings must be received no later than February 17, 1992, at the Bureau of Indian Affairs, Office of Indian Education Programs, room 3511, MS 3530 MIB, 1849 C Street, NW., Washington, DC 20240, ATTN: Mr. Edward Parisian, Director, Office of Indian Education Programs.

FOR FURTHER INFORMATION CONTACT: Edward Parisian, Joe Christie or Jim Martin at the above address or call (202) 208-6123, 208-6175, or 208-3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar meetings conducted by the BIA in 1990 and January and July, 1991. The purpose of the consultation is to provide as required by 25 U.S.C. 2010(b), Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential changes or issues being considered by the BIA regarding Indian education programs. A consultation booklet for the January meetings is being distributed to Federally recognized Indian tribes and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Patrick A. Hayes,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91-25878 Filed 10-25-91; 8:45 am]

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[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

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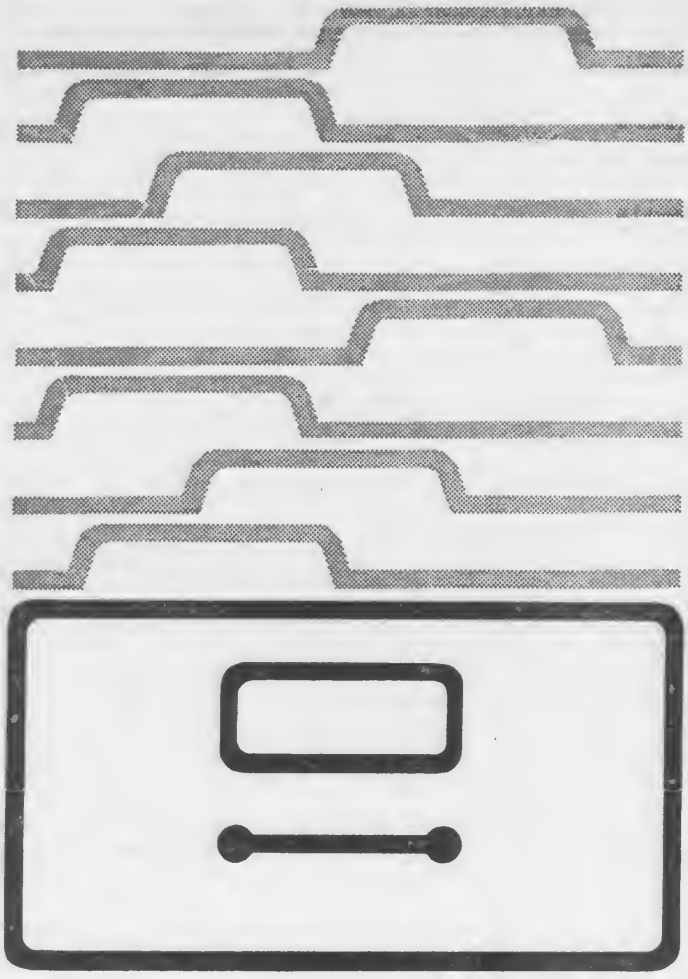

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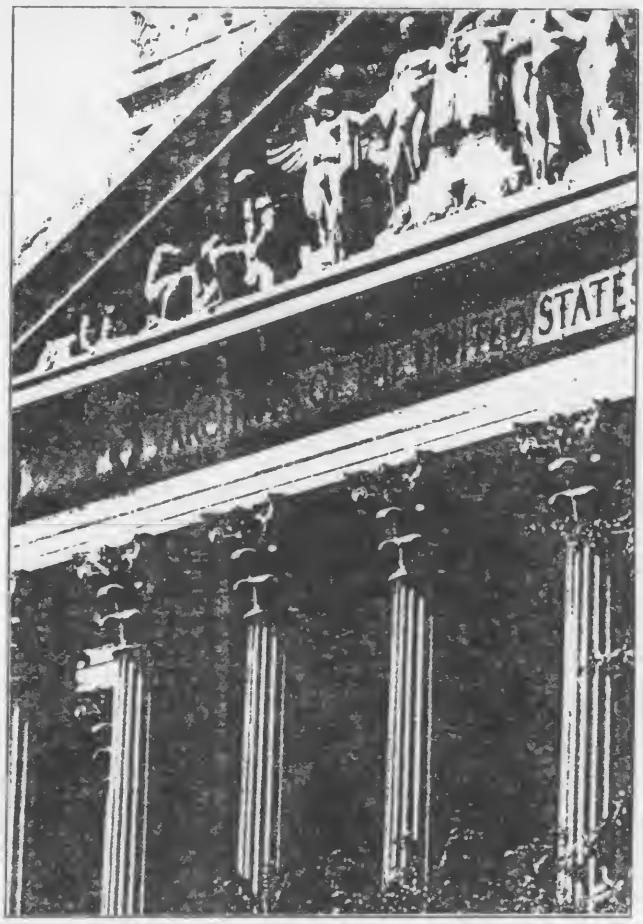

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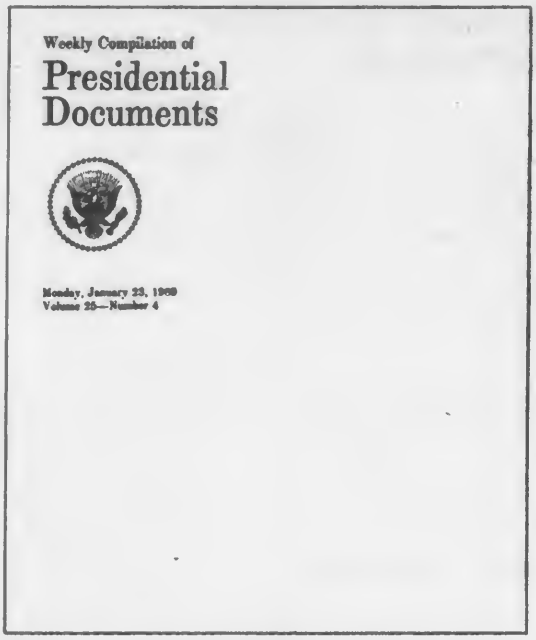

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