7–7–94
Vol. 59 No. 129

federal register

Thursday
July 7, 1994

NOW AVAILABLE ONLINE!
Subscribe Now ... Only $375 Per Year
See Page II for Details.

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

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 481
A FR UMISE346U DEC 94 R
UMI SERIALS ACQUISITIONS
300 N ZEEB RD
PO BOX 1346
ANN ARBOR MI 48106

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

7–7–94
Vol. 59 No. 129
Pages 34755–34966

Federal Register

Thursday
July 7, 1994

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.

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806

Online:

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

Assistance with online subscriptions	202–512–1530

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

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

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

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: July 28 at 9:00 am

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

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 59, No. 129

Thursday, July 7, 1994

Separate Parts In This Issue

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
2610 34755
2634 34755
2636 34755
2641 34755

7 CFR
1755 34899

9 CFR
97 34756

10 CFR
Proposed Rules:
1003 34767

14 CFR
39 (3 documents) 34757, 34758, 34899
71 (3 documents) 34759, 34759, 34760
Proposed Rules:
21 34779

16 CFR
Proposed Rules:
300 34780
301 34780
303 34780

17 CFR
Proposed Rules:
240 34781

21 CFR
Proposed Rules:
341 34781

22 CFR
514 34760

24 CFR
Proposed Rules:
100 34902

32 CFR
552 34761
Proposed Rules:
553 34782

33 CFR
Proposed Rules:
322 34783

34 CFR
668 34964
682 34964
690 34964

43 CFR
Public Land Orders:
7055 34899

47 CFR
73 34766

50 CFR
229 34899
Proposed Rules:
17 34784

Rules and Regulations

Federal Register
Vol. 59, No. 129
Thursday, July 7, 1994

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

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

OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2610, 2634, 2636 and 2641

RINs 3209–AA00, 3209–AA13, 3209–AA14

Addition of Paperwork Approval Numbers to and Updating and Correction of Citations in Certain Regulations of the Office of Government Ethics

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is adding the approval control numbers assigned by the Office of Management and Budget (OMB) under the Paperwork Reduction Act to various information collection requirements set forth in certain portions of its financial disclosure and outside employment regulations. In addition, OGE is updating a couple of authority citations and correcting a couple of citation errors in certain of its regulations.

EFFECTIVE DATE: July 7, 1994.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, telephone: 202–523–5757, FAX: 202–523–6325.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is amending two of its regulations, codified at 5 CFR parts 2634 and 2636, to add reference to OMB paperwork approval control numbers for the various executive branch-wide information collections contained therein. The paperwork approval numbers for pertinent provisions of the financial disclosure regulation and related forms used to actually collect information are being added in parenthetical references to the appropriate sections of part 2634. These approval numbers cover reporting requirements for executive branch personnel (and certain members of the public) in part 2634 and the Standard Form (SF) 278 Public Financial Disclosure Report, the OGE Form 201 used to seek access to SF 278s and certain other covered records under the Ethics in Government Act, the SF 450 Confidential Financial Disclosure Report and the various model trust documents and certificates used in connection with qualified trusts. In addition, OGE is indicating the OMB paperwork approval number for the as-yet not effective confidential reporting provision for payments to charitable organizations in lieu of honoraria at § 2636.205 of its outside employment regulation. Finally, OGE is updating the authority citations for 5 CFR parts 2636 and 2641 and is correcting two errors in citations in 5 CFR 2610.201(f) and 2641.101 of its regulations.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to these minor revisions. The notice and delayed effective date are being waived because these technical amendments and corrections to certain OGE regulations concern matters of agency organization, practice and procedure and because it is in the public interest that correct and up-to-date citations and information about paperwork approval numbers for the respective information collection requirements be contained in the regulations as soon as possible.

Executive Order 12866

In promulgating these technical amendments to its regulations, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These amendments and corrections have not been reviewed by the Office of Management and Budget under that Executive order, as they deal with agency organization, management and personnel matters and are not, in any event, deemed "significant" thereunder.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this technical amendments rulemaking does not itself contain any new information collection requirements that require the approval of the Office of Management and Budget (rather, as noted above, in pertinent part references to existing OMB paperwork control numbers are being added at appropriate places in OGE's regulations).

List of Subjects in 5 CFR Parts 2610, 2634, 2636, and 2641

Administrative practice and procedure, Certificates of Divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: June 24, 1994.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR parts 2634 and 2636 and correcting 5 CFR parts 2610 and 2641 as follows:

PART 2610—[CORRECTED]

1. The authority citation for part 2610 continues to read as follows:

Authority: 5 U.S.C. 504(c)(1); 5 U.S.C. App. (Ethics in Government Act of 1978).

§ 2610.201 [Corrected]

2. In § 2610.201, the parenthetical citation to the Paperwork Reduction Act in paragraph (f) "(5 U.S.C. chapter 35)" is revised to read "(44 U.S.C. chapter 35)".

PART 2634—[AMENDED]

3. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

4. A new § 2634.409 is added to read as follows:

§ 2634.409 OMB Control Number.

The various model trust documents and Certificates of Independence and Compliance referenced in this subpart, together with the underlying regulatory provisions (and appendixes A, B and C to this part for the Certificates), are all approved by the Office of Management and Budget under control number 3209–0007.

§ 2634.601 [Amended]

5. Section 2634.601 is amended by adding at the end of the regulatory text the following parenthetical phrase "(Approved by the Office of Management and Budget under control numbers 3209–0001 and 3209–0006)".

§ 2634.603 [Amended]

6. Section 2634.603 is amended by adding at the end of the regulatory text the following parenthetical phrase "(Approved by the Office of Management and Budget under control numbers 3209–0001 and 3209–0002)".

PART 2636—[AMENDED]

7. The authority citation for part 2636 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 2636.205 [Amended]

8. Section 2636.205 is amended by adding at the end of the regulatory text the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 3209–0004)".

PART 2641—[CORRECTED]

9. The authority citation for part 2641 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

§ 2641.101 [Corrected]

10. In § 2641.101, the statutory citation in paragraph (2) under the definition of *Senior employee* "5 U.S.C. 5302" is revised to read "5 U.S.C. 5304".

[FR Doc. 94–16095 Filed 7–6–94; 8:45 am]
BILLING CODE 6345–01–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 94–029–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services by adding a commmuted traveltime allowance for travel between two locations in Oregon. Commuted traveltime allowances are the periods of time required for Veterinary Services employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Veterinary Services employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime between these locations.

EFFECTIVE DATE: July 7, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Louise R. Lothery, Director, Resource Management Support, Veterinary Services, APHIS, USDA, room 740, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7517.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal byproducts, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Veterinary Services (VS) on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by adding a commuted traveltime allowance for travel between two locations in Oregon. The amendment is set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

We are also amending § 97.2 to correct the spelling of Troutdale, OR.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register.**

Executive Order 12866 and Regulatory Flexibility Act

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

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Executive Order 12372

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 97.2, in the table, under Oregon, the last entry for Portland in the second column is amended by removing the word "Troutsdale" and adding the word "Troutdale" in its place.

3. Section 97.2 is amended by adding in the table, in alphabetical order, under Oregon, the following entry to read as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Add]			
•	•	•	•
Oregon: Hermiston.	Troutdale ...	.....	6
•	•	•	•

Done in Washington, DC, this 30th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–16376 Filed 7–6–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–63–AD; Amendment 39–8965; AD 94–14–17]

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires either the removal of the girt bar visual indicator brackets on passenger exit doors, or modification of the lanyard connecting the survival kit to the slide/raft. This amendment is prompted by a report that, during an emergency evacuation demonstration, the lanyard became entangled on the girt bar indicator mechanism, and subsequently prevented an exit door from opening fully to a locked position. The actions specified by this AD are intended to prevent the lanyard from becoming entangled and interfering with proper opening of the exit door, a situation which could impede the successful evacuation of passengers through the door during an overwater operation where ditching is required.

EFFECTIVE DATE: August 8, 1994.

ADDRESSES: Information related to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on April 25, 1994 (59 FR 19681). That action proposed to require either the removal of the girt bar visual indicator brackets on passenger exit doors, or modification of the lanyard that connects the survival kit to the slide/raft.

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

Two commenters support the proposal.

One commenters requests that airplanes on which Airbus Industrie Modification 23605 has been accomplished be excluded from the applicability of the rule. That modification is described in Airbus Service Bulletin A320–25–1109, dated April 20, 1993, and entails removing the girt bar visual indicator brackets (plates) and replacing them with a red arrow placard that is used to indicate positive girt bar engagement. (The commenter also states that all Model A320 series airplanes up to serial number 413 have been delivered with this modification.) The FAA concurs with the commenter's request. The FAA addressed Modification 23605 in the preamble to the supplemental NPRM, and found that, although removal of the brackets will prevent possible interference between the overwater survival kit lanyard and the slide/raft decorative cover, the red arrow placard did not provide for an acceptable means of girt bar position indication. However, since one of the options for complying with this AD [as provided by paragraph (a)(1)] is to remove the girt bar visual indicator brackets, the FAA now considers that airplanes on which Modification 23605 has been accomplished are in compliance with that paragraph of the rule because the brackets have been removed on those airplanes. (Whether or not the red arrow placard, installed as part of Modification 23605, is used to determine the engagement of the girt bar is of no consequence, since the girt bar position/arming indicator in the cockpit remains as a source to obtain positive indication of the position of the girt bar.) Accordingly, the applicability of the final rule has been revised to exclude airplanes on which Modification 23605 has been installed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described The FAA has determined that this change will neither

increase the economic burden on any operator nor increase the scope of the AD.

This is considered interim action. Airbus Industrie has advised the FAA that it is developing an alternative method of girt bar position indication for all Model A320 series airplanes that will not entail a design feature that would contribute to the addressed problem of lanyard entanglement. Once this modification is developed, approved, and available, the FAA may consider further rulemaking.

The FAA estimates that 59 Model A320 airplanes of U.S. registry will be affected by this AD.

Accomplishment of the removal of the girt bar visual indicator brackets will take approximately 1 work hour per airplane, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of this removal action on U.S. operators who elect to accomplish it is estimated to be $55 per airplane.

The time necessary to accomplish the modification of the lanyard may vary from operator to operator, depending upon the design submitted for approval by the FAA. However, the FAA estimates that a typical modification will require an average of 2 work hours to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of this modification action on U.S. operators who elect to accomplish it is estimated to be $110 per airplane.

Based on the figures discussed above, the total cost impact of this AD on U.S. operators is estimated to be between $3,245 and $6,490. This total cost impact figure is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

94–14–17 Airbus Industrie: Amendment 39–8965. Docket 93–NM–63–AD.

Applicability: Model A320 series airplanes equipped with slide/raft evacuation systems; on which Airbus Industrie Modification 23605 (specified in Airbus Service Bulletin A320–25–1109, dated April 20, 1993) has not been accomplished; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the lanyard from becoming entangled on the girt bar indicator mechanism and preventing the exit door from opening properly if passengers are required to use the exit door during overwater operations where ditching may be required, accomplish the following:

(a) Within 90 days after the effective date of this AD, accomplish the requirements of either paragraph (a)(1) or (a)(2) of this AD:

(1) Remove the girt bar visual indicator brackets (plates) from all passenger exit doors that are so equipped. Or

(2) Modify the lanyard that attaches the survival kit to the slide/raft so that it does not become entangled on the girt bar indicator mechanism, in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) This amendment becomes effective on August 8, 1994.

Issued in Renton, Washington, on June 29, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–16304 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–U

---

14 CFR Part 71

[Airspace Docket No. 94–AWP–6]

Modification of Class E Airspace; Arcata Municipal Airport, Arcata, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Arcata, CA. An Instrument Landing System/Distance Measuring Equipment (ILS/DME) standard instrument approach procedure (SIAP) has been developed for the Arcata Municipal Airport. Controlled airspace extending from 700 feet above the surface is needed for aircraft executing the approach. The effect of this proposal is to provide adequate Class E airspace for instrument flight rules (IFR) operations at Arcata Municipal Airport.

EFFECTIVE DATE: 0901 u.t.c., December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 297–0697.

SUPPLEMENTARY INFORMATION:

History

On April 15, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Arcata, CA. (59 FR 23034). An Instrument Landing System/Distance Measuring Equipment (ILS/

DME) standard instrument approach procedure (SIAP) has been developed for the Arcata Municipal Airport. Controlled airspace extending from 700 feet above the surface is needed for aircraft executing the approach.

Interested parties were invited to participate in this rulemaking proceedings by submitting written comments on the proposal to the FAA. No objections were received concerning this proposal.

The coordinates in the proposal are based on North American Datum 83. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993).

The Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Arcata, CA, to modify controlled airspace from 700 to 1200 feet AGL at the Arcata Municipal Airport at Arcata, CA.

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 "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

AWP CA E5 Arcata, CA [Revised]

Arcata Municipal Airport, CA
(lat. 40°58'41" N., long. 124°06'31" W.)

That airspace extending upward from 700 feet above the surface within that airspace beginning
at lat. 40°29'00" N., long. 124°07'00" W.;
to lat. 40°45'00" N., long. 123°50'00" W.;
to lat. 41°05'00" N., long. 124°05'00" W.;
to lat. 41°03'00" N., long. 124°19'00" W.;
to lat. 40°36'00" N., long. 124°19'00" W.;
thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on June 15, 1994.

Harvey R. Riebel,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–16412 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 94–ANM–17]

Modification of Class D Airspace; Renton, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published on June 1, 1994, which inadvertently listed an outdated and incorrect airspace description for Renton Municipal Airport, Renton, Washington.

EFFECTIVE DATE: 0901 u.t.c., August 18, 1994.

FOR FURTHER INFORMATION CONTACT: James E. Riley, System Management Branch (ANM–530), Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, Washington 98055–4056; Telephone: (206) 227–2537.

SUPPLEMENTARY INFORMATION: On June 1, 1994, the Federal Aviation Administration (FAA) published a final rule that amended the Renton, Washington, Class D airspace area to provide up to date information regarding the area's effective hours in relation to the control tower's hours of operation. However, that action inadvertently contained an outdated and incorrect airspace description for the Renton Municipal Airport. This action corrects that error.

Correction of Final Rule

Accordingly, pursuant to the authority delgated to me, the publication in the **Federal Register** on June 1, 1994 (59 FR 28245; **Federal Register** Document 94–13067) and the corresponding description in FAA Order 7400.9A, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

On page 28246, in the first column, the description for the Renton, Washington, Class D airspace is corrected to read as follows:

* * * * *

ANM WA D Renton, WA [Corrected]
Renton Municipal Aiport, WA
(lat. 47°29'35" N., long. 122°12'57" W.)
Seattle, Boeing Field/King County International Airport, WA
(lat. 47°31'48" N., long 122°18'07" W.)
Seattle VORTAC
(lat. 47°26'07" N., long. (122° 18'35" W.)

That airpsace extending upward from the surface to and including 2,500 feet MSL beginning at the intersection of a 5-mile radius of Boeing Field/King County International Airport and a 5-mile radius of Renton Municipal Airport at lat. 47°34'32" N., long. 122°11'57" W., thence clockwise along the 5-mile radius of Renton Municipal Airport to the intersection with a Seattle VORTAC 097 bearing at lat. 47°25'20" N., long. 122°09'05" W., thence west along the Seattle VORTAC 097 bearing to lat. 47°25'36" N., long. 122°12'19" W., thence north along a line to lat. 47°27'45" N., long. 122°12'58" W., thence northwest along a line to lat. 47°28'09" N., long. 122°13'33" W., thence north along a line to lat. 47°30'00" N., long., 122°13'33" W., thence northwest along a line to lat. 47°31'13" N., long. 122°15'32" W., thence northeast along a line to lat. 47°33'41" N., long. 122°14'03" W., thence northeast along a line to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory,.

* * * * *

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

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 94–16410 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–AWP–7]

Establishment and Modification of Class E Airspace; Lompoc Municipal Airport, Lompoc, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Lompoc, CA. Controlled airspace extending from the surface and a transition area from 700 feet above the surface is needed for aircraft executing the approach. The effect of this proposal is to provide adequate Class E airspace for instrument flight rules (IFR) operations at Lompoc Municipal Airport.

EFFECTIVE DATE: 0901 UTC, December 8, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 297–0697.

SUPPLEMENTARY INFORMATION:

History

On May 4, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish and modify Class E airspace at Lompoc, CA. (59 FR 23034). Controlled airspace extending from the surface and a 700 foot transition area is needed for aircraft executing the approach.

Interested parties were invited to participate in this rulemaking proceedings by submitting written comments on the proposal to the FAA. No objections were received concerning this proposal.

The coordinates in the proposal are based on North American Datum 83. Class E airspace designations are published in Paragraph 6002 and Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993).

The Class E airspace designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace extending from the surface at Lompoc, CA, and modifies controlled airspace from 700 to 1200 feet AGL at the Lompoc Municipal Airport at Lompoc, CA.

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 "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

AWP CA E2 Lompoc, CA [NEW]

Lompoc Airport, CA
(lat. 34°39'56" N, long. 120°28'00" W)

That airspace extending upward from the surface within a 4.3-mile radius of Lompoc Airport, excluding that airspace within Restricted Areas R–2516 and R–2517. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Lompoc, CA [Revised]

Lompoc Airport, CA
(lat. 34°39'56" N, long. 120°28'00" W)
Gaviota VORTAC (lat. 34°31'53" N, long. 120°05'28" W)
Lompoc NDB (lat. 34°39'53" N, long. 120°27'48" W).

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Lompoc Airport and within 4.3 miles each side of the Gaviota VORTAC 293° radial extending from the 4.3-mile radius 10.9 miles west of the Gaviota VORTAC and within 4 miles each side of the 083° bearing from the Lompoc NDB to 8 miles east of the NDB, excluding that airspace within Restricted Areas R–2516 and R–2517. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, CA, on June 22, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–16413 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 103]

RIN 3116–AA05

Insurance Requirements, the Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agency issued a final rule on March 19, 1993 which included a requirement that all exchange visitors and their spouses and dependents on J visas have insurance to cover themselves for sickness and accidents, effective September 1, 1994. In response to concerns raised by the public, the Agency is amending the types of insurance allowed under the Exchange Visitor Program regulations.

DATES: This interim final rule is effective July 7, 1994. Written comments will be accepted until August 8, 1994. All written communications received by the Agency on or before the closing date will be considered by the Agency before action on a final rule is undertaken.

ADDRESSES: Comments regarding this rule should be addressed as follows: United States Information Agency, Office of the General Counsel, Rulemaking 103, 301 Fourth Street SW., room 700, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: William G. Ohlhausen, Assistant General Counsel, United States Information Agency, 301 Fourth Street SW., Washington, DC 20547; telephone (202) 619–4979.

SUPPLEMENTARY INFORMATION: Since implementing the final rule on March 19, 1993 (58 FR 15180), USIA has been requested to amend the insurance requirement set forth in 22 CFR 514.14(c). The main concern has been with the requirement that policies be underwritten by an insurance corporation having an A.M. Best rating of "A–" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A–i" or above, a Standard & Poor's Claims-paying Ability rating of "A–" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating as the Agency may from time to time specify. A rating is not presently required when the insurance coverage is backed by the full faith and credit of the government of the exchange visitor's home country or when the sponsor is allowed to self-insure or to accept full financial responsibility.

A number of the Agency's constituents have expressed the view that § 514.14(c) is too restrictive and that compliance could end longstanding and reliable insurance relationships. A number of major insurance plans and almost all health maintenance organizations reportedly do not meet the current regulations. The Agency has been informed that the net effect on exchange visitors and family members could be to actually reduce in some cases the quality of the health care they have been receiving.

Approximately 800 of the 1,200 designated sponsors are colleges and universities, many of which provide health insurance for their students and faculty. Other sponsors include major corporations, government agencies, non-profit organizations, and research institutions, many of which also offer insurance for their employees who are exchange visitors. A number of sponsors expressed concern that the current regulations disqualify reliable insurance policies, plans, and contracts that they provide to their exchange visitors. In response to sponsors' comments, the Agency is amending the regulations to broaden the types of insurance permitted under § 514.14(c). The Agency is proposing two additional ways to satisfy § 514.14(c).

The first is to qualify a policy, plan, or contract which is part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor. Here, the sponsor is in a position to consult with insurance professionals, rating services, insurance commissioners, legal counsel, and other experts before determining which coverage to offer to its employees and enrolled students.

The second is to qualify a policy, plan, or contract which is underwritten by a federally qualified health maintenance organization (HMO) or an eligible competitive medical plan (CMP) as determined by the Health Care Financing Administration. While these HMO's and CMP's often are not rated by insurance rating services, they are monitored for fiscal soundness on a regular basis by the federal government, in addition to being regulated by one or more states.

22 CFR 514.14 sets forth only minimum insurance requirements, so exchange visitors and their families are encouraged to be educated consumers and consult with insurance professionals, rating services, and insurance regulators before determining their insurance coverage.

Comment

The Agency invites comments from the public on this interim final rule. The Agency is under no legal requirement to invite comments. The designation of exchange visitor sponsors and the administration of the Exchange Visitor Program are deemed to be foreign affairs functions of the United States Government. The Administrative Procedure Act, 5 U.S.C. 553(a)(1)(1989) specifically exempts such functions from the rulemaking requirements of the Act.

The Agency will accept comments for 30 days after publication of this interim final rule. A final rule will be published thereafter to respond to comments received and to promulgate changes, if any, as part of the Exchange Visitor Program regulations, 22 CFR Part 514. In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does it have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: June 30, 1994.

Les Jin,

General Counsel.

Accordingly, 22 CFR Part 514 is amended as follows:

PART 514—EXCHANGE VISITOR PROGRAM

1. The authority citation for Part 514 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; USIA Delegation Order No. 85–5 (50 FR 27393).

2. In § 514.14, paragraph (c) is revised to read as follows:

§ 514.14 Insurance.

* * * * *

(c) Any policy, plan, or contract secured to fill the above requirements must, at a minimum, be:

(1) Underwritten by an insurance corporation having an A.M. Best rating of "A–" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A–i" or above, a Standard & Poor's Claims-paying Ability rating of "A–" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating as the Agency may from time to time specify; or

(2) Backed by the full faith and credit of the government of the exchange visitor's home country; or

(3) Part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or

(4) Offered through or underwritten by a federally qualified Health Maintenance Organization (HMO) or eligible Competitive Medical Plan (CMP) as determined by the Health Care Financing Administration of the U.S. Department of Health and Human Services.

* * * * *

[FR Doc. 94–16407 Filed 7–6–94; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552, Subpart M

Land Use Policy for Fort Lewis, Yakima Training Center, and Camp Bonneville, WA

AGENCY: Department of the Army, I Corps and Fort Lewis, DOD.

ACTION: Interim rule.

SUMMARY: This action establishes 32 CFR part 552, Subpart M, Land Use Policy for Fort Lewis, Yakima Training Center, and Camp Bonneville and authenticates Fort Lewis Regulation 350–33. Uninterrupted military use of training areas is vital to the maintenance

of U.S. and Allied Armed Forces combat readiness. In addition, maneuver training areas may be dangerous to persons entering without warning provided during training scheduling or use permit processing.

DATES: This rule is effective July 7, 1994. However, written comments will continue to be received until September 6, 1994.

ADDRESSES: Headquarters, I Corps and Fort Lewis, ATTN: Range Officer, AZFH–PTM–R, Fort Lewis, Washington 98433–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Lanoue or A.J. Weller, (206) 967–6165/6371.

Executive Order 12291

This rule has been classified as nonmajor.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980. This interim rule does not have a significant impact on small entities.

Paperwork Reduction Act

This rule does not contain new reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 552, Subpart M

Military personnel, Government employees, Land use.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

Accordingly, subpart M to 32 CFR part 552 is added to read as follows:

Subpart M—Land Use Policy for Fort Lewis, Yakima Training Center, and Camp Bonneville

Sec.

Authority: 16 USC 470, 1531–1543; 18 USC 1382; 50 USC 797.

§ 552.160 Purpose.

(a) This subpart establishes procedures for entry to maneuver training areas at Fort Lewis, Yakima Training Center (YTC), and Camp Bonneville. Procedures for other sub-installations to Fort Lewis will be developed by the Commanders of those installations.

(b) Uninterrupted military use of training areas is vital to the maintenance of US and Allied Armed Forces combat readiness. In addition, maneuver training areas may be dangerous to persons entering without warnings provided during training scheduling or use permit processing.

§ 552.161 References.

See Appendix E to this subpart.

§ 552.162 Abbreviations.

See Appendix F to this subpart.

§ 552.163 Applicability.

(a) This subpart is applicable to all military and civilian users of the range complexes at Fort Lewis, Yakima Training Center, and Camp Bonneville.

(b) This subpart governs all use of the Fort Lewis, Yakima Training Center and Camp Bonneville Military Reservations outside cantonment areas, housing areas, and recreational sites controlled by the Director of Personnel and Community Activities (DPCA). These areas are designated on the Fort Lewis, Yakima Training Center and Camp Bonneville Military Installation Maps as Impact Areas and lettered or numbered Training Areas (TAs), and comprise the range complexes for each Installation.

§ 552.164 General.

(a) Military training. Use of the Fort Lewis, Yakima Training Center, and Camp Bonneville range complexes for military training is governed by FL Regs 350–30, 350–31, and 350–32. Scheduling is per FL Policy Statement 350–2. Military training always has priority.

(b) Hunting. Hunting, fishing, and trapping on the range complexes are governed by FL Reg 215–1 and the Yakima Training Center Hunting Letter of Intent (LOI).

(c) Fund raising. Fund raising events for non-profit private organizations not affiliated with the Army or Fort Lewis per AR 210–1 require a Corps of Engineers Real Estate Agreement. Requests for fund-raisers by such non-profit organizations, to be conducted on the Fort Lewis range complex, will be sent to the Director of Plans, Training, and Mobilization (DPTM) Range Division of preparation of a DPTM staffing document. The document will be circulated for comment to Director of Personnel and Community Activities (DPCA), Staff Judge Advocate (SJA), Public Affairs Officer (PAO), and Director of Engineering and Housing (DEH). If the event can be supported, DPTM will advise the organization to contact the Director of Engineering and Housing Real Property Branch. Requests for such activities at Yakima Training Center will be sent to the Yakima Training Center Commander for review and processing. For Camp Bonneville, the entry point is the Vancouver Barracks Commander. Corps of Engineers Real Estate Agreements require up to 8 months to process, and includes payment of a $375.00 minimum administrative fee, with actual costs determined on a case by case basis. Requests for fundraisers in the cantonment area by private organizations are processed per AR 210–1 by the Director of Personnel and Community Activities (DPCA).

(d) Commercial use. Individuals or organizations using the range complex for profit-generating activities must possess a Corps of Engineers Real Estate Agreement. As stated above, these agreements require up to 8 months to process and include a minimum administrative fee of $375.00, with actual costs determined on a case by case basis. Entry point for these agreements is the DEH Real Property Branch. Profit-generating activities include collection of fees for services performed on the range complex, or selling materials collected from the range complex. Real Estate Agreement holders must check into the range complex daily by calling or coming to Area Access.

(e) Installation service and maintenance. Department of Defense (DoD) and contractor personnel on official business are authorized on the range complex per Appendix C to this subpart. Access to hazard areas for such personnel is governed by the appropriate Installation Range Regulations.

(f) Non-DoD personnel in transit. Individuals in transit across Fort Lewis on State or County maintained roads, or roads designated for public access by the Installation Commander, require no special permits. See Appendix B to this subpart. This measure does not apply at Yakima Training Center or Camp Bonneville.

(g) Alcoholic Beverages. No alcoholic beverages may be consumed on the range complexes except as authorized per FL Reg 210–1.

(h) Failure to comply. Persons entering the Fort Lewis, Yakima Training Center, or Camp Bonneville range complex without permit or scheduling, which constitute the consent of the Commanding Officer or his designated representative, are in violation of this regulation and trespassing on a controlled access Federal Reservation. Offenders may be cited by Military Police and may be subjected to administrative action or punishment under either the Uniform Code of Military Justice UCMJ) or Title 18 US Code Section 1382, or Title 50 U.S. Code Section 797, as appropriate to each individual's status. Administrative action may include suspension or loss of recreational privileges, or permanent expulsion from the Military Reservations.

§ 552.165 Responsibilities.

(a) Commander, Yakima Training Center:

(1) Schedule the Yakima Training Center range complex per FL Reg 350–31 and FL PS 350–2.

(2) Process requests for non-military, non-commercial use per § 552.166.

(b) Commander, Vancouver Barracks:

(1) Schedule the Camp Bonneville range complex per FL Reg 350–32 and FL PS 350–2.

(2) Process requests for non-military, non-commercial use per Paragraph 6c.

(c) Fort Lewis DPTM.

(1) Schedule the Fort Lewis range complex per FL Reg 350–30 and FL PS 350–2, including allocation of and for recreational use.

(2) Operate the Fort Lewis Area Access Section.

(3) Respond to DEH coordination on timber sales and other commercial use of the range complex.

(d) Law Enforcement Agency (LEC). Provide law enforcement and game warden patrols on the range complexes.

(e) Director of Engineering and Housing (DEH).

(1) Coordinate with DPTM and the appropriate Sub-Installation Commander on Real Estate Agreements, timber sales, wildlife management, construction, forest management, Installation Training Area Management (ITAM), and other DEH or Corps of Engineers managed actions occurring on the range complex

(2) Ensure that Real Estate Agreement holders are required to notify Fort Lewis Area Access, YTC DPCA, or Camp Bonneville Range Control, as appropriate, of range complex entry.

(f) DPCA. With DEH, manage Installation hunting, fishing, and trapping programs. Manage picnic and recreation sites located in the Fort Lewis range complex, as listed in Appendix A to this part. Advise DPTM on private organizations requesting use of the Fort Lewis range complex for fundraisers.

(g) Public Affairs Office (PAO).

(1) Act as interface to resolve community relations issues related to land use.

(2) Coordinate equipment and special assistance requests per § 552.165, and advise DPTM or the appropriate Sub-Installation Commander if permit requirements have been waived by the Command Group for a particular event or activity.

(3) Inform DPTM or the appropriate Sub-Installation Commander of public response to policy execution.

§ 552.166 Recreational use.

(a) Fort Lewis:

(1) Individuals or organizations, military or civilian, desiring access to the Fort Lewis range complex for recreation must obtain a Fort Lewis Area Access permit, composed of HFL Form 652 and HFL Form 653. Exceptions are outlined below.

(2) Exception 1: DoD ID card holders enroute to or using DPCA recreational areas listed in Appendix A to this subpart need no permit other than the ID card. However, travel to and from DPCA areas is restricted to the most direct paved or improved two lane roads. DoD personnel participating in non-commercial recreational activities listed in Appendix C to this subpart must have an Area Access permit.

(3) Exception 2: Organizations or groups whose activity requires advanced commitment of a specific site or area, such as Scout Camporees, seasonal or one-time regional meets, and so on, must apply to the Fort Lewis DPTM, ATTN: Range Division, in writing. At least 30 days are required to process these requests. If the requested use is allowable and an appropriate area is available, DPTM may approve the request. Groups with approved land commitments will be scheduled onto the Range Complex using HFL 473. Actual commitments of land will not be made until after the Quarterly Range Scheduling Conference that covers the time period in question. Groups who need military equipment or other special support from Fort Lewis must apply in writing directly to the I Corps Public Affairs Office (PAO).

(b) Yakima Training Center: Access to the Yakima Training Center range complex for recreation requires application in writing to the Commander, Yakima Training Center, Yakima WA 98901–9399. Camping is normally not permitted on Yakima Training Center. Exceptions may be granted by the Yakima Training Center Commander for special events.

(c) Camp Bonneville: Access to the Camp Bonneville range complex for recreation requires a call to Range Control, telephone (206) 892–5800, the day before or the day of the activity. Access will be permitted if no military maneuver or live fire training is scheduled for the day requested.

§ 552.167 Activities.

(a) Authorized activities are listed in Appendix C to this subpart.

(b) Prohibited activities are listed in Appendix D to this subpart.

§ 552.168 Fort Lewis area access office.

(a) DPTM Range Division operates the Area Access Section to issue permits and grant non-training access to the range complex.

(b) Area Access is located in Range Control, Building T–6127, 19th and Tacoma Streets, Main Post Fort Lewis. Telephone numbers are (206) 967–4686/6277. Fax extension is 967–4520. E-mail is "rangeflw." Business hours vary dependent on personnel fill, and are available by calling the above numbers.

(c) Individuals desiring access for authorized activities must register in person at Area Access during business hours. Minimum age is 18 years, except for active duty military personnel. Persons under 18 years of age must be sponsored and accompanied by a parent or legal guardian. Individual registration requires:

(1) Picture ID.

(2) Address and telephone number.

(3) Vehicle identification and license number, if a vehicle is to be brought on post.

(4) Names and ages of minor family members who will accompany a sponsor or permit holder.

(5) Liability release signature.

(6) Certification that intended activities are on the authorized list and are not for profit or fund-raising. Persons who submit false certificates are subject to prosecution in Federal Court under Title 18, United States Code, Section 1001, and the provisions of § 552.165 of this subpart.

(d) A wallet-sized permit (HFL Form 653) and a vehicle pass (HFL Form 652) will be issued to each person authorized access. The permit is not transferable. Entry to the Fort Lewis range complex without the permit is prohibited.

(e) A collective permit will be issued to an organization desiring to conduct a one-time group event not tied to a

specific area or site, maximum length 3 days. The group leader must register in person at the Area Access Office and must be 21 years of age or older except for active duty military personnel.

(1) Group registration requires the information listed for individual permits above for the group leader(s), plus a list of names of all persons in the group.

(2) Group permits require that all members of the group be with the leader throughout the event. If the group plans to separate while on Fort Lewis, sub-group leaders must be appointed and must obtain separate group permits. The group leader permit is not transferable.

(3) Events requiring commitment of land must be processed per § 552.166.

(f) Aside from the land commitment coordination time requirement in § 552.166, there is no deadline for permit application. Permits for authorized activities that do not require commitment of land may be obtained on the day of the event.

(g) Group event permits for specialized one-time activities are valid for the duration of the event, not to exceed 3 days. Individuals activities permits are valid for one year. When a permit expires, the holder must re-register to renew privileges, and a new permit will be issued.

(h) Access hours are 30 minutes after daylight to 30 minutes before dark, except for authorized overnight activities and as outlined in FL Reg 215–1.

(i) All permit holders must check in with Area Access, either telephonically or in person, no earlier than 0800 the day prior to the event. It is the responsibility of each permit holder to inform a friend or relative of the area being used, the estimated time of return, and the vehicle being used.

(j) Except when land commitment has been coordinated and approved, Area Access will determine when called for entry whether the area requested is available. If the requested area is not open for permit holders and an alternate area cannot be provided or is not acceptable to the requestor, access will be denied.

§ 552.169 Yakima Training Center area access office.

The Yakima Training Center DPCA functions as the Area Access Officer (AAO).

§ 552.170 Camp Bonneville area access office.

Camp Bonneville Range Control (CBRC) functions as Area Access.

§ 552.171 Compatible use.

(a) Military unit commanders may request during initial scheduling or subsequent training event coordination that no permit holders be allowed in areas they have scheduled for training. If this restriction is granted, the Installation Range Control will close appropriate areas. The following military activities are considered incompatible with non-training access and automatically close affected areas:

(1) Live-fire training events with danger zones extending into training areas.

(2) Parachute and air assault operations.

(3) Field Artillery firing. The numbered training area occupied by the weapons will be closed.

(4) Training involving riot agents or smoke generating equipment.

(b) The Installation Range Officer may also close training areas based on density of occupation by military units, unit size, or training to be conducted.

(c) Areas allocated to modern firearm deer hunting are closed to both training and other recreational activities. At Fort Lewis, when pheasant release sites can be isolated by swamps, streams, or roads from the rest of a training area, multiple use of the affected training area (TA) is authorized.

§ 552.172 Violations.

Anyone observing violators of this or other regulations must report the activity, time, and location to the appropriate Area Access Office or the Military Police (MP) as soon as possible.

Appendix A to Subpart M—DPCA Recreational Areas in Training Areas

1. This listing applies to Fort Lewis only. There are no such facilities at Yakima Training Center or Camp Bonneville.

2. For DoD member use only, no permit other than ID card required.

Note: Use of specific sites is authorized only to military, retired military, DoD civilian personnel, their family members and accompanied guests.

Boat launch adjacent to Officer's Club Beach on American Lake—Beachwood area
Cat Lake Picnic and Fishing Area—Training Area 19
Chambers Lake Picnic and Fishing Area—Training Area 12 (See Para 3 below)
Fiander lake Picnic and Fishing Area—Training Area 20
Johnson Marsh—Training Area 10
Lewis Lake Picnic and Fishing Area—Training Area 16
No Name Lake—Training Area 22
Sequalitchew Lake Picnic Area—Training Area 2
Shannon Marsh—CTA D
Skeet Trap Range—2d Division Range Road, CTA E
Solo Point Boat Launch—North Fort, CTA A West
Sportman's Range—East Gate Road, Range 15
Wright Marsh/Lake—CTA C
Vietnam Village Marsh—Training Area 9 and 10
Spanaway Marsh—Training Area 9
Sears Pond—Beachwood Housing
Nisqually River—Training Area 18

3. For non-DoD member use, permit required: Chambers Lake and Nisqually River for fishing only.

4. The Solo Point road and the South Sanitary Fill roads are also open in an east-west direction only to personnel of the Weyerhaeuser Corporation and Lone Star Corporation, and their assigns, for business or recreation access to adjacent Army owned real estate.

Appendix B to Supbart M—Non-Permit Access Routes

1. This listing applies only to Fort Lewis. There are no such routes on Yakima Training Center or Camp Bonneville.

2. The following public easement routes may be used without permit or check-in: I–5.

Steilacoom-DuPont Road (ET 286163 or ET 301229).
Pacific Highway Southeast (ET 231121 to ET 249143).
Washington State Route 507 (ET 363065 to ET 428146).
Goodacre and Rice Kandle Roads (ET 386090 to ET 449076).
8th Avenue South (ET 424047 to ET 423127).
8th Avenue East (ET 439077 or ET 439128).
208th Avenue (ET 423128 to ET 431128).
Washington State Route 510 (ET 234065 to ET 246056 and ET 260048 to ET 272022)
Yelm Highway (ET 231058 to ET 238061).
Rainier Road Southeast (ES 167999 to ES 212943).
Military Road Southeast (ES 212943 to ES 214945).
Spurgeon Creek Road (ES 177988 to ES 178999).
Stedman Road (ES 152989 to ES 167998).

3. The following military routes may be used without permit ot check-in:

Huggins Meyer Road (North Fort Road, ET 304204–ET 327215)
East Gate Road (C–5 Mock-up to 8th Ave South, ET 423097)
Roy Cut-off (Chambers Lake) Road (East Gate Road to Roy City Limits), when open.
Lincoln Avenue (Old Madigan to ET 390179)

4. The Solo Point Road is open to Weyerhauser Corporation personnel for business and recreation.

5. DoD personnel and Fort Lewis contractor personnel on official business may use all DEH-maintained range roads and trails in the training areas.

6. Range roads closed for training by barricades or road guards will not be used. Barricades and guards will not be by-passed.

Appendix C to Subpart M—Authorized Activities for Maneuver Training Area Access

1. Fort Lewis:

Military Training (FL Reg 350–30)
DEH or Corps of Engineers Real Estate Agreement for commercial use (AR 405–80)
Installation service and maintenance (AR 420–74, FL Reg 350–30)

Non-DoD personnel in transit on public-access routes (Appendix B) non-commercial recreational use:

Hunting, fishing and trapping (FL Reg 215–1)
Dog training (not allowed 1 April through 31 July in selected areas per FL Reg 215–1)
Horseback riding on roads and vehicle tracks
Walking, distance running
Model airplane and rocket flying (Range Control scheduling and Notice to Airmen (NOTAM) required)
Model boating
Orienteering
Sport parachuting
Organized rifle and pistol competition (Range Control scheduling required)
Scout activities and weekend camporees
Observation of wildlife and vegetation
Non-commercial picking of ferns, mushrooms, blackberries, apples and other vegetation
Photography
Hiking

2. Yakima Training Center:

Military Training (FL Reg 350–31)
DEH or Corps of Engineers Real Estate Agreement for commercial use (AR 405–80)
Installation service and maintenance (AR 420–74)

Non-Commercial recreational use:

Hunting, fishing and trapping (FL Reg 215–1)
Dog training
Horseback riding on roads and vehicle tracks
Walking, distance running
Model airplane and rocket flying (Range Control scheduling and Notice to Airmen (NOTAM required)
Orienteering
Sport parachuting
Organized rifle and pistol competition (Range Control scheduling required)
Scout activities
Observation of wildlife and vegetation
Photography
Hiking
Camping, per Paragraph 6

3. Camp Bonneville:

Military Training (FL Reg 350–32)
DEH or Corps of Engineers Real Estate Agreement for commercial use (AR 405–80)
Installation service and maintenance (AR 420–74)

Non-Commercial recreational use:

Hunting, fishing and trapping (FL Reg 215–1)
Dog training
Horseback riding on roads and vehicle tracks
Walking, distance running
Model boating
Orienteering
Organized rifle and pistol competition (Range Control scheduling required)
Scout activities and weekend camporees
Observation of wildlife and vegetation
Non-commercial picking of ferns, mushrooms, blackberries, apples and other vegetation
Photography
Hiking

Note: Permit holders for the above activities must certify that they are non-commercial and not for profit.

Appendix D to Subpart M—Unauthorized Activities in Maneuver Training Areas

1. Fort Lewis:

Civilian paramilitary activities and combat games.
Off-pavement motorcycle riding.
Off-road vehicle operation.
Hang gliding.
Ultralight aircraft flying.
Hot air ballooning.
Souvenir hunting and metal-detecting, including recovery of ammunition residue or fragments, archaeological or cultural artifacts, or geological specimens.
Vehicle speed contests.
Wood cutting or brush picking, without DEH or Corps of Engineer permit.
Commercial activities conducted for profit, including horseback riding rentals or guide service, dog training for reimbursement, or fund-raising events for other than non-profit organizations working in the public good. Fund raisers require DEH Real Estate Agreement. For-profit activities require Corps of Engineer leases or permits, obtained through the DEH Real Estate Office.
Overnight camping outside of DPCA sites (camping on DPCA sites is open to DoD members only, per above).
Consumption of alcoholic beverages.

2. Yakima Training Center:

Civilian paramilitary activities and combat games.
Off-pavement motorcycle riding.
Off-road vehicle operation.
Hang gliding.
Ultralight aircraft flying.
Hot air ballooning.
Souvenir hunting and metal-detecting, including recovery of ammunition residue or fragments, archaeological or cultural artifacts.
Vehicle speed contests.
Commercial activities conducted for profit, including dog training for reimbursement, or fund-raising events for other than non-profit organizations working in the public good. Fund raisers require DEH Real Estate Agreement. For-profit activities require Corps of Engineer leases or permits, obtained through the DEH Real Estate Office.
Overnight camping except where specifically permitted as part of the activity by the Commander, Yakima Training Center.
Consumption of alcoholic beverages.

3. Camp Bonneville:

Civilian paramilitary activities and combat games.
Off-pavement motorcycle riding.
Off-road vehicle operation.
Hang gliding.
Ultralight aircraft flying.
Hot air ballooning.
Souvenir hunting and metal-detecting, including recovery of ammunition residue or fragments, archaeological or cultural artifacts, or geological specimens.
Vehicle speed contests.
Wood cutting or brush picking, without DEH or Corps of Engineer permit.
Commercial activities conducted for profit, including horseback riding rentals or guide service, dog training for reimbursement, or fund-raising events for other than non-profit organizations working in the public good. Fund raisers require DEH Real Estate Agreement. For-profit activities require Corps of Engineer leases or permits, obtained through the DEH Real Estate Office.
Overnight camping.
Consumption of alcoholic beverages.
Model airplane and rocket flying.
Sport parachuting.

Appendix E to Subpart M—References

Army Regulations referenced in this subpart may be obtained from National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Fort Lewis Regulations and forms referenced in this subpart may be viewed at the Office of the Staff Judge Advocate General, Fort Lewis, Washington or at the Range Office, Headquarters, I Corps and Fort Lewis.

AR 210–1 (Private Organizations on Department of the Army Installations), with Fort Lewis Supplement 1
AR 405–70 (Utilization of Real Estate)
AR 405–80 (Granting Use of Real Estate)
AR 420–74 (Natural Resources—Land, Forest, and Wildlife Management)
FL Reg 190–11 (Physical Security of Arms, Ammunition, and Explosives)
FL Reg 210–1 (Fort Lewis Post Regulations)
FL Reg 215–1 (Hunting, Fishing, and Trapping)
FL Reg 250–30 (I Corps and Fort Lewis Range Regulations)
FL Reg 350–31 (Yakima Training Center Range Regulations)
FL Reg 350–32 (Camp Bonneville Range Regulations)
FL Policy Statement 350–2 (Training Resource Scheduling)
HFL Form 473 (Training Resource Request)

HFL Form 652 (Range Control Vehicle Permit)
HFL Form 653 (Range Control Area Access Card)

Appendix F to Subpart M—Abbreviations

AAO Area Access Officer
AR Army Regulation
CBRC Camp Bonneville Range Control
DEH Director of Engineering and Housing
DPCA Director of Personnel and Community Activities
DPTM Director of Plans, Training and Mobilization
FL Fort Lewis
ITAM Installation Training Area Management
LEC Law Enforcement Command
LOI Letter of Intent
MP Military Police
PAO Public Affairs Office
TA Training Area
SJA Staff Judge Advocate
UCMJ Uniform Code of Military Justice
YTC Yakima Training Center

[FR Doc. 94–16346 Filed 7–6–94; 8:45 am]
BILLING CODE 3710–08–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–108); RM–6606]

Radio Broadcasting Services; Sonora, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission dismisses the petition filed by the Clarke Broadcasting Corporation for reconsideration of the Report and Order in MM Docket No. 89–108, 56 FR 55,861, published October 30, 1991. Clarke had requested withdrawal of its petition, stating that it had received no consideration for such withdrawal. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 94–16409 Filed 7–6–94; 8:45 am]
BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 59, No. 129
Thursday, July 7, 1994

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

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

10 CFR Part 1003

RIN 1901–AA55

Office of Hearings and Appeals Procedural Regulations

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) proposes to amend its regulations by adding a new Part to contain procedural regulations governing proceedings before the Office of Hearings and Appeals (OHA), a quasi-judicial branch of the DOE, pertaining to matters within the jurisdiction of that Office. These proposed rules have been organized into a new part 1003 within chapter X of title 10 of the Code of Federal Regulations. They streamline and distill the procedures governing the conduct of proceedings before the OHA and update pertinent filing information. They will be utilized by OHA in cases that do not involve the former Federal petroleum price and allocation control regulations.

DATES: Comments may be submitted by September 6, 1994.

ADDRESSES: Seven copies of written comments should be mailed to: Marcia B. Carlson, Chief, Docket and Publications Branch, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone: (202) 586–2383; internet: Roger.Klurfeld@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction and Proposal

The Office of Hearings and Appeals (OHA) is a quasi-judicial body reporting to the Secretary of Energy. It is generally responsible for conducting informal adjudicative proceedings of DOE where there is provision for separation of functions, other than those which are subject to the jurisdiction of the Federal Energy Regulatory Commission. In connection with these duties, OHA holds hearings, receives evidence, develops the record, and issues final agency determinations, which are subject to review in the Federal courts. Except for regulations governing proceedings before the Board of Contract Appeals and other transaction appeals boards in DOE, which are components of the Office of Hearings and Appeals, procedural regulations governing OHA practice generally appear in part 205 of title 10 of the Code of Federal Regulations. Part 205 is a part of chapter II, Subchapter A of the DOE regulations, and are designed to apply to matters involving the former oil price and allocation control regulations which were in effect during the period 1973 through 1981. Because those oil-related proceedings are winding down, and the OHA is conducting a variety of other informal adjudications for the Department, it has become apparent that the OHA procedural regulations should appear in chapter X of title 10, which contains the general provisions of DOE regulations. The rules will be organized into a new part 1003 within chapter X. At the same time, procedures governing the conduct of proceedings before the OHA have been streamlined, and pertinent filing information has been updated.

Apart from general filing procedures, the regulations proposed today set forth OHA procedures for adjudicating various applications, petitions, motions and related requests filed by the public. These regulations include procedures for the filing of:

(1) Applications for Exception from DOE orders, regulations and rulings;
(2) Appeals of DOE orders;
(3) Applications for Stay of DOE orders;
(4) Motions for Modification or Rescission of OHA orders;
(5) Requests for Conferences and Hearings before OHA; and
(6) Petitions for Special Redress or Other Relief.

These rules are not intended to grant by themselves any new authority to the Office of Hearings and Appeals to conduct informal adjudications. They are designed to provide standard procedural rules that may be used to cover a variety of situations that may be encountered by the many different programs that the Department implements. There are two ways these regulations become effective. First, the procedures outlined in these rules become effective where program rules specifically reference them and state that a member of the public can make a request for relief under these rules. For example, the program regulations that the Department promulgated in the Energy Conservation Program for Consumer Products states that any person receiving an order may file an appeal with the Office of Hearings and Appeals utilizing that office's appellate rules. See 10 CFR 430.27(n). Similarly, in implementing the Payments-Equal-to-Taxes provisions of the Nuclear Waste Policy Act of 1982, the Department stated that an entity may file an appeal with the Office of Hearings and Appeals of a DOE payment equal to taxes (PETT) determination utilizing the OHA's 10 CFR part 205, subpart H appellate rules. See Payments-Equal-To-Taxes Provisions of the Nuclear Waste Policy Act of 1982, as Amended, Interpretation and Procedures, as published in the **Federal Register** on August 27, 1991 (56 FR 42314).

Second, these rules may be effective where a statute requires the Department to provide procedures that permit the public to seek redress, and the appropriate departmental official has delegated the responsibility to implement that requirement to the Office of Hearings and Appeals. For example, section 504 of the Department of Energy Organization Act requires the Secretary to provide for the making of adjustments to any rule, regulation or order issued under four statutes—the Emergency Petroleum Allocation Act of 1973 (since expired), the Federal Energy Administration Act, the Energy Supply and Environmental Coordination Act of 1974, and the Energy Policy and Conservation Act—as may be necessary to prevent serious financial hardship, inequity, or unfair distribution of burdens. The Secretary has delegated that responsibility to the Office of Hearings and Appeals, which

promulgated rules by which members of the public could seek an exception to rules, regulations or orders issued under the four named statutes.

Despite the establishment of standard procedures in these rules, there may be situations where the Office of Hearings and Appeals needs to use procedures specific to the particular needs of a program. In those situations, DOE program regulations themselves contain procedures governing OHA proceedings conducted under authority of those particular regulations, rather than a reference to OHA procedural rules. For example, the DOE Contractor Employee Protection Program contains procedural rules governing OHA proceedings in 10 CFR part 708. Similarly, the Department has proposed procedural rules governing OHA proceedings for determining eligibility for access to classified matter as a part of 10 CFR part 710. Under these circumstances, the rules in the program rules would govern OHA proceedings in those matters, and the rules in part 1003 would not apply.

With the exception of the regulations governing the filing and adjudication of an Application for Exception, explained below, the proposed rules correspond to nearly identical procedural rules contained in 10 CFR part 205, which were promulgated in the 1970's to adjudicate matters relating to the federal oil regulations. Part 205 will continue to be used only to adjudicate matters which relate specifically to the federal oil regulations. The new part 1003, proposed today, shall be utilized for adjudicating all other matters under OHA's jurisdiction. For instance, the DOE will modify § 430.27(n) of 10 CFR part 430 (DOE Energy Conservation Program for Consumer Products) to provide that an aggrieved person filing an appeal under that part shall proceed under subpart C of the new part 1003. The DOE will also issue a conforming amendment to the interpretation and procedures implementing the Payments-Equal-to-Taxes provisions of the Nuclear Waste Policy Act of 1982, as amended, to change the reference to the appellate procedures that are available. Future rulemakings which invoke OHA's adjudicatory authority will refer to the rules contained in part 1003 as the operative administrative process.

Regulations concerning the filing and adjudication of an Application for Exception have been revised and are contained in 10 CFR part 1003, subpart B. Generally, an Application for Exception may be filed by a person seeking an exception from or an adjustment to a DOE regulatory requirement, where such relief is authorized by the pertinent regulations or underlying statute concerned. Similar to the regulations appearing in 10 CFR part 205, subpart D, the proposed rules provide that an aggrieved person may file an Application for Exception from a DOE regulation on the basis that the specific regulatory requirement results in a serious hardship, gross inequity or unfair distribution of burdens. The proposed rules set forth in part 1003, subpart B, present a simpler procedure than part 205, subpart D, by (1) eliminating the issuance of a Proposed Decision and Order and related procedures prior to issuance of a final Decision and Order, and (2) providing for an administrative appeal of the final Decision and Order by an aggrieved party directly to OHA, except in exception proceedings brought under section 504 of the DOE Act which will continue to be appealable to the Federal Energy Regulatory Commission. The proposed rules make the adjudication of Applications for Exception more effective since they are more practicable than the more complex procedures of part 205, subpart D, which were formulated in contemplation of the federal oil regulations.

II. Procedural Requirements

Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in section 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort that the rulemaking notice defines key terms, specifies the effect on existing law, and describes any administrative proceeding to be available prior to judicial review and any provisions for the exhaustion of administrative remedies. DOE certifies that these proposed rules meet the requirements of section 2(a) and (b)(2) of Executive Order 12778.

Executive Order 12612

Executive Order 12612 requires that regulations or rules be reviewed for direct effects on States, on the relationship between the national government and the States, or in the distribution of power among various levels of government. If there are sufficient substantial direct effects, then Executive Order 12612 requires preparation of a federalism assessment to be used in all decisions involved in promulgating or implementing a regulation or rule.

Today's regulations do not affect any traditional State function. There are therefore no substantial direct effects requiring evaluation or assessment under Executive Order 12612.

Regulatory Flexibility Act Certification

These regulations were reviewed under the Regulatory Flexibility Act, 5 U.S.C. *et seq.*, which requires preparation of a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small entities, i.e., small businesses, small government jurisdictions. The proposed regulatory amendment updates and gives greater flexibility to previously existing procedural regulations. DOE therefore certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, and the preparation of a regulatory flexibility analysis is not warranted.

Paperwork Reduction Act

No additional information and recordkeeping requirements are imposed by this rule (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

The proposed rules are strictly procedural in nature. Preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) is not required for such rules under Appendix A to subpart D of 10 CFR part 1021.

III. Opportunity for Public Comment

Interested persons are invited to submit written views or arguments regarding the proposed amendment set forth in this notice. Seven copies of these comments should be submitted to Marcia B. Carlson, Chief, Docket and Publications Branch, Office of Hearings and Appeals, at the address shown in the beginning of this notice. The envelope and document submitted should be identified with the designation "Office of Hearings and

Appeals Procedural Regulations." Comments may also be sent via electronic mail to an Office of Hearings and Appeals internet mail address, which is: OHA@HQ.DOE.GOV. All comments received on or before the date specified in the beginning of this notice will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule. All comments will be available for public inspection and copying in the Office of Hearings and Appeals Public Reference Room, Room 1E–234, telephone number (202) 586–8001, between 1:00 and 5:00 p.m., Monday through Friday.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit seven complete copies, as well as two copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 205.9, which will be superseded by the proposed 1004.10.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, pursuant to section 501(c) (42 U.S.C. 7191(c)) of the DOE Organization Act (Pub. L. 95–91; 42 U.S.C. 7101 *et seq.*), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 10 CFR Part 1003

Administrative practice and procedure.

Issued in Washington, DC, on June 24, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

For the reasons set forth in the preamble, Title 10, Chapter X of the CFR is proposed to be amended by adding a new part 1003 to read as follows:

PART 1003—OFFICE OF HEARINGS AND APPEALS PROCEDURAL REGULATIONS

Subpart A—General Provisions

Sec.

Subpart B—Exception

Subpart C—Appeal

Subpart D—Stay

Subpart E—Modification or Rescission

Subpart F—Conferences and Hearings

Subpart G—Private Grievances and Redress

Authority: 15 U.S.C. 761, *et seq.*; 42 U.S.C. 7101, *et seq.*

Subpart A—General Provisions

§ 1003.1 Purpose and scope.

This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Office of Hearings and Appeals of the Department of Energy. These procedures provide standard rules of practice in a variety of informal adjudications when jurisdiction is vested in the Office of Hearings and Appeals. The procedures contained in this part may generally be incorporated by reference in proceedings established by rule, regulation or by specific designation, under statutory authority of the Department of Energy, which invoke the adjudicatory authority of the Office of Hearings and Appeals. e.g., 10 CFR part 430 (DOE Energy Conservation Program for Consumer Products). These rules do not apply in instances in which DOE regulations themselves contain procedures governing OHA proceedings conducted under authority of those particular regulations. e.g., 10 CFR part 708 (DOE Contractor Employee Protection Program).

§ 1003.2 Definitions.

(a) As used in this part:

Action means an order, interpretation, ruling issued, or a rulemaking undertaken by the DOE.

Aggrieved, for purposes of administrative proceedings, describes and means a person who is adversely affected by an action of the DOE.

Conference means an informal meeting, incident to any proceeding, between the Office of Hearings and Appeals and any person aggrieved by that proceeding.

Director means the Director of the Office of Hearings and Appeals or duly authorized delegate.

DOE means the Department of Energy, created by the Department of Energy Organization Act (Pub. L. 95–91, 42 U.S.C. 7254).

Duly authorized representative means a person who has been designated to appear before the Office of Hearings and Appeals in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of a written document, or of a personal appearance, verbal communication, or any other participation in the proceeding.

Exception means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

Federal legal holiday means the first day of January, the third Monday of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the eleventh day of November, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

OHA means the Office of Hearings and Appeals of the Department of Energy.

Order means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by the DOE. For purposes of this definition a written directive shall include telegrams, telefax, telecopies and similar transcriptions. This definition does not include internal DOE orders and directives issued by the Secretary of Energy or delegate in the management and administration of departmental elements and functions.

Person means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

Proceeding means the process and activity, and any part thereof, instituted by the OHA, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the OHA.

SRO means a Special Report Order issued pursuant to section 1003.8(a).

(b) Throughout this part the use of a word or term in the singular shall include the plural, and the use of the male gender shall include the female gender.

§ 1003.3 Appearance before the OHA.

(a) A person may make an appearance, including personal appearances in the discretion of the OHA, and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Any application, appeal, petition, or request filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative. Falsification of such certification will subject such person to the sanctions stated in 18 U.S.C. 1001.

(b) Suspension and disqualification. The OHA may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the OHA—

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking an OHA action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 1003.4 Filing of documents.

(a) Any document filed with the OHA must be addressed as required by § 1003.11, and should conform to the requirements contained in § 1003.9. All documents and exhibits submitted become part of an OHA file and will not be returned.

(b) A document submitted in connection with any proceeding transmitted by first class United States mail and properly addressed is considered to be filed upon mailing.

(c) Hand-delivered documents to be filed with the OHA shall be submitted to Room 1E–234 at 1000 Independence Avenue, SW., Washington, DC, on business days between the hours of 2 p.m. and 4:30 p.m.

(d) Documents hand delivered or received electronically after regular business hours are deemed filed on the next regular business day.

§ 1003.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the OHA, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the OHA is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice or other document and the order, notice or other document is served solely by mail, 3 days shall be added to the prescribed period.

§ 1003.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the OHA upon good cause shown.

§ 1003.7 Service.

(a) All documents required to be served under this part shall be served personally or by first class United States mail, except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Official United States Postal Service receipts from certified mailing shall constitute prima facie evidence of service.

§ 1003.8 Subpoenas, special report orders, oaths, witnesses.

(a) In accordance with the provisions of this section and as otherwise authorized by law, the Director may sign, issue and serve subpoenas; administer oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records or tangible evidence including, but not limited to, information retained in computerized or other automated systems in possession of the subpoenaed person.

(b) The Director may issue a Special Report Order requiring any person subject to the jurisdiction of the OHA to file a special report providing information relating to OHA regulations, including but not limited to written answers to specific questions. The SRO may be in addition to any other reports required.

(c) The Director, for good cause shown, may extend the time prescribed for compliance with the subpoena or SRO and negotiate and approve the terms of satisfactory compliance.

(d) Prior to the time specified for compliance, but in no event more than 10 days after the date of service of the subpoena or SRO, the person upon whom the document was served may file a request for review of the subpoena or SRO with the Director. The Director then shall provide notice of receipt to the person requesting review, may extend the time prescribed for

compliance with the subpoena or SRO, and negotiate and approve the terms of satisfactory compliance.

(e) If the subpoena or SRO is not modified or rescinded within 10 days of the date of the Director's notice of receipt:

(1) The subpoena or SRO shall be effective as issued; and

(2) The person upon whom the document was served shall comply with the subpoena or SRO within 20 days of the date of the Director's notice of receipt, unless otherwise notified in writing by the Director.

(f) There is no administrative appeal of a subpoena or SRO.

(g) A subpoena or SRO shall be served upon a person named in the document by delivering a copy of the document to the person named.

(h) Delivery of a copy of the document to a natural person may be made by:

(1) Handing it to the person;

(2) Leaving it at the person's office with the person in charge of the office;

(3) Leaving it at the person's dwelling or usual place of abode with a person of suitable age and discretion who resides there;

(4) Mailing it to the person by certified mail, at his last known address; or

(5) Any method that provides the person with actual notice prior to the return date of the document.

(i) Delivery of a copy of the document to a person who is not a natural person may be made by:

(1) Handing it to a registered agent of the person;

(2) Handing it to any officer, director, or agent in charge of any office of such person;

(3) Mailing it to the last known address of any registered agent, officer, director, or agent in charge of any office of the person by registered or certified mail; or

(4) Any method that provides any registered agent, officer, director, or agent in charge of any office of the person with actual notice of the document prior to the return date of the document.

(j) A witness subpoenaed by the OHA may be paid the same fees and mileage as paid to a witness in the district courts of the United States.

(k) If in the course of a proceeding a subpoena is issued at the request of a person other than an officer or agency of the United States, the witness fees and mileage shall be paid by the person who requested the subpoena. However, at the request of the person, the witness fees and mileage may be paid by the OHA if the person shows:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) the person who requested that the subpoena be issued would suffer a serious hardship if required to pay the witness fees and mileage.

(l) If any person upon whom a subpoena or SRO is served pursuant to this section, refuses or fails to comply with any provision of the subpoena or SRO, an action may be commenced in the appropriate United States District Court to enforce the subpoena or SRO.

(m) Documents produced in response to a subpoena shall be accompanied by the sworn certification, under penalty of perjury, of the person to whom the subpoena was directed or his authorized agent that:

(1) A diligent search has been made for each document responsive to the subpoena; and

(2) To the best of his knowledge, information, and belief each document responsive to the subpoena is being produced.

(n) Any information furnished in response to an SRO shall be accompanied by the sworn certification under penalty of perjury of the person to whom it was directed or his authorized agent who actually provides the information that:

(1) A diligent effort has been made to provide all information required by the SRO; and

(2) All information furnished is true, complete, and correct.

(3) If any document responsive to a subpoena is not produced or any information required by an SRO is not furnished, the certification shall include a statement setting forth every reason for failing to comply with the subpoena or SRO.

(o) If a person to whom a subpoena or SRO is directed withholds any document or information because of a claim of attorney-client or other privilege, the person submitting the certification required by paragraph (m) or (n) of this section also shall submit a written list of the documents or the information withheld indicating a description of each document or information, the date of the document, each person shown on the document as having received a copy of the document, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, and an identification of the person whose privilege is being asserted.

(p) If testimony is taken pursuant to a subpoena, the Director shall determine whether the testimony shall be recorded and the means by which the testimony is recorded.

(q) A witness whose testimony is recorded may procure a copy of his testimony by making a written request for a copy and paying the appropriate fees. However, the Director may deny the request for good cause. Upon proper identification, any witness or his attorney has the right to inspect the official transcript of the witness' own testimony.

(r) The Director may sequester any person subpoenaed to furnish documents or give testimony. Unless permitted by the OHA official, neither a witness nor his attorney shall be present during the examination of any other witnesses.

(s) A witness whose testimony is taken may be accompanied, represented and advised by his attorney as follows:

(1) Upon the initiative of the attorney or witness, the attorney may advise his client, in confidence, with respect to the question asked his client, and if the witness refuses to answer any question, the witness or his attorney is required to briefly state the legal grounds for such refusal; and

(2) If the witness claims a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(t) The Director shall take all necessary action to regulate the course of testimony and to avoid delay and prevent or restrain contemptuous or obstructionist conduct or contemptuous language. OHA may take actions as the circumstances may warrant in regard to any instances where any attorney refuses to comply with directions or provisions of this section.

§ 1003.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the OHA. One copy of each document must be filed with the original, except as provided in § 1003.9(f). A telefax filing of a document will be accepted only if immediately followed by the filing by mail or hand-delivery of the original document.

(b) *Signing.* Any document that is required to be signed, shall be signed by the person filing the document. Any document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative. (A false certification is unlawful under the provisions of 18 U.S.C. 1001). The signature by the person or duly authorized representative constitutes a

certificate by the signer that the signer has read the document and that to the best of the signer's knowledge, information and belief formed after reasonable inquiry, the document is well grounded in fact, warranted under existing law, and submitted in good faith and not for any improper purpose such as to harass or to cause unnecessary delay. If a document is signed in violation of this section, OHA may impose the sanctions specified in § 1003.3 and other sanctions determined to be appropriate.

(c) *Labeling.* An application, petition, or other request for action by the OHA should be clearly labeled according to the nature of the action involved both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, appeal or other request for action is under a continuing obligation during the proceeding to provide the OHA with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, appeal or request for action that is subsequently filed by that person with any DOE office.

(e) *The same or related matters.* A person who files an application, petition, appeal or other request for action by the OHA shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any other DOE office, other Federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by the DOE with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing, the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* (1) If any person filing a document with the OHA claims that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if such person requests the OHA not to disclose such information, such person shall file together with the document two copies of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and must file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception codified at 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not submit two copies of the document with the confidential information deleted, the OHA may assume that there is no objection to public disclosure of the document in its entirety.

(2) The OHA retains the right to make its own determination with regard to any claim of confidentiality, under criteria specified in 10 CFR 1004.11. Notice of the decision by the OHA to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

(g) Each application, petition or request for OHA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 1003.10 Effective date of orders.

Any order issued by the OHA under this title is effective as against all persons having actual or constructive notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by the Director of the OHA or his designee, unless the order provides otherwise.

§ 1003.11 Address for filing documents.

(a) All applications, requests, petitions, appeals, written communications and other documents to be submitted to or filed with the OHA, as provided in this part or otherwise, shall be addressed as follows: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(b) The OHA has facilities for the receipt of transmissions via FAX, at FAX Number (202) 586–4972.

§ 1003.12 Ratification of prior directives, orders and actions.

All orders, or other directives issued, all proceedings initiated, and all other actions taken in accordance with 10 CFR part 205 prior to the effective date of this part, are hereby confirmed and ratified, and shall remain in full force and effect as if issued under this part, unless or until they are altered, amended, modified or rescinded in accordance with the provisions of this part.

§ 1003.13 Public reference room.

There shall be maintained at the OHA, 1000 Independence Avenue, SW., Washington, DC, a public reference room in which shall be made available for public inspection and copying, during business hours from 1 p.m. to 5 p.m.:

(a) A list of all persons who have applied for an exception, or filed an appeal or petition, and a digest of each application;

(b) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception, petition or other request, or at the conclusion of an appeal;

(c) Any other information in the possession of OHA which is required by statute to be made available for public inspection and copying, and any other information that the OHA determines should be made available to the public.

§ 1003.14 Notice of proceedings.

At regular intervals, the OHA shall publish in the **Federal Register** a digest of the applications, appeals, petitions and other requests filed, and a summary of the Decisions and Orders issued by the OHA, pursuant to proceedings conducted under this part.

Subpart B—Exception

§ 1003.20 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception, as provided for in 42 U.S.C. 7194, from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship, gross inequity or unfair distribution of burdens and for the consideration of such application by the OHA.

(b) The filing of an application for an exception shall not constitute grounds for non-compliance with the

requirements of the regulation or generally applicable requirement from which an exception is sought, unless a stay has been issued in accordance with subpart D of this part.

§ 1003.21 What to file.

A person filing under this subpart shall file an "Application for Exception," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.22 Where to file.

All applications for exception shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.23 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the OHA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the OHA office with which the application was filed within 10 days. The application filed with the OHA shall include certification to the OHA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provision of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was sent. The OHA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identified by the OHA as one who will be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that compliance with the requirements of this paragraph (d) has been met. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.24 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the OHA's determination regarding it shall be made in accordance with subpart F of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 1003.25 OHA evaluation.

(a)(1) OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the OHA may consider any other source of information. The OHA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application. The OHA may issue appropriate orders as warranted in the proceeding.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 1003.23, the OHA may dismiss the application without prejudice.

(b)(1) The OHA shall consider an application for an exception only when it determines that a more appropriate proceeding is not provided by DOE regulations.

(2) An application for an exception may be granted to alleviate or prevent serious hardship, gross inequity or unfair distribution of burdens.

(3) An application for an exception shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exception.

§ 1003.26 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the OHA shall issue an order granting or denying the application, in whole or in part.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal in accordance with § 1003.27.

(c) The OHA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person

readily identifiable by the OHA as one who is aggrieved by such order.

§ 1003.27 Appeal.

(a) Except as provided in paragraph (b) of this section, any person aggrieved by an order issued by the OHA under this subpart may file an appeal with the OHA in accordance with subpart C of this part.

(b) Any person aggrieved or adversely affected by the denial of a request for exception relief filed under section 504 of the DOE Organization Act, Pub. L. 95–91, may appeal to the Federal Energy Regulatory Commission, in accordance with the Commission's regulations.

(c) Any appeal filed under this section must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until a timely appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C—Appeal

§ 1003.30 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of DOE actions other than a rule or regulation.

(b) Where DOE program regulations provide for an administrative appeal, a person who has appeared before the DOE in connection with a matter has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 1003.31 Who may file.

Where DOE program regulations provide for an administrative appeal, any person aggrieved by an order issued by the DOE may file an appeal under this subpart.

§ 1003.32 What to file.

A person filing under this subpart shall file an "Appeal of Order" which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.33 Where to file.

The appeal shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.34 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the OHA action sought, including those who participated in the prior proceeding. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the OHA within 10 days. The appeal filed with the OHA shall include certification to the OHA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if any appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent. The OHA may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register**.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who will be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within 10 days of the service of that notice.

(d) Any person submitting written comments to the OHA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the appellant. The person shall certify to the OHA that compliance with the requirements of this paragraph (d) has been met. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.35 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, DOE rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(1) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on an appeal or any exception that was in effect at the time of the proceeding upon which the order is based and which, if such had been made known to DOE, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order affecting the appellant was issued, which change has occurred during the interval between issuance of the order and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the OHA's determination regarding it shall be made in accordance with subpart F of this part.

§ 1003.36 OHA evaluation.

(a)(1) The OHA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the OHA may consider any other source of information. The OHA on its own initiative may convene a conference or hearing if, in its discretion, it considers

that such conference or hearing will advance its evaluation of the appeal.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the OHA may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, the OHA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 1003.34, the OHA may dismiss the appeal without prejudice.

(b)(1) The OHA may issue an order summarily denying the appeal if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the DOE action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) The OHA may deny any appeal if the appellant does not establish that—

(i) The appeal was filed by a person aggrieved by a DOE action;

(ii) The DOE's action was erroneous in fact or in law; or

(iii) The DOE's action was arbitrary or capricious.

§ 1003.37 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the OHA shall enter an appropriate order, which may include the modification of the order that is the subject of the appeal.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of the DOE of which the appellant may seek judicial review.

(c) The OHA shall serve a copy of the order upon the appellant, any other person who participated in the proceeding and upon any other person readily identifiable by the OHA as one who is aggrieved by such order.

Subpart D—Stay

§ 1003.40 Purpose and scope.

(a) This subpart establishes the procedures for applying for a stay. It also specifies the nature of the relief which may be effectuated through the approval of a stay.

(b) An application for a stay will be considered if it is incident to a submission which the DOE procedural regulations specify shall be filed with the OHA. An application for stay may also be considered if the stay is requested pending judicial review of an order issued by the OHA.

(c) All applicable DOE orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 1003.41 What to file.

A person filing under this subpart shall file an "Application for Stay" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted. The application shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.42 Where to file.

An Application for Stay shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.43 Notice.

(a) An applicant for stay shall notify each person readily identifiable as one who will be directly aggrieved by the OHA action sought that it has filed an Application for Stay. The applicant shall serve the application on each identified person and shall notify each such person that the OHA will receive and endeavor to consider, subject to time constraints imposed by the urgency of the proceeding, written comments on the application that are submitted immediately.

(b) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that it has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(c) The OHA shall require the applicant to take reasonable measures depending on the circumstances and urgency of the case to notify each person readily identified as one that will be directly aggrieved by the OHA action sought of the date, time and place of any hearing or other proceedings in the matter. However, if the Director of the OHA or his designee concludes that the circumstances presented by the applicant justify immediate action, the OHA may issue a Decision on the Application for Stay prior to receipt of written comments or the oral presentation of views by adversely affected parties.

§ 1003.44 Contents.

(a) An Application for Stay shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include, but not be limited to, all information that relates to satisfaction of the criteria in § 1003.45(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all DOE actions relevant to the proceeding.

(c) The applicant shall state whether he requests that a conference or hearing be convened regarding the application, as provided in Subpart F of this part.

§ 1003.45 OHA evaluation.

(a)(1) The OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may order the submission of additional information, and may solicit and accept submissions from third persons relevant to an application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the OHA may also consider any other source of information, and may conduct hearings or conferences either in response to requests by parties in the proceeding or on its own initiative.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice.

(3) The OHA shall process applications for stay as expeditiously as possible. When administratively feasible, the OHA shall grant or deny an Application for Stay within 10 business days after receipt of the application.

(4) Notwithstanding any other provision of the DOE regulations, the OHA may make a decision on any Application for Stay prior to the receipt of written comments.

(b) The criteria to be considered and weighed by the OHA in determining whether a stay should be granted are:

(1) Whether a showing has been made that an irreparable injury will result in the event that the stay is denied;

(2) Whether a showing has been made that a denial of the stay will result in a more immediate hardship or inequity to the applicant than to the other persons affected by the proceeding;

(3) Whether a showing has been made that it would be desirable for public policy reasons to grant immediate relief pending a decision on the merits of the underlying proceedings;

(4) Whether a showing has been made that it is impossible for the applicant to fulfill the requirements of an outstanding order or regulatory provision; and

(5) Whether a showing has been made that there is a strong likelihood of success on the merits.

§ 1003.46 Decision and order.

(a) In reaching a decision with respect to an Application for Stay, the OHA shall consider all relevant information in the record. An Application for Stay may be decided by the issuance of an order either during the course of a hearing or conference in which an official transcript is maintained or in a separate written Decision and Order. Any such order shall include a statement of the relevant facts and the legal basis of the decision. The approval or denial of a stay is not an order of the OHA that is subject to administrative or judicial review.

(b) In its discretion and upon a determination that it would be desirable to do so in order to further the objectives stated in the regulations or in the statutes the DOE is responsible for administering, the OHA may order a stay on its own initiative.

Subpart E—Modification or Rescission

§ 1003.50 Purpose and scope.

This subpart establishes the procedures for the filing of an application for modification or rescission of an OHA order. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 1003.55(b) are satisfied.

§ 1003.51 What to file.

A person filing under this subpart shall file an "Application for Modification (or Rescission)", which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.52 Where to file.

The application shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.53 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the OHA action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the OHA within 10 days. The application filed with the OHA shall include certification to the OHA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of all persons to whom a copy of the application was sent.

(b) If an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent. The OHA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The OHA shall serve notice on any other person readily identifiable by the OHA as one who will be aggrieved by the OHA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the OHA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the applicant. The person shall certify to the OHA that it has complied with the requirement of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.54 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the OHA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the OHA upon its request. A copy of the order of which modification or rescission is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the OHA's determination regarding it shall be made in accordance with subpart F of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 1003.55(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE rulings, regulations, interpretations and decisions on appeal and exceptions relied upon to support the action sought therein.

§ 1003.55 OHA evaluation.

(a)(1) The OHA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any application for modification or rescission provided that

the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application for modification or rescission, the OHA may convene a conference, on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the OHA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 1003.53, the OHA may dismiss the application without prejudice.

(b)(1) An application for modification or rescission of an order shall be processed only if—

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based.

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the OHA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order of the OHA affecting the applicant was issued, which change has occurred during the interval between issuance of such order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 1003.56 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the OHA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(c) The OHA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the OHA as one who is aggrieved by such order.

Subpart F—Conferences and Hearings

§ 1003.60 Purpose and scope.

This subpart establishes the procedures for requesting and conducting an OHA conference or hearing. Such proceedings shall be convened in the discretion of the OHA, consistent with OHA requirements.

§ 1003.61 Conferences.

(a) The OHA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the OHA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the OHA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the OHA, as provided in § 1003.11.

(c) A conference may only be convened after actual notice of the time, place and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceeding. A transcript of the conference will not usually be prepared. However, the OHA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the OHA in its discretion determines that such would be advisable.

§ 1003.62 Hearings.

(a) The OHA in its discretion may direct that a hearing be convened on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of OHA, but a hearing will usually be open to the public.

(b) A hearing may be requested by an applicant, appellant, or any other person who might be aggrieved by the OHA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the OHA at the address provided in § 1003.11.

(c) The OHA will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the OHA as one who will be aggrieved by the OHA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceeding. A transcript of the hearing will usually be prepared.

(f) If material factual issues remain in dispute after an application or appeal has been filed, the Director of the OHA or his designee may issue an order convening an evidentiary hearing in which witnesses shall testify under oath, subject to cross-examination, for the record and in the presence of a Presiding Officer. A Motion for Evidentiary Hearing should specify the type of witness or witnesses whose testimony is sought, the scope of questioning that is anticipated, and the relevance of the questioning to the proceeding. A motion may be summarily denied for lack of sufficient specificity, because it would place an undue burden on another person or the DOE or because it will cause undue delay.

(g) A Motion for Evidentiary Hearing must be served on any person from whom information is sought. Any person who wishes to respond to a Motion for Evidentiary Hearing must do so within ten days of service.

(h) In reaching a decision with respect to a request for a hearing or motion filed under this subpart, the OHA shall consider all relevant information in the record. If an order is issued granting a hearing or evidentiary hearing, in whole or in part, the order shall specify the parties, any limitations on the participation of a party, and the issues to be considered. An order of the OHA issued under this section is an interlocutory order which is subject to further administrative review or appeal only upon issuance of a final Decision and Order in the proceeding concerned.

(i) All hearings convened pursuant to this subpart shall be conducted by the Director of the OHA or his designee. At any hearing, the parties shall have the opportunity to present material evidence that directly relates to a particular issue set forth for hearing. The Presiding Officer may administer oaths or affirmations, rule on objections to the presentation of evidence, receive relevant material, require the advance submission of documents offered as evidence, dispose of procedural requests, determine the format of the hearing, modify any order granting a Motion for Evidentiary Hearing, direct that written motions, documents or briefs be filed with respect to issues raised during the course of the hearing, ask questions of witnesses, issue subpoenas, direct that documentary evidence be served upon other parties (under protective order if such evidence is deemed confidential) and otherwise regulate the conduct of the hearing.

Subpart G—Private Grievances and Redress

§ 1003.70 Purpose and scope.

The OHA shall receive and consider petitions that seek special redress, relief or other extraordinary assistance apart from or in addition to the other proceedings described in this part. Such petitions shall include those seeking special assistance based on an assertion that a person is adversely affected by DOE regulations, orders or rulings, or otherwise, administered by DOE in carrying out functions assigned under DOE legislative authority.

§ 1003.71 Who may file.

Any person aggrieved by the regulations contained in 10 CFR Chapter II may file a petition under this subpart.

§ 1003.72 What to file.

The person aggrieved shall file a "Petition for Special Redress or Other Relief," which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing. The general filing requirements stated in § 1003.9 shall be complied with in addition to the requirements stated in this subpart.

§ 1003.73 Where to file.

A petition shall be filed with the OHA at the address provided in § 1003.11.

§ 1003.74 Notice.

(a) The person filing the petition, except a petition that asserts that the DOE is not complying with the agency regulations, orders or rulings, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to each person who is reasonably ascertainable by the petitioner as a person who will be aggrieved by the OHA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the OHA within 10 days. The copy filed with the OHA shall include certification that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, the petitioner shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) The OHA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The OHA may serve notice on any other person readily identifiable by the OHA as one who will be aggrieved by the OHA action sought that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the OHA regarding a petition filed under his subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 1003.9(f), to the petitioner. The person shall certify to the OHA that it has complied with the requirements of this paragraph. The OHA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 1003.75 Contents.

The petition shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the OHA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by the regulation. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the petition shall be submitted to the OHA upon its request. When the petition pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

§ 1003.76 OHA evaluation of request.

(a) (1) The OHA may initiate an investigation of any statement in a petition and utilize in its evaluation any relevant facts obtained by such investigation. The OHA may solicit and accept submissions from third persons relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third person submissions. In evaluating a petition, the OHA may consider any other source of information. The OHA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the OHA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the OHA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the OHA may dismiss the petition with prejudice. If the petitioner fails to provide the notice required by § 1003.74, the OHA may dismiss the petition without prejudice.

(b) (1) The OHA will dismiss without prejudice a "Petition for Special Redress or Other Relief" if it determines that another more appropriate proceeding is provided by this title.

(2) The OHA will dismiss with prejudice a "Petition for Special Redress or Other Relief" filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this title, and received a final order therefrom that deals with the same issue or transaction.

§ 1003.77 Decision and order.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the OHA will issue an order granting or denying the petition.

(b) The order denying or granting the petition shall include a written statement setting forth the relevant facts and legal basis for the order. Such order shall state that it is a final order of the OHA of which the petitioner may seek judicial review.

[FR Doc. 94–16105 Filed 7–6–94; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 27699; Notice No. 94–12A]

RIN 2120–AE41

Type Certificates for Surplus Aircraft of the Armed Forces

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rulemaking, reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period for the Notice of Proposed Rulemaking (NPRM) No. 94–12, Type Certificates for Surplus Aircraft of the Armed Forces. The reopening of the comment period responds to requests by some members of Congress and several companies in the aircraft industry for additional time for the public to comment on the proposal. Because of the unanticipated public interest in the proposed rule change, the FAA has decided to provide the public additional time to develop and submit comments responsive to the NPRM.

DATES: Comments must be received on or before August 26, 1994.

ADDRESSES: Comments on this notice should be mailed, or delivered in triplicate to: Federal Aviation Administration (FAA), Office of the Chief Counsel, Att: Rules Docket (AGC–10), Docket No. 27699, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: George Kaseote, Aircraft Engineering Division (AIR–100), Policy and Procedures Branch, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–8541.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire concerning NPRM 94–12. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking further rulemaking action. The proposals contained in this notice may be changed in light of comments received. All comments received, both before and after the closing date for comments, will be available in the Rules Docket for examination by interested persons. Anyone wishing the FAA to acknowledge receipt of their comments submitted in response to this proposed rule, must submit a self-addressed stamped postcard with their comments on which the following statement is made: "Comments to Docket 27699." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice and Notice 94–12 by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA–200), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the appropriate notice numbers.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office, a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On April 21, 1994, the FAA issued Notice 94–12, entitled "Type Certificates for Surplus Aircraft of the Armed Forces" (59 FR 19114, April 21, 1994) proposing changes that would remove the regulations for issuing type certificates for surplus aircraft of the Armed Forces. The purpose of the proposed removal is to eliminate references to obsolete airworthiness standards that are no longer appropriate for type certification of surplus airworthiness standards that are no longer appropriate for type certification of surplus military aircraft. Surplus aircraft of the Armed Forces may still be certificate in normal, utility, acrobatic, commuter, transport, and restricted categories when compliance with the applicable regulations is shown. This proposal, if a adopted as final, would become effective on April 21, 1994, and is intended to provide a greater level of assurance that the appropriate airworthiness standards are met before standard airworthiness certificates are issued for surplus military aircraft.

Several telephone and written requests received between June 13 and 14, 1994, asked that the comment period be extended for up to 60 days. In view of these comments and the unanticipated level of public interest in the proposed rule change, the comment period for this notice needs to be reopened to accommodate the requests. Copies of the written requests are available in the docket.

Conclusion

The FAA has determined that the reopening of the comment period will allow several companies in the aircraft industry additional time for a more thorough review of applicable issues and questions raised by the NPRM, and the drafting of responsive comments. Accordingly, the FAA finds that it is in the public interest to reopen the comment period until August 26, 1994.

List of Subjects in 14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

Issued in Washington, DC, on June 30, 1994.

Daniel P. Salvano,

Acting Director, Aircraft Certification Service.

[FR Doc. 94–16411 Filed 7–6–94; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 300

Rules and Regulations Under the Wool Products Labeling Act of 1939; Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rules and Regulations under the Wool Products Labeling Act of 1939 (59 FR 23645, May 6, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until September 6, 1994.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Avenue NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Wool Act, 16 CFR part 300—Comment."

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994.

The Commission has received letters seeking extension of these comment periods from the American Textile Manufacturers Institute and the National Knitwear & Sportswear Association. Both trade associations represent large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to these formal requests for extension, Commission staff has been contacted by other trade associations, individual companies, and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Wool Products Labeling Act of 1939, until September 6, 1994.

Authority: 15 U.S.C. 68 *et seq*

List of Subjects in 16 CFR Part 300

Advertising, Labeling, Recordkeeping, Wool products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–16440 Filed 7–6–94; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 301

Rules and Regulations Under the Fur Products Labeling Act; Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rules and Regulations under the Fur Products Labeling Act (59 FR 23645, May 6, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until September 6, 1994.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Avenue NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Fur Act, 16 CFR part 301—Comment."

FOR FURTHER INFORMATION CONTACT: Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994.

The Commission has received letters seeking extension of these comment periods from the American Textile Manufacturers Institute and the National Knitwear & Sportswear Association. Both trade associations represent large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to these formal requests for extension, Commission staff has been contacted by other trade associations, individual companies, and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Fur Products Labeling Act until September 6, 1994.

Authority: 15 U.S.C. 69 *et seq*

List of Subjects in 16 CFR Part 301

Advertising, Invoicing, Labeling, Recordkeeping, Fur products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–16438 Filed 7–6–94; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act; Extension of Time Within Which To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time within which to file public comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Rules and Regulations under the Textile Fiber Products Identification Act (59 FR 23646, May 6, 1994). The Commission solicited the comments as part of its periodic review of rules and guides.

DATES: Written comments will be accepted until September 6, 1994.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth & Pennsylvania Avenue NW., Washington, DC 20580. Submissions should be marked "Rules and Regulations under the Textile Act, 16 CFR part 303—Comment."

FOR FURTHER INFORMATION CONTACT:

Bret S. Smart, Program Advisor, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Suite 13209, Los Angeles, CA 90024, (310) 575–7890.

SUPPLEMENTARY INFORMATION: As part of the on-going regulatory review of its rules and guides, the Commission on May 6, 1994 published requests for public comments concerning three related sets of regulations: (1) Rules and Regulations under the Wool Products Labeling Act, (2) Rules and Regulations under the Fur Products Labeling Act, and (3) Rules and Regulations under the Textile Fiber Products Identification Act. The comments were to be accepted until June 6, 1994.

The Commission has received letters seeking extension of these comment periods from the American Textile Manufacturers Institute and the National Knitwear & Sportswear Association. Both trade associations represent large numbers of interested members subject to the marking requirements of the Textile, Wool, and Fur Acts. In addition to these formal requests for extension, Commission staff has been contacted by other trade associations, individual companies, and interested entities who intend to comment or would like to comment and have stated that, because of the widespread coverage and complexity of these regulations, the comment periods should be extended.

To allow all interested persons the opportunity to supply information to the Commission, the Commission hereby extends the period within which to comment on its Rules and Regulations under the Textile Fiber Products Identification Act until September 6, 1994.

Authority: 15 U.S.C. 70 *et seq.*

List of Subjects in 16 CFR Part 303

Advertising, Labeling, Recordkeeping, Textile fiber products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–16439 Filed 7–6–94; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–34278; File No. S7–7–94]

RIN 3235–AG14

Capital Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Extension of comment period.

SUMMARY: The Commission is extending the comment period from May 16, 1994 to September 16, 1994 for Securities Exchange Act Release No. 33761 (Mar. 15, 1994) (59 FR 13275), which solicited comment on amendments to the net capital rule, Rule 15c3–1 under the Securities Exchange Act of 1934, relating to capital charges for listed options and related positions.

DATES: The requested written data, views, arguments, or comments should be received on or before September 16, 1994.

ADDRESSES: Persons wishing to submit written data, views, arguments, or comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Stop 6–9, Washington, DC 20549. All written data, views arguments, or comments should refer to File No. S7–7–94. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, 202/942–0132; Roger G. Coffin, Branch Chief, 202/942–0136; Timothy H. Thompson, Branch Chief, 202/942–0138; or Karen Hanson Wellman, Staff Attorney, 202/942–0143; Division of Market Regulation, Securities and Exchange Commission.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 15, 1994, the Commission solicited comments on proposed amendments to the net capital rule relating to capital charges for listed options and related positions.[1] In the release, the Commission also solicited comments on the applicability of the proposed theoretical pricing haircut methodology to assess the market risk for over-the-counter ("OTC") options. The Commission requested that comments be received on or before May 16, 1994.

The Commission already has received several letters commenting on the release. Broker-dealers, however, have requested from the staff of the Division of Market Regulation an extension of the comment period. Specifically, industry members have requested additional time to respond to the Commission's request for comments relating to the net capital treatment of OTC options.

II. Discussion

The Commission appreciates the complexity of the issues addressed by the Commission's proposed amendments to the net capital rule, particularly with respect to OTC options. Therefore, in order to receive additional serious and well-reasoned responses from the industry participants, the Commission is extending the comment period for all commenters to September 16, 1994.

Nevertheless, the Commission is eager to address these important issues in a timely fashion. Accordingly, the Commission staff will continue to develop rulemaking in this area while it is awaiting further responses from the industry.

III. Conclusion

The comment period for responding to Securities Exchange Act Release No. 33761 is extended until September 16, 1994.

Dated: June 29, 1994.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16371 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Securities Exchange Act Rel. No. 33761 (Mar. 15, 1994), 59 FR 13275.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 94N–0232]

Over-the-Counter Marketing of Antiasthma Drug Products; Background Document for Advisory Committee Meeting; Availability; Establishment of a Public Docket and Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Availability of background document; establishment of a public docket and request for comments.

SUMMARY: The Food and Drug Administration is announcing the availability of a background document for the joint meeting of the Nonprescription Drugs Advisory Committee and the Pulmonary-Allergy Drugs Advisory Committee, on the over-the-counter (OTC) marketing of antiasthma drug products. Elsewhere in this issue of the **Federal Register**, the agency is announcing the joint meeting. This action is being taken to ensure that all interested parties are aware of the issues that are the subject of the joint committee discussion. FDA is also announcing that it is establishing a public docket for comments, views, and other information submitted to the agency on these subjects from interested persons.

DATES: Submit written comments by September 30, 1994, in order for written comments to be considered for discussion at the November 14, 1994, advisory committee meeting.

ADDRESSES: Submit written comments or relevant data and requests for single copies of the background document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments and requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist the branch in processing your requests. Three copies of written comments should be submitted, except that individuals may submit one copy. The background document and received comments are available for public examination at the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee L. Zwanziger, or Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, FDA is announcing a forthcoming joint meeting of the Nonprescription Drugs Advisory Committee and the Pulmonary-Allergy Drugs Advisory Committee, on OTC marketing of antiasthma drug products. FDA is holding this meeting to discuss:

(1) OTC bronchodilator drug products currently available and possible pending changes in their status;

(2) Whether there is a population for which OTC antiasthma drug products are appropriate;

(3) The general question of whether antiasthma drug products should be available OTC;

(4) Antiasthma drug products currently available by prescription only that could be considered for OTC status; and

(5) Data requirements necessary to support conversion of prescription antiasthma drug products to OTC status. The purpose of this meeting is to address specific topics and questions contained in the background document that could result in future rulemaking.

FDA has established public docket no. 94N–0232 to enable interested persons to submit comments or other relevant data on the background document that could result in future rulemaking.

Dated: June 30, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–16364 Filed 7–6–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

Army National Cemeteries

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: In accordance with Section 1176 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, the Department of the Army is proposing to amend the regulations governing eligibility for interment in Arlington National Cemetery to include former prisoners of war (POWs).

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

ADDRESSES: All comments concerning this proposed rule should be addressed to Superintendent, Arlington National Cemetery, Arlington, Virginia 22211–5003.

FOR FURTHER INFORMATION CONTACT: John C. Metzler, Jr., Superintendent, Arlington National Cemetery, (703) 695–3175.

SUPPLEMENTARY INFORMATION: The Department of the Army is proposing changes to 32 CFR Part 553 in accordance with section 1176 of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160. That Section extended eligibility for interment in Arlington National Cemetery to any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service and who dies on or after the date of enactment of the 1994 Authorization Act (November 30, 1993).

This proposed rule governs eligibility for interment in Arlington National Cemetery, an Army national cemetery which is under the jurisdiction of the Department of the Army. Because the proposed rule pertains to a military function of the Department of the Army, the provisions of Executive Order 12866 do not apply. It is hereby certified that this proposed rule will not have a significant impact on small business or governments in the area.

Lists of Subjects in 32 CFR Part 553

Cemeteries, National Cemeteries.

For the reasons set out in the preamble, 32 CFR Part 553 is proposed to be amended as follows:

PART 553—ARMY NATIONAL CEMETERIES

1. The authority citation for 32 CFR Part 553 continues to read as follows:

Authority: 24 USC Ch. 7.

2. In § 553.15, paragraphs (f) through (i) are redesignated as paragraphs (g) through (j) and new paragraph (f) is added to read as follows:

§ 553.15 Persons eligible for burial in Arlington National Cemetery.

* * * * *

(f) Any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service, whose last period of active military, naval, or air service terminated honorably and who died on or after November 30, 1993.

(1) The term "former prisoner of war" means a person who, while serving in the active military, naval, or air service, was forcibly detained or interned in line of duty—

(i) by an enemy government or its agents, or a hostile force, during a period of war; or

(ii) by a foreign government or its agents, or a hostile force, under circumstances which the Secretary of Veterans Affairs finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(2) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned

was disabled or died from an injury incurred or aggravated in line of duty.

* * * * *

3. In § 553.15a, paragraph (e) is revised to read as follows:

§ 553.15a Persons eligible for inurnment of cremated remains in Columbarium in Arlington National Cemetery.

* * * * *

(e) Any former prisoner of war who, while a prisoner of war, served honorably in the active military, naval, or air service, whose last period of active military, naval, or air service terminated honorably and who died on or after November 30, 1993.

(1) The term "former prisoner of war" means a person who, while serving in the active military, naval, or air service, was forcibly detained or interned in line of duty—

(i) by an enemy government or its agents, or a hostile force, during a period of war; or

(ii) by a foreign government or its agents, or a hostile force, under circumstances which the Secretary of Veterans Affairs finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(2) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

* * * * *

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–16351 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

33 CFR Part 322

Permits for Structures Located Within Shipping Safety Fairways

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Corps seeks comments on a tentative proposal to change its rules regarding permits for the placement of temporary anchors, cables and chains for floating or semisubmersible drilling rigs within shipping safety fairways. Shipping safety fairways and anchorages are established on the Outer Continental Shelf by the U.S. Coast Guard to provide unobstructed approaches for vessels using U.S. ports. This initiative arises as a result of requests by offshore oil companies for exemptions to the provisions of the rule because drilling and production technologies have greatly extended the range of deepwater drilling and the limits placed on temporary structures allowed within fairway boundaries may no longer be reasonable.

DATES: Comments should be received on or before August 22, 1994. Comments filed after that date will be considered to the extent practicable.

ADDRESSES: HQUSACE, Attn: CECW–OR, Washington, D.C. 20314–1000 .

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: Department of the Army permits are required for the construction of any structure in or over any navigable water of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403). This authority was extended to artificial islands and fixed structures located on the Outer Continental Shelf (OCS) by Section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)).

Background

Pursuant to the cited authorities, the Corps promulgated regulations in 33 CFR 209.135 establishing shipping safety fairways in the Gulf of Mexico to provide obstruction-free routes for vessels in approaches to United States ports. The Corps provided these obstruction-free routes by denying permits for structures within certain designated lanes. In 1978, the Ports and Waterways Safety Act (PWSA), was amended to delegate authority to the Department of Transportation and the Commandant, U.S. Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. In accordance with the PWSA, the Coast Guard completed the required studies and published final rules establishing shipping safety fairways on May 13, 1982. The Corps subsequently revoked its fairway regulations in § 209.135(d) but retained paragraph (b), which contained the conditions under which the nationwide permit for oil exploration and production structures on the OCS (33 CFR 330.5(a)(8)), was issued. On November 13, 1986, the fairway regulations were repromulgated in 33 CFR 322.5(l) to consolidate all permit regulations for structures in the same part.

When the regulations allowing temporary structures within fairways were promulgated by the Corps in 1981, deepwater drilling occurred in water depths of 300 to 600 feet. At that time, the limitation of 120 days that temporary anchors would be allowed within fairways was considered reasonable. If the exploratory well was successful, a conventional fixed production platform would be used and there would be no further need to maintain the anchors within the fairway. According to offshore hydrocarbon exploration and production companies, the existing technology has extended the range of deepwater drilling to water depths of 1,000 to 4,000 feet. As a result, drilling times have increased and production methods have changed. Today, the limitation on the length of time (120 days), that an anchor is allowed within a fairway is no longer appropriate, particularly in water depths in excess of 600 feet. The industry has available many different types of production platforms, including floating production systems that are anchored in place during the productive life of the reserves and then moved to a new location. In water depths greater than 600 feet, the floating production platform becomes an important production option and in water depths greater than 1,000 feet these units are essential. In many instances, the only obstacle to using this type of system to drill and produce hydocarbons is the location of a fairway. Current regulations require that the production system be placed a great distance from the fairway in order to keep the anchors clear of the fairway. The result is that there are many hydrocarbon bearing lease areas that cannot be effectively penetrated and produced. It should be noted that if one of the following proposals is adopted, the requirement that the rig must be situated as necessary to insure that the minimum clearance over an anchor line within a fairway is 125 feet, will not be changed, unless we find that an individual permit is required and the minimum clearance over an anchor line would be determined on a case-by-case basis.

Another option that we are exploring is to revise the nationwide permit #8 to eliminate the authorization for all anchors and cables and chains associated with oil and gas drilling and production in water depths greater than 600 feet within fairways. This would result in the requirement that the activities occurring in water depths greater than 600 feet would be subject

to the Corps individual permit procedures. The nationwide permit in 33 CFR 330 would continue to apply to those activities in waters less than 600 feet in depth, without any changes to the regulations.

The following is the text in 33 CFR 322.5(l)(1) *(Existing):*

(l) * * * (1) *Shipping safety fairways and anchorage areas.* DA permits are required for structures located within shipping safety fairways and anchorage areas established by the U.S. Coast Guard. (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met:

(i) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(ii) Drilling rigs must be at least 500 feet from any fairway boundary or whatever distance necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within the fairway.

(iv) Drilling rigs may not be placed closer than 2 nautical miles of any other drilling rig situated along a fairway boundary, and not closer than 3 nautical miles to any drilling rig located on the opposite side of the fairway.

(v) The permittee must notify the district engineer, Bureau of Land Management, Mineral Management Service, U.S. Coast Guard, National Oceanic and Atmospheric Administration and the U.S. Navy Hydrographic Office of the approximate dates (commencement and completion) the anchors will be in place to insure maximum notification to mariners.

(vi) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(2) * * *

Options

Option #1: Take no action. Leave existing regulations in place with all existing time limits for temporary anchors etc., as stated above.

Option #2: Remove time restrictions on temporary and permanent anchors within fairways when water depths exceed 600 feet, as follows:

(l) * * * (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary or permanent anchors and attendant cables or chains for floating or semisubmersible drilling and/or production systems to be placed within a fairway provided the following conditions are met:

(i) In water depths of 600 feet or less, the installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified. In water depths greater than 600 feet, time restrictions on anchors and attendant cables or chains for floating or semisubmersible drilling rigs and/or production system located within a fairway, whether temporary or permanent, shall not apply.

Option #3: Require an individual permit for any structure that will remain within a fairway for 120 days or longer.

(l) * * * (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met:

(i) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer following the procedures prescribed by these regulations for an individual permit, including the issuance of a public notice and opportunity for a public hearing.

Option #4: Require individual permits for any structure within a fairway.

(l) * * * (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary or permanent anchors and attendant cables or chains for floating or semisubmersible drilling and/or production systems to be placed within a fairway after following the procedures prescribed by these regulations for an individual permit, including the issuance of a public notice and opportunity for a public hearing.

Regulatory Analyses and Notices

This ANPRM seeks comments on a tentative proposal that may be further pursued through informal rulemaking based in part on comments received. This ANPRM does not establish any requirements but is rather a voluntary action intended to collect information regarding whether to pursue rulemaking on this issue. Therefore, no economic impact assessment has been prepared. The Corps will provide all regulatory analyses and notices, as appropriate, for any future rulemakings on this subject.

Dated: June 16, 1994.

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

[FR Doc. 94–16348 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Extension of Comment Period on Proposed Threatened Status for Castilleja Levisecta (Golden Paintbrush)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period on proposed threatened status for *Castilleja levisecta*.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period for the proposed listing of *Castilleja levisecta* (golden paintbrush) as a threatened species is extended. The proposed rule to list this plant species was published on May 10, 1994 (59 FR 24106), and opened the comment period until July 11, 1994. This notice extends the comment period until August 11, 1994.

DATES: Comments on the proposed listing of *Castilleja levisecta* (golden paintbrush) as a threatened species must be submitted by August 11, 1994.

ADDRESSES: Information, comments, or questions on the proposed listing of *Castilleja levisecta* should be submitted to the State Supervisor, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE, Suite 102, Olympia, Washington 98501. Materials pertaining to the proposed listing of this species will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Dave Frederick, State Supervisor, at the above Olympia address (telephone: (206) 753–9440).

SUPPLEMENTARY INFORMATION:

Background

Castilleja levisecta (golden paintbrush), a perennial herb in the

snapdragon family, once occurred from the Willamette Valley in Oregon north to Vancouver Island in British Columbia, Canada. Only ten disjunct populations of this plant now exist, in open grasslands ranging from south of Olympia, Thurston County, Washington; north through the Puget Trough to southwest British Columbia, Canada. Threats to the species include competition with encroaching native and alien plant species, habitat modification through succession in the absence of fire, predation, and stochastic (random) events, such as catastrophic fire. Commercial and residential development also threaten this species. The plant occurs on Federal, State, and privately owned land.

On May 10, 1994, the Service published a proposed rule in the **Federal Register** to list *Castilleja levisecta* as a threatened species (59 FR 24106). The rule initiated a public comment period which closes on July 11, 1994. In order that the best information be available before making a final determination on the proposed listing of this plant species, the Service now extends the comment period for a period of 30 days until August 11, 1994.

Author

This notice was prepared by Leslie Propp, Olympia Field Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. 99–625, 100 Stat. 3500, unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, and Transportation.

Dated June 28, 1994.

Marvin L. Plenert,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–16397 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 129
Thursday, July 7, 1994

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

DEPARTMENT OF AGRICULTURE

Forest Service

Interim Report of the Forest Service Reinvention Team

AGENCY: Forest Service, USDA.

ACTION: Notice of availability; request for comment.

SUMMARY: The Forest Service announces the availability of an interim report which describes 5 alternative models for effecting change within the agency's mission, structure, and operations. The report, *Architecture for Change: Interim Report of the Forest Service Reinvention Team*, describes a range of approaches for the Forest Service to accomplish its legal mandates for land management and forestry assistance. The public and federal employees may request copies of the report and may comment on the models and the individual concepts and ideas the models contain.

DATES: Comments should be submitted no later than August 15, 1994.

ADDRESSES: Requests for the report, questions, and comments should be sent to: Forest Service, U.S. Department of Agriculture, Reinvention Team, Rm. 910–RPE, P.O. Box 96090, Washington, D.C. 20090–6069; telephone: (703) 522–8437.

FOR FURTHER INFORMATION CONTACT: Questions about this report should be addressed to Carl Holguin, Reinvention Team, at (703) 522–8437.

SUPPLEMENTARY INFORMATION: As followup to the National Performance Review and the Department of Agriculture's focus on the improvement of government service, the Forest Service Reinvention Team interacted with over 3,000 individuals, including employees, public land users, special interest groups, and members of Congress to design ways the agency can become a world leader in conservation. The report outlines 5 alternative models that describe potential agency purpose, outcome, culture, work, and structure. A copy of the Executive Summary is available upon request. The 225-page interim report is available for review and comment at all Forest Service offices. Individuals and groups are invited to submit comments on the report.

Dated: June 30, 1994.

David G. Unger,

Associate Chief.

[FR Doc. 94–16377 Filed 7–6–94; 8:45 am]

BILLING CODE 3410–11–M

Rural Development Administration

Submission of Information Collection to OMB (Under Paperwork Reduction Act and 5 CFR Part 1320)

AGENCY: Rural Development Administration, USDA.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for expedited clearance under 5 CFR 1320.18. The Agency is soliciting public comments on the subject submission. This action is necessary in order for the Agency to promulgate a new regulation to administer the Rural Technology Development Grants (RTDG) program as required by legislation. Fiscal year (FY) 1994 appropriation contained $1.5 million for the RTDG program. Implementation of this regulation is required to administer FY 1994 grants before the end of the FY, since appropriated funds cannot be carried forward. It is essential that ample time be given for applicants to complete the application process. Failure to implement this program and award FY 1994 grants will result in a negative impact in the rural areas.

ADDRESSES: Interested persons are invited to submit comments regarding this submission. Comments should refer to the proposal by name and should be sent to: Lisa Grove, USDA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jennifer Barton, Loan Specialist, Community Facilities Division, Room 6304, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250–0700. Telephone: (202) 720–1504.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Rural Development Administration (RDA), USDA, has submitted to OMB, for expedited processing, this proposal for collection of information for clearance as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). It is requested that OMB approve this submission within 10 days.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507.

Supporting Statement

7 CFR 4284–F, Rural Technology Development Grants

1. Explanation of the circumstances that make the collection of information necessary—Public Law 101–624, Section 2347 (7 U.S.C. 1932 (f) through (h) authorizes grants to establish centers for rural technology and cooperative development. In order for an eligible applicant to apply for and receive the grant, application must be made at the Farmers Home Administration (FmHA) State Office.

7 CFR 4284 Subpart F contains the specific eligibility requirements, the application procedures, the evaluation process RDA uses to make selection decisions, and the servicing requirements. Grants are competitive and will be awarded based on specific selection criteria required by legislation. Project selection will be given to those projects that contribute the most to the improvement of economic conditions of rural areas. The information submitted should provide an accurate picture of the economic conditions of the rural areas to be served.

2. How, by whom, and for what purpose the information is to be used—The various forms and narrative requirements contained within this regulation are collected from applicants who are public bodies or nonprofit institutions. This information is used for determining such factors as: (1) eligibility; (2) the specific purposes for which grant funds will be utilized; (3) timeframes or dates by which funds will be used; (4) who will be carrying out the purposes for which the grant is made; (5) project priority; (6) applicant's experience in administering a rural economic development program; (7) employment and economic development improvement; and (8)

geographic location of the area/business(s) to be served. This information is collected in the process of developing the full application and will be gathered in the FmHA State Offices.

Grant selection priority points and general project evaluation will be provided for applications based on the economic conditions, project proposal, applicant experience, as well as commitments by other funding sources.

If the information is not collected, FmHA will not be able to determine: (a) the eligibility of the applicant/projects; (b) whether applicable laws and regulations are complied with; and (c) the feasibility of the project.

A summary of the reporting burden to be cleared with this request is described as follows:

Intergovernmental Consultations

This consultation is required in accordance with Executive Order 12372.

Evidence of Legal Existence and Authority

The applicant must provide organizational documents to verify its eligibility in the program.

Financial Information

The applicant's latest financial information must be submitted to verify the organization's financial capacity to carry out the proposed work. The information must include the current year balance sheet and income statement.

Source and Certification of Other Funds

The source and amount of applicant's matching share and other funding sources and amounts to be contributed to the project must be identified. The applicant will be requested to provide certification that it has its matching share of funds available for use on the project and certifications from other funding sources identified as contributing to the grant project. This information will be used by FmHA in making grant selections and in determining that the required funds for the projects will be available.

Budget

The budget must be prepared by the applicant as a plan for the categories of costs under the grant and will be used by FmHA to monitor the use of funds and accomplishments of the grantee.

Area To Be Served

The applicant must identify the area to be served which includes governmental units, town, county, etc.

Demographic Information

The applicant must provide information concerning the project area relating to rural industries and agribusinesses, underemployment, outmigration of people and businesses and industries from the area, and per capita income of the area. This information will be used to select projects that will benefit the most needy areas. The applicant must submit the most current full calendar year for which data is available and the 3 previous calendar years, if available.

Businesses To Be Assisted

This information is requested to determine the method and rationale that the applicant used to select areas and businesses to be assisted by their proposed project to determine that the selection was objective and reached the most needy areas/businesses.

Applicant Experience

The applicant must submit a description of its experience and capability in carrying out similar types of programs to be used to show its ability to carry out the grant purposes.

Duration of Project

The applicant must provide FmHA with the number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

Source of Work To Be Performed

The applicant must submit a brief description of how the work will be performed and whether organizational staff or consultants/contractors will be used.

Evaluation Method

The applicant's evaluation method for determining whether the objectives of the project are being met must be provided so that FmHA can determine that the applicant objectively evaluates its project work.

Plan for Rural Technology Development Grants

Applicants must provide a brief plan which describes how they will meet certain provisions relating to how the center will effectively serve rural areas; improve the economic condition of rural areas by promoting the development and commercialization of new products, processes, and services, and new enterprises that can add value to on-farm production through processing or marketing; description of proposed grant activities and results; provisions for consultation with business, industry, educational institutions, Federal Government, State, and local governments, and specifically consultation with colleges/universities administering Extension Service programs; provisions for obtaining other funding sources; provisions for monitoring/evaluating the center's activities and accounting for grant funds; and provisions for optimal application of technology and cooperative development in rural areas, especially areas adversely affected by adverse agricultural economic conditions. This information will be used by RDA to determine that the application meets the intent of the program and to make a determination concerning grant selection of a project.

Proposed Agreement Between Applicants and Ultimate Recipients

If grant funds will be used for the purpose of making loans/grants to businesses (ultimate recipients), the applicant must provide a proposed agreement which reflects the grantee and the ultimate recipient's responsibilities in use of grant funds.

Plan To Provide Financial Assistance to Third Parties

If the project plan is to provide financial assistance to third parties from a revolving fund established, in part, with RTDG funds, the applicant must provide RDA with information regarding the project to be financed, sources of all non-RTDG funds, amount of technical assistance, purposes of loans/grants, project priority, length of time for completion of each project, and other relevant information. This information will be used to ensure that loans made as a direct result of grant funds are being utilized in accordance with RDA regulations (including EEO laws) and environmental regulations and will help ensure that objectives and purposes of the grant program are met.

Scope of Work

The scope of work must be prepared by the applicant. It is a summary of previously gathered information concerning the use of the grant funds, timeframes for actions, key personnel to be utilized, and the use of other than RTDG funds. This information will be used to monitor what is accomplished by the grantee.

Request for Appeal

If applicable, this is a letter from the grantee requesting a review of any adverse decision made by RDA.

Evidence of Authority To Execute Documents

The evidence of authority to execute documents will be used by FmHA as evidence that the person executing applicable grant documents on the behalf of the applicant organization has the authority to obligate the applicant organization.

Evidence of Fidelity Bond Coverage

Fidelity bonds are required for an amount equal to the greatest amount of funds on hand by a grantee. This is to ensure that if funds are somehow lost, stolen, misappropriated, etc., that the actual loss to the grantee will be mitigated and that purposes of the grant will continue.

Project Performance Report

Applicants are required to submit project performance reports in accordance with 7 CFR parts 3015 and 3016. These reports are necessary to monitor the appropriate use of grant funds. The project performance report shall include, but need not be limited to:

1. A comparison of actual accomplishments to the objectives established for that period;

2. Reasons why established objectives were not met;

3. Problems, delays, or adverse conditions which will materially affect attainment of planned project objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, to resolve the situation;

4. Objectives established for the next reporting period;

5. Why available information cannot be used or modified.—Status of compliance with any special conditions on the use of grant funds.

Audit Report

Audit reports will be required in accordance with 7 CFR 3015 and 3016 to determine that grant funds have been utilized for approved purposes.

AD–1049, Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—for Grantees Other Than Individuals

AD–1049 will be executed by the applicant no later than grant closing to certify that the drug-free workplace requirements will be met. The use of this form complies with 7 CFR part 3017.

SF–424.1, Application for Federal Assistance

The SF–424 will be utilized for preapplications for the program. Applicants are initially requested to utilize a preapplication to provide detailed information for RDA to use in determining eligibility and priority for available funds. The information will be utilized by RDA to determine that applicants meet the eligibility criteria mandated by law and have the capability and resources to carry out the proposed projects.

SF–424.1, Application for Federal Assistance

The application and related information will be used by RDA to approve the project. The applicants are asked to provide a minimum amount of additional information with their applications.

SF–269, Financial Status Report

SF–269 will be used by RDA to quarterly monitor the financial status of the grantee. The use of this form complies with 7 CFR parts 3015 and 3016.

SF–270, Request for Advance or Reimbursement

SF–270 will be submitted by the grantee and used by RDA to document disbursement of grant funds. The use of this form complies with 7 CFR parts 3015 and 3016.

Exhibit A—Agreement of Administrative Requirements for Rural Technology Development Grants

This exhibit contains information regarding the responsibilities of the grantee for receipt of grant funds under the Rural Technology Development Grant program. The grantee must read, understand, and sign this agreement.

Record Keeping Requirements

Financial Records

Grantees must maintain financial management systems and retain financial records in accordance with standards prescribed in 7 CFR parts 3015 and 3016, as appropriate, in accordance with terms and conditions of the grant. Grantee records must include an accurate accounting and must document how these funds are used.

Property Records

Grantees must maintain property records in accordance with standards prescribed in 7 CFR parts 3015 and 3016, as appropriate, in accordance with terms and conditions of the grant.

3. Use of improved technology.—Improved information technology may be used by the grantee; however, each grantee may be relatively small and high technology information transfer is not considered economically justifiable by FmHA or the grantees. The collection of information required by this regulation is minimal and is more a synopsis of grantee activities than original data.

4. Efforts to identify duplication.—The Agency has reviewed all grant programs it administers to determine which programs may be similar in intent and purpose. The Agency has several grant programs that are similar. It is doubtful that an applicant would apply for funding under the RTDG program at the same time and for the same purpose as an application under another program. However, if there were simultaneous participation in more than one grant program, the Agency would make every effort to accommodate the requests within the same set of applications and processing forms. This effort is presently facilitated by assignment of management of these programs to the same program area of responsibility. If a grantee is applying for, or receiving, a grant from another Federal agency, the forms and documents furnished to the other agency would be utilized to the extent possible.

5. Why available information cannot be used or modified.—As stated in 4, if similar information is available within RDA or another agency, every effort would be made to utilize that information as is or in an appropriately modified form for this program.

6. Methods to minimize burden of small businesses or entities.—The information to be collected is in a format designed to minimize the paperwork burden on small businesses and other small entities. The information collected is the minimum needed by the Agency to approve grants and monitor the grantee performance.

7. Consequence if information collection were less frequent.—If the collection of information were conducted less frequently, it could have an adverse effect on the Agency's ability to administer the grant program. The Agency must determine that the grant funds are to be used by the eligible applicants for authorized purposes.

8. Inconsistency with guidelines in 5 CFR 1320.6.—There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 7 CFR 1320.6, except for SF–270. The SF–270 is submitted voluntarily during the disbursement period; requests are limited to one every 30 days.

9. Consultation with persons outside of Agency.—The regulation is being published as an interim rule in the **Federal Register** with a request for comments. Implementation of this program is required by legislation. No consultations have been made at this time; however, comments on the interim rule will be considered.

10. Confidentially provided to respondent.—No assurance of confidentiality is provided to applicants and grantees beyond that required by law.

11. Questions of a sensitive nature.—There will be no collection of any information that would be considered sensitive in nature or commonly considered private.

12. Annualized costs to Federal Government and respondents.—The Agency estimates the cost to the respondents to comply with this regulation to be $78,715. This is based on an estimate of 100 organizations filing a preapplication and the Agency making 50 of them a grant. The Agency used $13.00 per hour based on information from similar programs. It is estimated that the primary respondents for the grantee would be a director earning $10.80 to $15.45 per hour.

The cost to the Federal Government to collect and evaluate this information is estimated to be $71,718. This includes staff time, printing, publication of regulations, operational expenses, and overhead. Staff time will vary with appropriation levels because the amount of available resources does affect how many applicants will apply and need evaluation for funding and how many projects will need monitoring and servicing. This estimated cost is based on the grants being approved and serviced in the State Office.

13. Estimate of burden.—We estimate the total annual man hours required to comply with this regulation to be 6,055. It is estimated that 100 organizations will file a preapplication and 50 grantees will be selected for funding. This estimate is based on historical data from similar FmHA programs.

14. Reason for changes in burden.—This is an initial request for OMB clearance.

15. Tabulation, analysis, and publication plans.—The information collected is not for the purpose of publication.

Subpart F—Rural Technology Development Grants

Table of Contents

Subpart F—Rural Technology Development Grants

Sec. 4284.501 Purpose

(a) This subpart outlines the Rural Development Administration's (RDA) policies and authorizations and sets forth procedures to provide grants for technology and cooperative development in rural areas. Grants will not be awarded under this subpart after July 13, 1995.

(b) Grants for establishing and operating centers for rural technology or cooperative development will be for the primary purpose of improving the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new services and products that can be produced or provided in rural areas; new processes that can be utilized in the production of products in rural areas; and new enterprises that can add value to on-farm production through processing or marketing.

(c) Copies of all forms and Instructions referenced in this subpart are available in the Farmers Home Administration (FmHA)/RDA National Office or any FmHA State Office.

Sec. 4284.502 Policy

(a) The grant program will be used to assist in the economic development of rural areas.

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Native American tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Native American tribes residing on such reservations must have equal opportunity along with other rural residents to participate in the benefits of these programs. This includes equal application of outreach activities of RDA servicing offices.

Sec. 4284.503 [Reserved]

Sec. 4284.504 Definitions

Approval official—Any authorized FmHA/RDA official.

Cooperative—An association organized to provide a specific service with open membership, equality in ownership and control, limited return on members' capital, and equitable methods to distribute any excess earnings back to its members.

Cooperative development—The startup or expansion of a cooperative which will promote the development of new services and products that can be produced or provided in rural areas, new processes that can be utilized in the production of products in rural areas, and/or new enterprises that can add value to on-farm production through processing or marketing.

Economic development—The growth of an area as evidenced by increases in total income, employment opportunities, decreased outmigration of populations, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, and/or gains in other measurements of economic activity, such as land values.

Nonprofit institutions—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Project—The undertaking for which funds will be used to develop or operate a technology and/or cooperative development center.

Public body—Any State, county, city, township, incorporated towns and villages, boroughs, authorities, districts, locally-based areawide economic development organizations, and Indian tribes on Federal and State reservations, and other federally recognized Indian tribes in rural areas.

Servicing office—Any FmHA/RDA State office.

Small business—A business which does not exceed the maximum number of employees or annual receipts allowed for a concern (including its affiliates) to be considered small according to the established size standards for Small Business Administration (SBA) assistance as set forth in 13 CFR, part 121. The business may be operated on a profit or nonprofit basis but must rely primarily on revenues of the business for operation.

Technology—The application of science to industrial or commercial objectives. The entire body of methods and material used to achieve such objectives.

Technology development—The creation of new technology or the use and application of existing technology to promote the development and commercialization of new products, new processes, and new services that can be produced or provided in rural areas.

Rural and rural area—Includes all territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, or the Commonwealth of the Mariana Islands that is

not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

Urbanized area—An area immediately adjacent to a city having a population of 50,000 or more which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated to extend from the contiguous boundary(ies) to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city, but are located across a river from such city, are recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

Urbanizing area—A community which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered "independent of" when its social and economic structure (e.g., government; educational, health, and recreational facilities; and business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized areas.

Sec. 4284.505 Applicant Eligibility

(a) Grants may be made to public bodies or nonprofit institutions.

(1) The RDA will proceed as follows in rural area determinations: When the RDA determines an area to be urbanized or urbanizing, he/she must then determine the population density per square mile. If the project otherwise appears to be eligible, the RDA will request the National Office to provide the correct density figure.

(2) All such density determinations will be made on the basis of minor civil division or census county division as used by the Bureau of the Census. In making the density calculations, large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes will be excluded.

(b) An outstanding judgement obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgement is paid in full or otherwise satisfied. RDA grant funds may not be used to satisfy the judgement. Questions about whether or not a judgement is still outstanding should be directed to the Office of the General Counsel (OGC).

Secs. 4284.506–4284.514 [Reserved]

Sec. 4284.515 Grant Purposes

Grant funds may be used to pay up to 75 percent of the costs for establishing and/or operating centers for rural technology and/or cooperative development. Applicant's contribution may be in cash or third party in-kind contribution in accordance with parts 3015 and 3016 of this title. Grant funds may be used for, but are not limited to, the following purposes:

(a) Technology research, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.

(b) The collection, interpretation, and dissemination of principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by the center in the development and commercialization of new products, processes, or services.

(c) Providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.

(d) Providing loans and grants to individuals, small businesses and cooperatives in rural areas for purposes of generating, evaluating, developing and commercializing new products, processes, or services.

(e) Providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.

(f) Providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.

(g) Paying up to 75 percent of the administrative costs of the applicant in carrying out its projects.

(h) Equipment and materials necessary to carry out other eligible grant purposes under this section.

Sec. 4284.516 Ineligible Grant Purposes

Grant funds may not be used to:

(a) Pay more than 75 percent of a project cost.

(b) Pay more than 75 percent of administrative costs.

(c) Duplicate current services or replace or substitute support previously provided.

(d) Pay costs of preparing the application package for funding under this program.

(e) Pay costs incurred prior to the effective date of the grant made under this subpart.

(f) Pay for building construction or the purchase of real estate or vehicles; improving and/or renovation of office space; or repair or maintenance of privately-owned property.

(g) Fund political activities.

(h) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

Secs. 4284.517–4284.526 [Reserved]

Sec. 4284.527 Other Considerations

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to the requirements of Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, and national origin as outlined in subpart E of part 1901 of this title. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of handicap; the requirements of the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age; and Title III of the Americans with Disabilities Act, Pub. L. 101–336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations.

(b) *Environmental requirements.*

(1) *General applicability.* Unless specifically modified by this section, the requirements of subpart G of part 1940 of this title apply to this subpart. RDA will give particular emphasis to ensuring compliance with the environmental policies contained in §§ 1940.303 and 1940.304 of subpart G of part 1940 of this title. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmland and forest lands, prime rangelands, wetland and floodplains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely impact on the environment.

(2) *Technical assistance.* An application for a technical assistance project is generally excluded from the environmental review process by § 1940.333 of subpart G of part 1940 of this title. However, as further specified in that section, the grantee of a technical assistance grant, in the process of providing technical assistance, must consider the potential environmental impacts of the recommendations provided to the recipient of the technical assistance.

(3) *Applications for grants to provide financial assistance to third-party recipients.* As part of the preapplication, the applicant must provide a complete Form FmHA 1940–

20, "Request for Environmental Information," for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. RDA will review the preapplication, supporting materials, and any required Forms FmHA 1940–20 and initiate a Class II assessment for the preapplication in accordance with § 1940.318 of subpart G of part 1940 of this title. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects and that can be identified at this time from the information submitted. Because RDA's approval of this type of grant application does not constitute RDA's commitment to the use of grant funds for any identified third-party projects (see § 4284.541 of this subpart), no public notification requirements for a Class II assessment will apply to the preapplication. After the grant is approved, each third-party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in subpart G of part 1940 of this title prior to RDA providing its consent to the grantee to assist the third-party project. If the preapplication reflects only one specific project which is specifically identified as the third-party recipient for financial assistance, RDA may perform the appropriate environmental assessment in accordance with the requirements of subpart G of part 1940 of this title and forego initiating a Class II assessment with no public notification. However, the applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in subpart G of part 1940 of this title.

(c) *Governmentwide debarment and suspension (nonprocurement) and requirements for drug-free workplace.* All projects must comply with the requirements set forth in part 3017 of this title and FmHA Instruction 1940–M (available in any State RDA/FmHA office).

(d) *Restrictions on lobbying.* All grants must comply with the lobbying restrictions set forth in part 3018 of this title.

(e) *Excess capacity or transfer of employment.*

(1) If a proposed grant is for more than $1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide written support for an RDA determination that the proposal will not result in a project which is calculated to, or likely to, result in:

(i) The transfer of any employment or business activity from one area to another (this limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations), or

(ii) An increase in the production of goods, materials, or commodities or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area. The applicant's written support will consist of a resolution from the applicant and Form FmHA 449–22, "Certification of Non-Relocation and Market and Capacity Information Report," from each existing and future occupant of the site. The applicant may use Guide 2 of subpart G of part 1942 (available in any State RDA/FmHA office) as an example in preparing the resolution. Future occupants of the site must be certified by Department of Labor (DOL) as outlined in paragraph (e)(3) of this section for a period of 3 years after the initial certification by DOL.

(2) RDA will check each document for completeness and accuracy and submit nine copies of each to the National Office for forwarding to DOL.

(3) Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted by the Secretary of Agriculture that the provisions of paragraph (e)(1) of this section have not been met. Information for obtaining this certification will be submitted, in writing, by the applicant to RDA. The information will be submitted to DOL by the RDA National Office. Grant approval may be given and funds may be obligated, subject to the DOL certification being received, provided RDA has made its own separate determinations of (e)(1)(i) and (ii) of this section when applicable.

(f) *Management assistance.* Grant recipients will be supervised, as necessary, to ensure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to parts 3015, 3016, and 3017 of this title, as appropriate, and established RDA guidelines.

(g) *National Historic Preservation Act of 1966.* All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with subpart F of part 1901 of this title.

(h) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* All projects must comply with the requirements set forth in part 21 of this title.

(i) *Floodplains and wetlands.* All projects must comply with Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands."

(j) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, flood or mudslide insurance must be provided.

(k) *Termination of Federal requirements.* Once the grantea has provided 29 assistance to projects from a revolving fund, in an amount equal to the grant provided by RDA, the requirements imposed on the grantea shall not be applicable to any new projects thereafter financed from the revolving funds. Such new projects shall not be considered as being derived from Federal funds.

(l) *Intergovernmental review.* Grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. A revolving fund established in whole, or in part, with grant funds will also be considered a project for the purpose of intergovernmental review as well as the specific projects funded with grant funds from the revolving loan project. For each project to ba assisted with a grant under this subpart and for which the State has elected to review the project under their intergovernmental review process, the State Point of Contact must be notified. Notification, in tha form of a project description, can be initiated by the grantee. Any comments from the Stata must be included with the grantee's request to use RDA grant funds for the specific project. Prior to RDA's decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be carried out in accordanca with subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities," of part 3015 of this titla (see subpart J of part 1940 of this title, available in any State RDA/FmHA office).

Sec. 4284.528 Application Processing

(a) *Preapplications.*

(1) Applicants will file an original and one copy of Standard Form (SF)–424.1, "Application for Federal Assistanca (For Non-construction)," with the appropriate RDA office. This form is available in any State RDA/FmHA office.

(2) All preapplications shall be accompanied by:

(i) Evidence of applicant's legal existence and authority to perform the proposed activities under the grant.

(ii) Latest financial information to show the organization's financial capacity to carry out the proposed work. At a minimum, the information should include a balance sheet and an income statement. A current audit report is preferred where one is reasonably obtainable.

(iii) Estimated breakdown of total costs, including costs to be funded by the applicant as well as other sources. Other sources should be identified. Certification must be provided from the applicant that its matching share to the project is available and will be used for the project. The matching share must meet the requirements of parts 3015 and 3016 of this title. Certifications from an authorized representative of each source of funds must be provided indicating that funds are available and will be used for the proposed project.

(iv) Budget and description of the accounting system in placa or proposed.

(v) Area to be served, identifying each government unit, i.e., town, county, etc., if affected by the proposed project and

evidence of support and concurrence in the proposed project from the affected local governmental bodies as evidenced by resolution or a written statement from the chief elected local official.

(vi) The most current demographic information (and source) about the area to be served which includes information on the rural industries and agribusinesses in the area; unemployment rate; description of under employment in the area; information regarding outmigration of people; businesses and industries; and the per capita income of the area. The source of information and dates must be identified and must be from a recognized source such as Census data or State employment data.

(vii) Businesses to be assisted.

(viii) Applicant's experience, including experience of key staff members and person(s) who will be providing the proposed service(s) and managing the project.

(ix) The number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

(x) Method and rationale used to select the areas/businesses that will receive the service.

(xi) Brief description of how the work will be performed and whether organizational staff or consultants/contractors will be used.

(xii) Evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished.

(xiii) A brief plan which contains the following provisions and describes how the applicant will meet those provisions:

(A) A provision that substantiates that the applicant will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the applicant will be to improve the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of:

(*1*) New services and products that can be produced or provided in rural areas;

(*2*) New processes that can be utilized in the production of products in rural areas; and

(*3*) New enterprises that can add value to on-farm production through processing or marketing.

(C) A description of the activities that the applicant will carry out to accomplish such objective.

(D) A description of the proposed activities to be funded under this subpart.

(E) A description of the contributions that the applicant's proposed activities are likely to make to the improvement of the economic conditions of the rural areas served by the applicant.

(F) Provisions that the applicant, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(G) Provisions that the applicant will consult with any college or university administering Extension Service programs and cooperate with such college or university in the coordination of the center's activities and programs.

(H) Provisions that the applicant will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(I) Provisions for:

(*1*) Monitoring and evaluating its activities; and

(*2*) Accounting for money received and expended by the institution under this subpart.

(J) Provisions that the applicant will provide for the optimal application of technology and cooperative development in rural areas, especially those areas adversely affected by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for:

(*1*) Rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or

(*2*) Cooperative development where such development can be implemented by cooperatives to improve local economic conditions.

(xiv) If grant funds are to be used for the purpose of making loans and/or grants to eligible individuals, small businesses, or cooperatives (ultimate recipients) in rural areas for eligible purposes under this subpart, the applicant shall develop a plan which outlines the purposes and administration of the fund and include a copy of a proposed agreement to be used between the applicant and the ultimate recipient(s) which includes the following:

(A) An assurance that the responsibilities of the grantee, as a recipient of grant funds under this subpart, are passed on to the ultimate recipient and the ultimate recipient understands its responsibilities to comply with the requirements set forth in this subpart, including parts 3015 and 3016 of this title.

(B) Provisions that the ultimate recipient will comply with debarment and suspension requirements contained in part 3017 of this title and will execute Form AD–1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions."

(C) Provisions that the ultimate recipient will execute Form FmHA 400–1, "Equal Opportunity Agreement," and Form FmHA 400–4, "Assurance Agreement."

(D) Clear documentation that the ultimate recipient understands its responsibilities to the applicant.

(E) Clear documentation that the applicant understands its responsibilities in monitoring the ultimate recipient's activities under the grant and the applicant's plan for such monitoring.

(F) Brief written narrative addressing all items in § 4284.540(a) of this subpart, regarding grant selection criteria.

(3) [Reserved]

(4) Applicants whose preapplications are found to be ineligible will be given notice by use of Form AD–622 and advised of their appeal rights under subpart B of part 1900 of this title.

(5) If at any time prior to grant approval it is decided that favorable action will not be taken on a preapplication or application, the RDA will notify the applicant in writing of the reasons why the request was not favorably considered. The notification will advise the applicant of appeal rights under subpart B of part 1900 of this title.

(6) Applicants eligible for funding within the available funds will be provided forms and instructions for filing a complete application. Applicants should be advised against incurring obligations which cannot be fulfilled without RDA funds.

(b) *Applications.* Upon notification on Form AD–622 that the applicant is eligible for funding, the following will be submitted to the RDA by the applicant:

(1) SF 424.1.

(2) Proposed scope of work, detailing the proposed activities to be accomplished and timeframes for completion of each activity.

(3) Proposed budget, including source and amount of applicant contribution and any other funding sources for the proposed project.

(4) Other requested information needed by RDA to make a grant award determination.

(c) *Applicant response.* If the applicant fails to submit the application and related material by the date shown on Form AD–622 (normally 30 days from the date of Form AD–622), RDA may discontinue consideration of the application. Appeal rights will be given in accordance with subpart B of part 1900 of this title.

Secs. 4284.529–4284.539 [Reserved]

Sec. 4284.540 Grant Selection Criteria

Grants will be awarded under this subpart on a competitive basis. The priorities described below will be used by the RDA to rate preapplications and applications. Points will be distributed as indicated in paragraph (a) of this section. Points will be distributed according to ranking as compared with other preapplications/ applications on hand. A copy of the score sheet (Exhibit B) (available in any State RDA/FmHA Office) should be placed in the casefile for future reference.

(a) The selection criteria are as follows:

(1) *Economic conditions.* Preference will be given to proposed projects which will serve a rural area(s) that has few rural industries and agribusinesses; high levels of unemployment or underemployment; high rates of outmigration of people, businesses, and industries; and low levels of per capita income. RDA will consider data supporting these demographics from the United States Bureau of the Census or other reliable data from recognized local, regional, State or Federal sources or from surveys conducted by reliable, impartial sources. Outmigration of businesses and industries, for example, may be supported by county business patterns data available from the Bureau of the Census. Data to support all categories must be for the most current full calendar year for which the data is available and the 3 calendar years prior to that year. The competitive range for proposed projects is as follows:

(i) Number of rural industries and agribusinesses in comparison with the population of the area(s) to be served: 1 or less per 5,000 residents—25 points; 1 or less per 3,000 residents—15 points; or 1 or less per 1,000 residents—5 points.

(ii) Unemployment rate in the area(s) to be served: Exceeds the State rate by 25 percent or more—15 points; or exceeds the State rate by less than 25 percent but more than 5 percent—10 points.

(iii) Underemployment in the area(s) to be served exceeds the State rate of underemployment by 25 percent or more—20 points; exceeds the State rate by less than 25 percent—10 points; or is equal to or less than State rate—0 points.

(iv) Outmigration of rural residents from the area(s) as evidenced by a population loss in the last full calendar year of at least 20 percent—20 points.

(v) Outmigration of business and industry and/or business and industry closures in the area(s) of at least 20 percent in the last 3 years—20 points.

(vi) Average per capita income of the area(s) is less than the State average by: 50 percent—25 points; or 25 percent—10 points.

(2) *Project proposal.* The project proposal will contribute the most to the improvement of economic conditions of the rural area(s) by:

(i) Creation of industries or agribusinesses in the area(s): 1 or more per 5,000 residents—20 points; 1 or more per 10,000 residents—10 points; or 1 or more per 20,000 residents—5 points.

(ii) Increasing employment by 10 percent or more—10 points.

(iii) Stemming the flow of outmigration of people, businesses, or industries by 10 percent or more—10 points.

(iv) Increasing the tax base of the area(s) by 2 percent or more—5 points.

(3) *Applicant experience.* The applicant demonstrates capability to transfer for practical application in rural areas the technology generated and demonstrates the ability to commercialize products, processes, services, and enterprises in rural areas—15 points.

(b) *Review of decision.* Each application for assistance will be carefully reviewed in accordance with the priorities established in this section. A priority rating will be assigned to each application. Applications selected for funding will be based on the priority rating assigned each application and the total funds available. All applications submitted for funding should contain sufficient information to permit RDA to complete a thorough priority rating. When a determination is made that favorable action will not be taken on a preapplication or application, the applicant will be notified in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by RDA may be requested by the applicant in accordance with subpart B of part 1900 of this title.

Sec. 4284.541 Grant Approval, Fund Obligation, Grant Closing, and Third-Party Financial Assistance

A copy of the executed Form FmHA 1940–1, "Request for Obligation of Funds," and the approved scope of work will be sent to the applicant on the obligation date. The grant will be considered closed on the obligation date. Exhibit A of this subpart, available in any State RDA/FmHA office, shall become a permanent part of Form FmHA 1940–1 when grant funds are involved, and the following paragraphs will appear in the comment section of that form as appropriate:

(a) "The grantee understands the requirements for receipt of funds under the Rural Technology Development Grant program. The grantee assures and certifies that it is in compliance with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those set forth in exhibit A of subpart F of part 4284 of this chapter, available in any State RDA/FmHA Office, 7 CFR parts 3015, 3016, 3017, and 3018 (including revisions through _____ (date of grant approval)); and the Letter of Conditions and the approved scope of work."

(b) For grants involving the establishment of a revolving loan program to benefit third parties, the following statement shall also be added to the comment section of Form FmHA 1940–1: "The grantee furthermore agrees to use grant funds for the purposes outlined in the Scope of Work approved by RDA."

Sec. 4284.542–4284.555 [Reserved]

Sec. 4284.556 Docket Preparation and Letter of Conditions

(a) The following forms and documents will be part of the grant docket:

(1) Form FmHA 400–1 for the applicant and recipients of the technical assistance, loans under a revolving loan fund, and rural learning projects if the recipients are other than individuals.

(2) Form FmHA 400–4 for the applicant and recipients of the technical assistance or loans under a revolving loan fund.

(3) Scope of work and budget prepared by the applicant.

(4) Form FmHA 1940–1.

(5) Resolution of the Board, if appropriate, approving the grant application.

(6) Evidence of authority for individual, in the applicant's organization, to execute grant documents.

(7) Evidence of fidelity bond coverage.

(8) Form FmHA 1942–43, "Project Summary—Community Facilities (Other Than Utility-Type Projects)."

(9) Executed Forms AD–1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions," and AD–1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals."

(10) Executed certification in accordance with part 3018, Appendix A of this title, that no Federal appropriated funds have been paid or will be paid for lobbying activities and Form LLL, "Disclosure of Lobbying Activities."

(11) Proposed agreement between applicant and ultimate recipient as required in § 4284.528(a)(2)(xiv) of this subpart, if applicable.

(12) Class II Environmental Assessment (if applicable).

(13) Finding of No Significant Impact (if applicable).

(14) Form FmHA 400–8, "Compliance Review," (Nondiscrimination by Recipients of Financial Assistance through Farmers Home Administration.)

(b) The RDA representative will prepare a Letter of Conditions outlining the conditions under which the grant will be made. It will include those matters necessary to assure that the proposed grant is completed in accordance with the terms of the scope of work and budget, that the grant funds are expended for authorized purposes, and that the requirements prescribed in parts 3015, 3016, 3017, and 3018 of this title are complied with. Each Letter of Conditions will contain the following paragraphs:

(1) "This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application."

(2) "This letter is not to be considered as grant approval nor as a representation as to the availability of funds. The docket may be completed on the basis of a grant not to exceed $_____ and a matching share by the applicant in the amount of $_____."

(3) "Please complete and return the attached Form FmHA 1942–46, 'Letter of Intent to Meet Conditions,' if you desire further consideration be given your application."

(4) "You must certify that the activities provided under the grant will benefit a rural area."

(5) "You must certify that at least 25 percent of the total funds for this project are provided as the grantee's share and meet the matching fund requirements of 7 CFR parts 3015 and 3016."

(6) "You must certify that no Federal appropriated funds have been paid or will be paid for lobbying activities in accordance with 7 CFR part 3018, Appendix A, and execute Form LLL."

(7) "You must execute Form AD–1047, 'Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions,' to certify that your organization is not debarred or suspended from Government assistance. You also must obtain a certification on Form AD–1048, 'Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions,' from any person or entity you do business with as a result of this Government assistance that they are not debarred or suspended from Government assistance."

(8) "You must execute Form AD–1049, 'Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—For Grantees Other Than Individuals,' to certify that you will provide a drug-free awareness program for employees."

(9) "You must obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget can result in suspension/termination of grant funds."

(10) Other items in the Letter of Conditions should include those appropriate items relative to: maximum amount of grant; contributions; required project audit: evidence of compliance with all applicable Federal, State, and local requirements; closing instructions, DOL certifications·

compliance with any required environmental mitigation measures; and other requirements.

Sec. 4284.557 Fund Disbursement

Grantees will be reimbursed as follows:

(a) An SF–270, "Request for Advance or Reimbursement," will be completed by the applicant and submitted to RDA not more frequently than monthly.

(b) Upon receipt of a properly completed SF 270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

(c) Grantees are encouraged to use minority banks (a bank which is owned by at least 50 percent minority group members) for the deposit and disbursement of funds. A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, DC 20230.

(d) The grantee's share in the cost of the project will be disbursed in advance of grant funds or on a pro-rata distribution basis with grant funds during the disbursement period. The grantee will not be permitted to provide its contribution at the end of the grant period.

Sec. 4284.558 Reporting

An SF–269, "Financial Status Report," and a project performance activity report will be required of all grantees on a quarterly basis. A final project performance report will be required with the last SF–269. The final report may serve as the last quarterly report. The final report must include a final evaluation of the project. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to RDA. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

Secs. 4284.559–4284.570 [Reserved]

Sec. 4284.571 Audit Requirements

The grantee will provide an audit report in accordance with subpart A of part 1942 of this title. The audit requirements only apply to the year(s) in which grant funds are received. Audits must be prepared in accordance with generally accepted government auditing standards using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions."

Sec. 4284.572 Grant Servicing

Grants will be serviced in accordance with subpart E of part 1951 of this title.

Sec. 4284.573 Programmatic Changes

The grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope or budget can result in suspension/termination of grant funds.

Sec. 4284.574 Subsequent Grants

Subsequent grants will be processed in accordance with the requirements set forth in this subpart.

Sec. 4284.575 Grant Suspension, Termination, and Cancellation

Grants may be cancelled by RDA by use of Form FmHA 1940–10 "Cancellation of U.S. Treasury Check and/or Obligation." The RDA will notify the applicant, by letter, that the grant has been cancelled. A copy of the letter will be sent to the Regional Attorney, OGC, if the Regional Attorney has been involved. The applicant will be provided appeal rights, as appropriate, in accordance with subpart B of part 1900 of this title. Grants may be suspended or terminated for cause or convenience, in accordance with parts 3015 and 3016 of this title.

Secs. 4284.576–4284.586 [Reserved]

Sec. 4284.587 Exception Authority

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute, an applicable law or a decision of the Comptroller General, if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest and shows how the adverse impact will be eliminated or minimized if the exception is made.

Sec. 4284.588 Forms and Exhibits

Exhibits A, B, and C and forms referenced (all available in any State RDA/FmHA office) are for use in administering grants made under this subpart.

Secs. 4284.589–4284.599 [Reserved]

Sec. 4284.600 OMB Control Number

RDA Instruction 4284–F

Exhibit A

Agreement of Administrative Requirements for Rural Technology Development Grants

This exhibit contains information regarding the responsibilities of the grantee for receipt of grant funds under the Rural Technology Development Grant (RTDG) program. These requirements do not supersede the requirements for receipt of Federal funds as stated in 7 CFR part 3015 and 3016; however, specific areas related to the program are cited below.

In consideration for the RTDG grant by RDA, grantee agrees to:

1. Cause the RTDG program to be completed within the total sums available to it, including grant funds, in accordance with the scope of work and any necessary modifications thereof prepared by grantee and approved by grantor.

2. Permit periodic inspection of the program operations by a representative of grantor.

3. Make the program available to all persons in grantee's service area without regard to race, color, national origin, religion, sex, marital status, age, physical or mental handicap.

4. Not use grant funds to replace any financial support previously provided or assured from any other source. The grantee agrees that the general level of expenditure by the grantee for the benefit of program area and/or program covered by this agreement shall be maintained and not reduced as a result of the Federal share funds received under this grant.

5. Provide financial management systems which will include:

(a) Accurate, current, and complete disclosure of the financial result of each grant.

(b) Records which identify adequately the source and application of funds for grant-supporting activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds. Grantee shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

(d) Accounting records supported by source documentation.

6. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts.

7. Provide an audit report prepared in accordance with generally accepted Government auditing standards using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions."

8. Provide grantor with such periodic reports as it may require and permit periodic inspection of its operations by a designated representative of the grantor.

9. Execute Form FmHA 400–1, "Equal Opportunity Agreement," Form FmHA 400–4, "Assurance Agreement," and any other agreements required by grantor to implement the civil rights requirements. If any such form has been executed by grantee as a result of a grant being made to grantee by grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

10. That upon any default under its representations or agreements set forth in this instrument, grantee, at the option and the demand of grantor, will, to the extent legally permissible, repay to grantor forthwith the original principal amount of the grant stated herein above, with interest equal to the rate of interest paid on U.S. 26-week Treasury Bills adjusted quarterly from the date of the default. The provisions of this exhibit may be enforced by grantor at its option and without regard to prior waivers by it of previous defaults of grantee, by judicial proceedings to require specific performance of the terms of this exhibit, or by such other proceedings in the law or equity in either Federal or State courts as may be deemed necessary by grantor to assure compliance with the provisions of this exhibit and the laws and regulations under which this grant is made.

11. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress.

12. That all non-confidential information resulting from its activities shall be made available to the general public on an equal basis.

13. That the purpose and scope of work for which this grant is made shall not duplicate programs for which monies have been received, are committed, or are applied to from other sources (public or private).

14. That grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant as published in whole or in part. The material shall contain a notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

15. That the grantee shall abide by the policies promulgated in the USDA Uniform Assistance Regulations, 7 CFR parts 3015 and 3016, which provides standards for use by grantee in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

16. Obtain prior approval from grantor for use of grant funds for uses or amounts not consistent with the approved scope of work and budget.

17. That the grantee, except for States, will remit interest earned on grant funds deposited in an interest bearing account in accordance with the USDA Uniform Assistance Regulation 7 CFR parts 3015 and 3016.

18. Grantee will comply with property management standards established by 7 CFR parts 3015 and 3016 for personal property. "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence; such as patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than 1 year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable property. When nonexpendable property is acquired by a grantee with project funds, title shall not be taken by the Federal Government but shall be vested in the grantee subject to the following conditions.

(a) Right to transfer title. For items of real or nonexpendable personal property having a unit acquisition cost of $1,000 or more, RDA may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(i) The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

(ii) RDA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If RDA fails to issue disposition instructions within the 120 calendar day period, the grantee shall apply the standards of paragraph 18. (b) of this exhibit.

(iii) When RDA exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in paragraphs 18. (b) and (c) of this exhibit.

(iv) When title is transferred either to the Federal Government or to a third party and the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other nonexpendable personal property for which the grantee has title.

(i) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(*1*) Activities sponsored by RDA.

(*2*) Activities sponsored by other Federal agencies.

(ii) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to projects or programs sponsored by RDA; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use for other activities not sponsored by the Federal Government shall be permissible if authorized by RDA. User charges should be considered, if appropriate.

(c) Disposition of nonexpendable personal property. When the grantee no longer needs the property as provided in paragraph 18. (b) of this exhibit, the property may be used for other activities in accordance with the following standards:

(i) Personal property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the

property for other use provided that compensation is made to RDA or its successor. The amounts of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the original grantor agency.

(iii) RDA shall determine whether the property can be used to meet the Agency's requirements. If no need exists within RDA, the General Services Administration Federal Property Management Regulations will be used by RDA to determine whether a need for the property exists in other Federal agencies. RDA shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

(*1*) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse RDA an amount computed by applying the percentage of the grantor participation in the grant program to the sales proceeds. However, the grantee shall be permitted to deduct and retain from the Federal share $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(*2*) If the grantee is instructed to dispose of the property other than as described in paragraphs 18. (b) and (c) of this exhibit, the grantee shall be reimbursed by RDA for such costs incurred in its disposition.

(*3*) Property management standards for nonexpendable personal property. The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(*a*) Property records shall be maintained accurately and shall include:

(*i*) A description of the property.

(*ii*) Manufacturer's serial number, model number, Federal stock number, National stock number, or other identification number.

(*iii*) Sources of the property including grant or other agreement number.

(*iv*) Whether title vests in the grantee or the Federal Government.

(*v*) Acquisition date (or date received, if the property was furnished by the Federal Government) and costs.

(*vi*) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government).

(*vii*) Location, use, and condition of the property and the date the information was reported.

(*viii*) Unit acquisition cost.

(*ix*) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates the Federal agency for its share.

(*b*) Property owned by the Federal Government must be marked to indicate Federal ownership.

(*c*) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(*d*) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or the theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify RDA.

(*e*) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(*f*) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(*g*) Expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

This exhibit covers the following described personal property and any additional property acquired wholly or in part with grant funds (use continuation sheets as necessary):

19. To the following termination provisions:

(a) Termination for cause: The grantor agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The grantor agency shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) Termination for convenience: The grantor agency or grantee may terminate grants in whole, or in part, when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The grantor agency shall allow full credit to the grantee for the Federal share of the noncancelable obligations properly incurred by the grantee prior to termination.

RDA agrees that it will:

1. Assist grantee, within available appropriations, with such technical assistance as grantor deems appropriate in planning the program and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the program is located.

2. At its sole discretion, RDA may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as RDA may determine to be:

(a) Advisable to further the purposes of the grant or to protect the Government's financial interest therein; and

(b) Consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

_____

Name of Grantee

_____

Title

_____

Date

_____

RDA Approval Official

_____

Title

_____

Date

7 CFR 4284–F Rural Technology Development Grants, June 1994

Section of regulations	Title	Form No.	Estimated number of respondents	Reports filed annually	Estimated total annual responses	Estimated number of hours per respondent	Estimated total hours
Reporting Requirements—No Forms							
4284.527	Intergovernmental Consultations	Written	100	On occasion.	100	2.00	200
4284.528 (a)(2)(i)	Evidence of Legal Existence and Authority.	Written	100	On occasion.	100	1.00	100
4284.528 (a)(2)(ii)	Financial Information	Written	100	On occasion.	100	0.50	50
4284.528 (a)(2)(iii)	Source and Certification of Other Funds.	Written	100	On occasion.	100	0.50	50
4284.528 (a)(2)(iv)	Budget	Written	100	On occasion.	100	2.00	200
4284.528 (a)(2)(v)	Area to be Served	Written	100	On occasion.	100	1.00	100
4284.528 (a)(2)(vi)	Demographic Information.	Written	100	On occasion.	100	2.00	200
4284.528 (a)(2)(vii)	Business to be Assisted	Written	100	On occasion.	100	2.00	200
4284.528 (a)(2)(viii)	Applicant Experience	Written	100	On occasion.	100	1.00	100
4284.528 (a)(2)(ix)	Duration of Project	Written	100	On occasion.	100	0.50	50
4284.528 (a)(2)(xi)	Source of Work to be Performed.	Written	100	On occasion.	100	0.50	50
4284.528 (a)(2)(xii)	Evaluation Method	Written	100	On occasion.	100	0.50	50
4284.528 (a)(2)(xiii)	Plan for Rural Technology Development Grants.	Written	100	On occasion.	100	8.00	800
4284.528 (a)(2)(xiv)	Proposed Agreement Between Applicants and Ultimate Recipients.	Written	100	On occasion.	100	4.00	400
	Plan to Provide Financial Assistance to Third Parties.	Written	30	On occasion.	30	5.00	150
4284.556 (b) Exhibit A	Scope of Work	Written	50	On occasion.	50	8.00	400
4284.528	Request for Appeal	Written	5	On occasion.	5	1.00	5
4284.555	Evidence of Authority to Execute Document.	Written	50	On occasion.	50	0.50	25
4284.556	Evidence of Fidelity Bond Coverage.	Policy	100	On occasion.	100	1.00	100
4284.558	Project Performance Report.	Written	50	4	200	8.00	1,600
4284.571	Audit Report	Written	50	On occasion.	50	6.00	300
Reporting Requirements—Forms Approved Under Other OMB Numbers							
4284.527	Request for Environmental Information.	1940–20 (0575–0094).					
4284.527	Certificate of Non Relocation and Market Capacity Information Report.	449–22 (0575–0029).					
4284.527	Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I—for Grantees Grantees other than Individuals.	AD–1049 (9000–0101).	50	On occasion.	50	0.50	25
4284 528 (a)	Preapplication for Federal Assistance (for non-construction).	SF–424.1 (0348–0043).	100	On occasion.	100	1.00	100

7 CFR 4284–F RURAL TECHNOLOGY DEVELOPMENT GRANTS, JUNE 1994—Continued

Section of regulations	Title	Form No.	Estimated number of respondents	Reports filed annually	Estimated total annual responses	Estimated number of hours per respondent	Estimated total hours
4284.528 (b)	Application for Federal Assistance (for non-construction).	SF–424.1 (0348–0043).	50	On occasion.	50	2.00	100
4284.556	Compliance Review	FmHA 400–8 (0575–0018).					
	Assurance Agreement	FmHA 400–4 (0575–0018).					
	Letter of Intent to Meet Conditions.	(FmHA 442–6) (0575–0015).					
	Equal Opportunity Agreement.	(FmHA 400–1) (0575–0018).					
4284.558	Financial Status Report	SF–269 (0348–0039).	50	4	200	1.00	200
4284.557	Request for Advance or Reimbursement.	SF–270 (0348–0006).	50	12	600	0.50	300
Exhibit A	Agreement of Administrative Requirements for Rural Technology Development Grants.	Written	50	On occasion.	50	1.00	50
Record Keeping Requirements							
Exhibit A Sec. 5, 6	Financial Records	Written	50			1.00	50
Exhibit A Sec. 18	Property Records	Written	50			3.00	150
Total reporting					2,935		5,905
Recordkeeping							200
Docket Total							6,105

Dated: June 24, 1994.

Wilbur T. Peer,

Acting Administrator, Rural Development Administration.

[FR Doc. 94–16422 Filed 7–6–94; 8:45 am]

BILLING CODE 3410–32–U

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Arkansas Advisory Committee to the Commission will meet on Friday, September 9, 1994, from 1:00 p.m. until 3:00 p.m. at the Arkansas Excelsior Hotel, Finley-Vinson Room, #3 Statehouse Plaza, Little Rock, Arkansas 72201. The purpose of the meeting is to discuss and plan future SAC activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 27, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–16362 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the California 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 California Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 2:00 p.m. on Saturday, July 23, 1994, at the Travelodge Hotel, Harbor Island, 1960 Harbor Island Drive, San Diego, California 92101. The purpose of the meeting is to discuss proposals for civil rights projects in Orange County and on employment in the media in Los Angeles.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 27, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–16359 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Indiana 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 Indiana Advisory Committee to the Commission will be held from 9:00 a.m. until 5:00 p.m. on Friday, July 29, 1994, at the Westin Hotel, 50 South Capitol Avenue, Indianapolis, Indiana 46204. The purpose of the meeting is to discuss current issues and plan future activities.

Persons desiring additional information, or planning a presentation

to the Committee, should contact Committee Chairperson Hollis E. Hughes, 219–232–8201, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 27, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–16360 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Louisiana Advisory Committee to the Commission will meet on Tuesday, September 13, 1994, from 6:00 p.m. until 8:00 p.m. at the Doubletree Hotel, Shadows Room, 300 Canal Street, New Orleans, Louisiana 70130. The purpose of the meeting is to discuss and plan future SAC activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 27, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–16363 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Mississippi Advisory Commitee to the Commission will meet on Wednesday, August 10, 1994, from 6:00 p.m. to 8:00 p.m. at the Edison Walthall Hotel, Azaela Room, 225 East Capitol Street, Jackson, Mississippi 39201. The purpose of the meeting is to discuss and plan for the Committee's project on police-community relations.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 27, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–16361 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–P

Hearing on Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—New York City

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Pub. L. 98–183, 97 Stat. 1301, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on Monday, September 19, 1994, beginning at 9:00 a.m., in the Ceremonial Court of the U.S. Court of International Trade, located at One Federal Plaza, New York, New York 10007.

The purpose of the hearing will be to collect information within the jurisdiction of the Commission, in order to examine underlying causes of racial and ethnic tensions in the United States.

The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division, at (202) 376-8105 (TDD (202) 376–8116)), at least five (5) working days before the scheduled date of the hearing.

Dated at Washington, DC, July 1, 1994.

Emma Monroig,

Acting General Counsel.

[FR Doc. 94–16401 Filed 7–6–94; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Defense Diversification Pilot Survey.

Agency Form Number: None assigned.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 4,000 hours.

Number of Respondents: 2,000.

Avg Hours Per Response: 2 hours.

Needs and Uses: Commerce is conducting an assessment of defense subcontractors in order to determine the firms' long–term strength and viability, as well as to find out what government resources would be useful to them in diversifying their operations. This data collection will be used to support defense conversion activities in California.

Affected Public: Businesses or other for–profit organizations.

Frequency: One–time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: July 1, 1994

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–16455 Filed 7–6–94; 8:45 am]

BILLING CODE 3510–CW–F

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 89–5A016."

Geothermal Energy Association's ("GEA") original Certificate was issued under the name "National Geothermal Association (NGA)". The original Certificate was issued on February 5, 1990 (55 FR 4647, February 9, 1990), and previously amended on November 7, 1990 (55 FR 47784, November 15, 1990); April 17, 1991 (56 FR 16328, April 22, 1991); September 11, 1991 (56 FR 47068, September 17, 1991), and on October 25, 1993 (58 FR 58325, November 1, 1993). On April 12, 1994, the National Geothermal Association changed its name to the Geothermal Energy Association. A summary of the application for an amendment follows.

Summary of the Application

Applicant: Geothermal Energy Association 2001 Second Street, Suite 5 Davis, California 95616

Contact: Arthur John Armstrong, Counsel, Telephone: (703) 356–3100

Application No.: 89–5A016

Date Deemed Submitted: June 28, 1994

Proposed Amendment: GEA seeks to amend its Certificate to:

1. add each of the following companies as a new "Member" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): M-I Drilling Fluids Company, L.L.C., Houston, Texas (controlling entity: Smith International Acquisition Corp., Houston, Texas); Smith International Acquisition Corp., Houston, Texas, (controlling entity: Smith International, Inc., Houston, Texas); and Smith International, Inc., Houston, Texas.

2. Delete each of the following companies as a "Member" of the Certificate: Energylog Corp.; Grace Drilling Company, Inc.; Mesquite Group, Inc.; M-I Drilling Fluids Company and its controlling entity, Dresser Industries, Inc.; Technology Export Company and its controlling entity, Masco Industries, Inc.; USGIC Dominica, L.P.; and Williams Tool Company, Inc.; and

3. Change the listing of the company name for each current "Member" cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: Maxwell Laboratories, S–CUBED Division, and its controlling entity, Maxwell Laboratories, Inc. (S–Cubed, a Division of Maxwell Labs, and its controlling entity, Maxwell Laboratories, Inc.); Nabors Loffland Drilling Company (Nabors Drilling USA, Inc.); and Foster Valve Corporation and its controlling entity, Masco Industries, Inc. (Foster Valve Corporation, and its controlling entity, Mascotech, Inc.).

Dated: June 30, 1994.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 94–16394 Filed 7–6–94; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: Indianapolis, IN

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation of notice.

SUMMARY: The Minority Business Development Agency (MBDA) is canceling the announcement to solicit competitive applications under its Minority Business Development Center program to operate a Indianapolis, Indiana MBDA for a three (3) year period, starting September 1, 1994, to August 31, 1995, in the Indianapolis, Indiana MSA (Closing date May 2, 1994). Refer to the **Federal Register** dated March 23, 1994.

Dated: June 30, 1994.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 94–16393 Filed 7–6–94; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

July 1, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 362 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 3847, published on January 27, 1994.

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 MOU dated January 17, 1994, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 1, 1994.

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 January 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on July 1, 1994, you are directed to amend further the directive dated January 24, 1994 to increase the limit for Category 362 to 7,463,275 numbers [1], as provided under the terms of the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–16408 Filed 7–6–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force—Initiative Implementation

AGENCY: U.S. Army Materiel Command, DOD.

ACTION: Notice of meeting.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) and AR 15–1, Committee Management, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national industrial emergency. Focus of this meeting will be on policy and procedures of property and equipment management. A tour of the Lake City Army Ammunition Plant will be included as part of this meeting. This session is open to the public.

DATES OF MEETING: August 2–4, 1994.

PLACE OF MEETING: Adam's Mark, 9103 E. 39th Street, Kansas City, MO 64133.

TIME OF MEETING: 9:00 a.m.–5:00 p.m.

ADDRESSES: ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

FOR FURTHER INFORMATION CONTACT: Mr. R.B. Auger, (703) 274–9838.

SUPPLEMENTARY INFORMATION: Reservations should be made directly with Adam's Mark; telephone (816) 737–0200. Please be sure to mention that you will be attending the ARMS meeting to assure occupancy in the block of rooms set aside for this meeting.

Request that you contact Dona Ponce in the ARMS Office at Rock Island Arsenal; telephone (309) 782–4535, if you will be attending the meeting so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–16350 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 27 July 1994.

Time of Meeting: 0800–1700.

Place: Fort Collins, Colorado.

Agenda: The Army Science Board's Ad Hoc Subgroup on "The Use of Technologies in Education and Training" will meet to review the National Technological University distance learning program and to conduct informal discussions on technology and education. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–16355 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–08–M

Patents Available for Licensing

AGENCY: U.S. Army Natick Research, Development and Engineering Center, DOD.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or nonexclusive licenses under the following patent. Any licenses granted shall comply with 35 U.S.C. 29 and 37 CFR Part 404.

Issued patent	Title	Issue date
5,320,164	Body Heating and Cooling Garment	06/14/94
5,322,866	Method of Producing Biodegradable Starch-Based Produce From Unprocessed Raw Materials	06/21/94

ADDRESSES: U.S. Army Natick Research, Development and Engineering Center, Office of Chief Counsel, Attn: Patents, Natick, MA 01760–5035.

FOR FURTHER INFORMATION CONTACT: Ms. Jessica M. Niro, Paralegal Specialist, (508) 651–4322.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–16345 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–08–M

Prospective Exclusive License

AGENCY: U.S. Army Engineer Waterways Experiment Station, DOD.

ACTION: Notice of exclusive license.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of a prospective exclusive license of U.S. Patent No. 4,797–026, entitled "Expandable Sand-Grid for Stabilizing an Undersurface".

ADDRESSES: U.S. Army Corps of Engineers, Waterways Experiment Station, CEWES–CT–C, Vicksburg, MS 39180–6199.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1993

FOR FURTHER INFORMATION CONTACT: Ms. Norman E. Logue, (601) 634–3076.

DATES: Written objections must be filed not later than September 6, 1984.

SUPPLEMENTARY INFORMATION: The Expandable Sand-Grid for Stabilizing an Undersurface was invented by Steve L. Webster ((U.S. Patent Application No. 889,025; U.S. Patent No. 4,797,026; filing date, July 24, 1986; issued date, January 10, 1989).

Rights to this United States patent have been assigned to the United States Government as represented by the Secretary of the Army. Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and section 207 of Title 35, US Code, the Department of the Army, as represented by the U.S. Army Corps of Engineers, Waterways Experiment Station, intends to grant an exclusive license for the above mentioned patent to Presto Products Company, 670 N. Perkins St., P.O. Box 2399, Appleton, WI 54913–2399.

Pursuant to 37 CFR 404.7(a)(1)(i), any interested party may file written objections to this prospective exclusive license arrangement. Written objections should be directed to the above address, ATTN: Mrs. Norma E. Logue.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–16347 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a copy of the Regulatory Guidance Letter (RGL 94–1) to all known interested parties. RGL's are used by the Corps as a means to transmit guidance on the Corps Regulatory Program (33 CFR 320–330) to its division and district engineers. The Corps publishes RGL's in the **Federal Register** upon issuance as a means of informing the public of Corps guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1782.

SUPPLEMENTARY INFORMATION: RGL 94–1, Subject: Expiration of Geographic Jurisdictional Determinations, is hereby published.

Dated: June 16, 1994.

John P. Elmore, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter, RGL 94–1

Date: 23 May 1994, Expires: 31 December 1999.

Subject: Expiration of Geographic Jurisdictional Determinations.

1. Regulatory Guidance Letter (RGL) 90–6, Subject: "Expiration Dates for Wetlands Jurisdictional Delineations" is extended until 31 December 1999, subject to the following revisions.

2. This guidance should be applied to all jurisdictional determinations for all waters of the United States made pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and Section 103 of the Marine Protection Research and Sanctuaries Act of 1972.

3. To be consistent with paragraph IV.A. of the 6 January 1994, interagency Memorandum of Agreement Concerning the Delineation of Wetlands for Purposes of Section 404 of the Clean Water Act and Subtitle B of the Food Security Act, all U.S. Army Corps of Engineers geographic jurisdictional determinations shall be in writing and normally remain valid for a period of five years. The Corps letter (see paragraph 4.(d) of RGL 90–6) should include a statement that the jurisdictional determination is valid for a period of five years from the date of the letter unless new information warrants revision of the determination before the expiration date.

4. For wetland jurisdictional delineations the "effective date of this RGL" referred to in paragraphs 4 and 5 of RGL 90–6 was and remains 14 August 1990. For jurisdictional determinations, other than wetlands jurisdictional delineations, the "effective date of this RGL" referred to in paragraphs 4 and 5 of RGL 90–6 will be the date of this RGL.

5. Previous Corps written jurisdictional determinations, including wetland jurisdictional delineations, with a validity period of three years remain valid for the stated period of three years. The district engineer is not required to issue new letters to extend such period from three years to a total of five years. However, if requested to do so, the district engineer will normally extend the three year period to a total of five years unless new information warrants a new jurisdictional determination.

6. Districts are not required to issue a public notice on this guidance but may do so at their discretion.

7. This guidance expires on 31 December 1999 unless sooner revised or rescinded.

For the Director of Civil Works.

John P. Elmore, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

[FR Doc. 94–16349 Filed 7–6–94; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement (OERI)

AGENCY: Department of Education.

ACTION: Notice to solicit public comments.

SUMMARY: The Assistant Secretary solicits written public comment on the implementation by the Office of Educational Research and Improvement (OERI) of its new authorizing legislation, the "Educational Research, Development, Dissemination, and Improvement Act of 1994." Comments will be used to help the Assistant Secretary plan for the reorganization of OERI and the activities it will carry out, as well as establish, in collaboration with the National Educational Research Policy and Priorities Board, priorities for OERI's future work.

DATES: Comments must be received on or before September 6, 1994.

ADDRESSES: All comments concerning this notice, as well as requests for copies of the Educational Research, Development, Dissemination, and Improvement Act of 1994 and the topic papers (discussed below under **SUPPLEMENTARY INFORMATION**), should be addressed to Dr. Laurence Peters, U.S. Department of Education, 555 New Jersey Avenue, NW., room 600, Washington, D.C. 20208–5530. Comments on this notice may also be sent to the Department of Education at the Internet electronic mail address: reauth—comments@inet.ed.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Laurence Peters. Telephone: (202) 219–2050. FAX: (202) 219–1466. Internet electronic mail address: reauth—questions@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Public Law 103–227, which includes both the "Goals 2000: Educate America

Act" and the "Educational Research, Development, Dissemination, and Improvement Act of 1994." The latter Act creates a new Office of Educational Research and Improvement with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students. It also requires the establishment of a National Educational Research Policy and Priorities Board, which is to work collaboratively with the Assistant Secretary to identify priorities to guide the work of OERI.

The mission of OERI, which the new authorizing legislation requires be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers, is to provide national leadership in: (1) expanding fundamental knowledge and understanding of education; (2) promoting excellence and equity in education and the achievement of the National Education Goals by spurring reform in the school systems of the United States; (3) promoting the use and application of research and development to improve practice in the classroom; and (4) monitoring the state of education.

The statute requires that OERI establish five new research institutes and a national dissemination system. Specifically, the new OERI must include:

- The National Institute on Student Achievement, Curriculum, and Assessment;
- The National Institute on the Education of At-Risk Students;
- The National Institute on Early Childhood Development and Education;
- The National Institute on Educational Governance, Finance, Policymaking, and Management;
- The National Institute on Postsecondary Education, Libraries, and Lifelong Learning;
- The Office of Reform Assistance and Dissemination; and
- The National Library of Education.

The Assistant Secretary is interested in receiving comments and recommendations from the public regarding the functions and responsibilities of these new organizational components, the priorities that should govern their work, and the mix of activities that would best serve OERI's mission. The Assistant Secretary welcomes recommendations related to any aspect of the implementation of the "Educational Research, Development, Dissemination, and Improvement Act of 1994," but is especially interested in recommendations regarding:

- Research priorities for each institute, especially those topics and issues that should be the focus of long-term, sustained, systematic, and integrated research and development;
- Strategies to help ensure that the research agenda is relevant to the needs of educators working with students;
- Dissemination strategies that will be most effective in meeting the needs of a range of different customers—education researchers, practitioners, policymakers, parents, students, and employers;
- Strategies and technical assistance activities that will help ensure that knowledge gained from research will help improve teaching and learning;
- Strategies for identifying proven and promising educational practices and programs;
- Coordination of OERI's research, development and dissemination with similar activities of other agencies and organizations, including other units of the Department and other federal agencies, to ensure that customer needs are met and the federal investment is maximized;
- Peer review and program evaluation activities to ensure that the programs and projects OERI supports meet the highest standards of professional excellence;
- Education topic areas in which syntheses of research-based information are urgently needed to help guide improvement efforts; and
- Information services, resources and materials that should be available to the public through a National Library of Education.

The Assistant Secretary is interested in wide public comment—from education researchers, practitioners, policymakers, parents, students, employers and others interested in systemic education reform—regarding the policies and priorities OERI must identify and develop.

In seeking public comment, OERI is committed to supporting Executive Order 12862, Setting Customer Service Standards, which provides that the Federal Government be "customer driven." To deliver the highest quality service, OERI must understand its customers' needs and interests and how it can be most responsive to these needs and interests.

Availability of Reauthorization Legislation and Topic Papers: To provide the public with a complete description of the provisions of the new legislation, OERI will make available upon request a copy of the "Educational Research, Development, Dissemination, and Improvement Act of 1994." Prior to submitting any comments, OERI encourages commenters to review this legislation. In addition, OERI has prepared topic papers on a number of discrete subject areas, including each of the major OERI organizational entities required by the new legislation. Individuals who wish to respond to this notice may find these topic papers helpful as they develop their comments. The purpose of these topic papers is to share information and to generate discussion and recommendations.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this notice.

All comments and recommendations will be available for public inspection, during and after the comment period, in room 600, 555 New Jersey Avenue, NW., Washington, DC between the hours of 8:30 a.m. and 4 p.m. Monday through Friday of each week except Federal holidays.

Dated: June 30, 1994.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 94–16404 Filed 7–6–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–293–000, et al.]

PacifiCorp, et al.; Electric Rate and Corporate Regulation Filings

June 28, 1994.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. ER94–293–000]

Take notice that PacifiCorp on June 20, 1994, tendered as an amended filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Harrison Interconnection and Transmission Facilities Conveyance Agreement (Final Agreement) between PacifiCorp and Portland General Electric Company (Portland General) dated June 17, 1994.

PacifiCorp requests that a waiver of prior notice be granted and that an effective date of October 31, 1990 be assigned to the Final Agreement.

Copies of this filing were supplied to Portland General and the Public Utility Commission of Oregon.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket No. ER94–924–000]

Take notice that on June 22, 1994, Portland General Electric Company (PGE) tendered for filing supplemental information to its original filing in this Docket. The supplemental information consists of a clarifying amendment to the Operation and Maintenance Agreement between PGE and the Eugene Water and Electric Board (EWEB) regarding the Stone Creek Hydroelectric Project.

Copies of this filing have been served on EWEB and the Oregon Public Utility Commission.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Power and Light Company

[Docket No. ER94–1204–000]

Take notice that on June 21, 1994, Wisconsin Power and Light Company (WP&L) tendered for filing an amendment to its Bulk Power Sales Tariff, originally filed on April 29, 1994. In its amended filing, WP&L has lowered its maximum up-to rate that it can charge for capacity, when the capacity is generated by WP&L. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of May 15, 1994.

WP&L states that copies of this filing have been served on the Public Service Commission of Wisconsin.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Morgan Stanley Capital Group

[Docket No. ER94–1384–000]

Take notice that Morgan Stanley Capital Group Inc. (MS Capital) on June 21, 1994, tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, .207, its Rate Schedule No. 1, to be effective 60 days from and after June 20, 1994, and a petition for waivers of the blanket approvals under various regulations of the Commission, and clarification of jurisdiction under Section 201 of the Federal Power Act.

MS Capital intends to engage in electric power and energy transactions as a marketer. MS Capital's marketing activities will include purchasing capacity, energy and/or transmission services from electric utilities, qualifying facilities and independent power producers, and reselling such power to other purchasers. All sales will be at arms-length. MS Capital is not in the business of producing or transmitting electric power, nor does it currently have or contemplate acquiring title to any electric power transmission or generation facilities.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. West Texas Utilities Company

[Docket No. ER94–1385–000]

Take notice that on June 21, 1994, West Texas Utilities Company (WTU) filed an unexecuted Remote Control Area Load Addendum (Addendum) to its Interconnection Agreement with Texas Utilities Electric Company (TU Electric). The Addendum establishes terms and conditions pursuant to which WTU and TU Electric will accomplish the transfer of the electric load of Tex-La Electric Cooperative of Texas, Inc. (Tex-La) from TU Electric's control area to WTU's control area.

WTU seeks an effective date the later of June 29, 1994, or the date on which TU Electric begins to provide transmission service to Tex-La pursuant to Commission order in Docket No. TX94–4–000. Accordingly, WTU seeks waiver of the Commission's notice requirements if and to the extent necessary. Copies of the filing have been served on TU Electric, Tex-La and the Public Utility Commission of Texas. Copies are also available for inspection in WTU's offices in Abilene, Texas.

Comment date: July 12, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16423 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC94–19–000, et al.]

Public Service Company of Colorado, et al.; Electric Rate and Corporate Regulation Filings

June 29, 1994.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of Colorado

[Docket No. EC94–19–000]

Take notice that on June 23, 1994, Public Service Company of Colorado (Public Service) filed an application for approval under § 23 of the Federal Power Act for the sale of a certain transmission facility to Holy Cross Electric Association, Inc. (Holy Cross). Public Service requested that the Commission approve the application prior to the scheduled closing date of August 1, 1994.

Public Service states that it has submitted the information required by Part 33 of the Commission's regulations in support of the application.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket Nos. ER93–462–000 and ER93–703–000]

Take notice that on June 22, 1994, Portland General Electric Company (PGE) tendered for filing an amendment to its original filings under Docket Nos. ER93–462–000 and ER93–703–000. The nature of the amendment is a revision of tariff language and an update to cost support for rate ceiling components in the tariff. Copies of this filing have been served on the parties included in the distribution list contained in the filing letter.

Pursuant to 18 CFR § 35.11 PGE requests that the Commission grant waiver of the notice requirements of 18 CFR § 35.3 to allow PGE's FERC Electric Tariff, Original Volume No. 1 and the service agreements with Public Utility District No. 1 of Chelan County and City of Vernon to become effective May 20, 1993; and to allow the service agreement with Louis Dreyfus Electric Power Incorporated to become effective July 10, 1993, consistent with the original filings in Docket Nos. ER93–462–000 and ER93–703–000 respectively.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER94–1090–000 and ER94–1113–000]

Take notice that on June 27, 1994, Northern States Power Company (Minnesota) (NSP–MN) and Northern States Power Company (Wisconsin) (NSP–WI), (jointly hereafter NSP) tendered its Purchase and Resale Service (Order 84) and Transmission Tariff Compliance Filing. This Compliance filing addresses the summary dispositions contained in the May 27, 1994, Order and includes corrections to the filing.

NSP requests that this Compliance filing become effective on November 1, 1994.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Wisconsin)

[Docket No. ER94–1392–000]

Take notice that on June 23, 1994, Northern States Power Company, Wisconsin (NSP–W) filed Amendments to its Power and Energy Supply Agreement with the Villages of Trempealeau and Bangor. According to the filing utility the Amendments extend the term of the agreement in exchange for a discount on the power and energy supply rate.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Southwestern Electric Power Company

[Docket No. ER94–1393–000]

Take notice that on June 23, 1994, Southwestern Electric Power Company (SWEPCO) tendered for filing an agreement with Northeast Texas Electric Cooperative (NTEC) under which SWEPCO agreed to install, operate and maintain certain facilities at a new delivery point.

SWEPCO requests that the agreement be accepted to become effective as of June 24, 1994. Copies of the filing have been served on NTEC and the Public Utility Commission of Texas.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Valero Power Services Company

[Docket No. ER94–1394–Q00]

Take notice that on June 22, 1994, Valero Power Services Company (VALPO) tendered for filing pursuant to Rule 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective the earlier of July 31, 1994, or the date of a Commission order granting approval of this Rate Schedule.

VALPO intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where VALPO purchases power, including capacity and related services from electric utilities, qualifying facilities and independent power producers, and resells such power to other purchasers, VALPO will be functioning as a marketer. In VALPO's marketing transactions, VALPO proposes to charge rates mutually agreed upon by parties. In transactions where VALPO does not take title to the electric power and/or energy, VALPO will be limited to the role of a broker and will charge a fee for its services. VALPO is not in the business of producing or transmitting electric power. VALPO does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Alabama Power Company

[Docket No. ER94–1395–000]

Take notice that on June 24, 1994, Alabama Power Company tendered for filing, a Delivery Point Specification Sheet dated as of July 13, 1994, which reflect the addition of a delivery point to the Utilities Board of the City of Sylacauga. This delivery point will be served under the terms and conditions of the Agreement for Partial Requirements Service and Complementary Service between Alabama Power Company and the Alabama Municipal Electric Authority dated February 24, 1986, being designated as FERC Rate Schedule No. 165. The parties request an effective date of July 13, 1994, for the addition of said delivery point.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Carolina Power & Light Company

[Docket No. ER94–1396–000]

Take notice that on June 24, 1994, Carolina Power & Light Company (CP&L) tendered for filing with the Commission the changes outlined below to its agreements with Lumbee River EMC and Randolph EMC.

1. *Lumbee River EMC-Red Springs 115 kV*—Change in point of delivery location, increase in delivery voltage from 23 kV to 115 kV, change in metering location, decrease in metered voltage from 23 kV to 12 kV and the addition of special provisions for providing facilities for metering pulse information.

2. *Randolph EMC-Parkwood 115 kV*—Installation of a new point of delivery including special provisions for providing facilities for metering pulse information.

The Company requests that the notice period be waived and that these supplements be made effective coincident with the effective dates set forth in the respective Exhibit A's; however, the Company will not begin billing for the new additional facilities until the date the FERC accepts and approves this filing.

A copy of this filing has been sent to the affected parties, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER94–1397–000]

Take notice that on June 23, 1994, Boston Edison Company (Edison) tendered for filing for informational purposes the 1993 true-up to actual for the Substation 402 Agreement (FPC Rate No. 149) between Edison and Cambridge Electric Light Company (Cambridge). This filing is made pursuant to the terms of the 1987 Settlement Agreement between Edison, Cambridge and the Town of Belmont, Massachusetts in Docket No. ER86–517–000.

Edison states that it has served the filing on Cambridge, Belmont and the Massachusetts Department of Public Utilities.

Comment date: July 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16424 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–621–000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Certificate Filings

June 29, 1994.

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. CP94–621–000]

Take notice that on June 22, 1994, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP94–621–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle proposes to install a ten-inch (10") tap and related facilities to provide bi-directional flow for delivery and receipt of up to 60 MMcf of natural gas per day for Midwest Gas Storage, Inc. (Midwest Gas) in Section 5, Township 15 North, Range 6 West, Parke County, Indiana. The estimated cost of the project is $259,700 to be reimbursed to Panhandle by Midwest Gas.

Comment date: August 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Colorado Interstate Gas; Panhandle Eastern Pipe Line Company

[Docket No. CP94–627–000]

Take notice that on June 24, 1994, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944 and Panhandle Eastern Pipe Line Company (Panhandle), 5400 Westheimer Court, Houston, Texas 77056–1642 filed, in Docket No. CP94–627–000, a joint application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of the transportation and exchange service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG and Panhandle propose to abandon service under the Gas Purchase, Transportation, and Exchange Agreement dated December 1, 1978, as amended (Master Agreement), currently on file as CIG's Rate Schedule X–38 and Panhandle's Rate Schedule TSE–4. CIG and Panhandle state that they have settled all issues related to the Master Agreement.

CIG and Panhandle state there is no abandonment of any facilities pursuant to the instant application.

Comment date: July 20, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. NorAm Gas Transmission Company

[Docket No. CP94–628–000]

Take notice that on June 24, 1994, NorAm Gas Transmission Company (NorAm), 1600 Smith Street, Houston, Texas 77002, filed an application in Docket No. CP94–628–000 pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment by transfer to Arkla Gathering Services Company of approximately 600 previously certificated facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

NorAm states that this application is being filed, under protest, in compliance with the Commission's May 27, 1994, order in *Arkla Gathering Services Company*, Docket No. CP94–36–000 and that the abandonment would not adversely affect NorAm's ability to continue to render certificated transportation services to its customers or its ability to meet fully its obligations under Order No. 636. NorAm also states that these facilities are gathering facilities but had been erroneously reported in NorAm's predecessors' year-end budgetary certificate reports, in spite of the fact that the facilities were not constructed under those budget-type certificates.

Comment date: July 20, 1994, in accordance with Standard Paragraph F at the end of this notice.

4. National Fuel Gas Supply Corporation

[Docket No. CP94–629–000]

Take notice that on June 24, 1994, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP94–629–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point to provide service to an existing firm transportation customer, National Fuel Gas Distribution Corporation (Distribution), under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National proposes to construct and operate a permanent delivery point on National's Line R–24 in Cattaraugus County, New York. National states that on June 20, 1994, Distribution began receiving emergency transportation service from National at this delivery point in order to maintain service to 300 customers who were in danger of losing service because Distribution had sustained a line hit on its Old Line R. National further states that Distribution then asked National to establish a permanent delivery point to Distribution from National's Line R–24 in Cattaraugus County, New York. It is stated that the total volumes to be delivered to Distribution will be 69,000 Mcf annually. It is further stated that Distribution constructed the necessary facilities at its expense to establish the new delivery point; therefore, National will incur no costs as a result of establishing the delivery point.

Comment date: August 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16425 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP91–41–028]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

June 30, 1994.

Take notice that on June 27, 1994 Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective April 18, 1994:

Second Revised Sheet No. 80
First Revised Sheet No. 82
First Revised Sheet No. 83

Columbia states that it tendered this filing in compliance with the Federal Energy Regulatory Commission's (Commission) letter order issued June 10, 1994 in Docket No. RP91–41, et al., which required that Columbia file tariff sheets reflecting the individual amortization periods elected by each customer for additional billing of Order Nos. 500/528 costs.

Columbia states that copies of the filing were served upon the Company's jurisdictional customers and interested state commissions, and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16379 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–41–027]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

June 30, 1994.

Take notice that on June 23, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective April 18, 1994:

Substitute Second Revised Sheet No. 60
Substitute Original Sheet No. 60A
Substitute First Revised Sheet No. 61
Substitute Original Sheet No. 61A

Columbia states that this filing contains substitute tariff sheets to the compliance filing made in this docket on June 21, 1994.

Columbia states that copies of the filing were served upon Columbia's firm customers, interested state commissions, and to each of the parties set forth on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16378 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA94–1–23–004]

Eastern Shore Natural Gas Company; Proposed Changes in FERC Gas Tariff

June 30, 1994.

Take notice that on June 21, 1994 Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing certain revised tariff sheets and refund reports, included in Appendix A and B of the filing, to comply with the Commission's Order dated May 19, 1994, in the above referenced proceeding. Eastern Shore has separately filed a request for rehearing of the May 19 Order.

Eastern Shore states that the subject tariff sheets are being filed to comply with Ordering Paragraph C of the Commission's Order. Such paragraph directed Eastern Shore to revise its tariff to provide either a Unit-of-Sales or Unit-of-Purchase methodology for computing both its demand current adjustment and monthly deferred demand costs in accordance with § 154.303(c)(2)(ii) of the Commission's PGA regulations and file such revised tariff sheets within 30 days of the date of the Order to be made effective prospectively from the date of the Order.

As stated in Eastern Shore's request for rehearing, Eastern Shore believes its PGA tariff provisions and its PGA filings during the past six years have consistently used a Unit-of-Purchase methodology for computing both the current demand charge adjustment and the monthly demand deferrals. Eastern Shore, however, states it is willing to revise its tariff provisions to be effective May 19, 1994, in accordance with the Commission's Order to further clarify that both its current demand charge adjustments and monthly demand deferrals will be calculated using a Unit-of-Purchase methodology.

Eastern Shore states that two "refund reports" are being filed to comply with Ordering Paragraph D, which requires Eastern Shore to refund with interest its overcharges from November 1, 1992 to the current billing month and to file a report showing how the refund was

calculated. Due to what Eastern Shore believes to be an inconsistency or contradiction with respect to the Commission's language in its Order, Eastern Shore has submitted for the Commission's review two separate refund scenarios with significantly different results, each of which it states is arguably in compliance with the Commission's Order.

Eastern Shore states that upon notification from the Commission as to which refund report it accepts, it will credit the appropriate refund amount to its Account No. 191 Demand Refund Sub-Account and refund such amount, as provided in § 21.6, "Rufunds" of its PGA tariff provisions.

Eastern Shore states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16380 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–626–000]

El Paso Natural Gas Co.; Notice of Request Under Blanket Authorization

June 30, 1994.

Take notice that on June 23, 1994, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP94–626–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate facilities to implement a new delivery point (the Skellytown Meter Station) in Carson County, Texas, under its blanket certificate issued in Docket No. CP82–435–000,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

El Paso states it has entered into a Transportation Service Agreement with Southern Union Gas Company (Southern Union) dated April 22, 1994, (TSA) for the interruptible transportation and delivery of natural gas to Southern Union at the proposed Skellytown Meter Station of up to 29,000 Mcf annually and 310 Mcf per peak day. El Paso states the transportation will be provided pursuant its blanket transportation certificate issued in Docket No. CP88–433–000.[2] Southern Union currently provides natural gas service to Skellytown, Texas, and it has requested new natural gas service from El Paso to increase the dependability of gas deliveries to Skellytown. El Paso states that the proposed delivery point will be located at milepost 54.4 on El Paso's E.P.N.G. Schafer Plant—Dumas Plant Line and Loop Line in Carson County, Texas.

El Paso states that construction of the proposed delivery point is not prohibited by its existing tariff and that it has sufficient capacity to deliver the requested gas volumes without detriment or disadvantage to it's other customers. It also states that the construction and operation of the proposed delivery point will not be a major Federal action significantly affecting the human environment. The total estimated cost of the proposed facilities is $48,900; and, El Paso states Southern Union has agreed to reimburse El Paso for the costs related to construction pursuant to a December 6, 1993 letter agreement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16381 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–120–004]

Koch Gateway Pipeline Co.; Notice of Compliance Filing

June 30, 1994.

Take notice that on June 1, 1994, Koch Gateway Pipeline Company (Koch Gateway) filed the Prepared Supplemental Direct Testimony of Robin G. Schwenke, General Manager of Rates and Regulatory Affairs, Koch Gateway Pipeline Company, together with certain exhibits specifically identified therein, in compliance with the Commission's March 2, 1994 suspension order in Docket No. RP94–120–000.

Ordering Paragraph (E) of the suspension order directed Koch Gateway either to demonstrate why its ratepayers should incur the cost responsibility for the SunCoast Pipeline project or to refile the affected rate sheets to remove the amortization cost. On April 29, 1994, the Commission granted an extension of time to June 1, 1994 for Koch Gateway to respond to Ordering Paragraph (E).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16382 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–297–000]

Midwestern Gas Transmission Co.; Notice of Rate Filing

June 30, 1994.

Take notice that on June 21, 1994, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff

[1] See, 20 FERC ¶ 62,454 (1982).

[2] See, 45 FERC ¶ 61,175 (1988).

sheets, with an effective date of September 1, 1993.

Midwestern states that the tariff sheets are being filed to correct certain errors that were made in its previously filed restructured tariff. Midwestern requests an effective date to coincide with its implementation of restructured services pursuant to Order No. 636 *et al.* Midwestern further states that the filed tariff sheets contain Midwestern's agreed to changes to its liability language.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory 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 July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16383 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–220–002]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

June 30, 1994.

Take Notice that on June 27, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Second Revised Sheet No. 271, with an effective date of June 1, 1994.

Northwest states that the purpose of this filing is to comply with the Commission's May 26, 1994 "Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions, Rejecting Other Tariff Sheets and Establishing a Hearing," to redesign rates based on representative contract demand for South End shippers. Northwest reserves the right and gives notice that it will refile any tariff sheets and rates for affected periods, should Northwest ultimately be successful on its request for rehearing filed with the Commission in the captioned docket on May 27, 1994.

Northwest states that a copy of this filing has been served on all jurisdictional customers, state regulatory commissions in its market area, as well as all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16385 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–437–001]

Northwest Pipeline Corp.; Petition To Amend

June 30, 1994.

Take notice that on June 24, 1994, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP93–437–001 a petition to amend the certificate of public convenience and necessity issued September 13, 1993, in Docket No. CP93–437–000 to upgrade the horsepower of the Snohomish and Sumner Compressor Stations on its mainline transmission system in Washington, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northwest proposes to upgrade the existing compressor unit at Sumner from 4,000 horsepower to 6,350 horsepower instead of the 5,200 horsepower authorized in the September 13, 1993, order. It is stated that the previously authorized increase would not be sufficient to achieve the desired capacity increase because of compressor cylinder limitations. It is stated that the previously estimated cost of $1.08 million for the upgrade would remain the same. It is asserted that the proposed increase in horsepower would increase Northwest's capability to receive Canadian gas supplies during off-peak periods and would enhance Northwest's flexibility in utilizing receipt point options under existing transportation agreements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 21, 1994, 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 384.214 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16386 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP94–36–002 MT88–35–009]

NorAm Gas Transmission Co.; Notice of Filing

June 30, 1994.

Take notice that on June 24, 1994, NorAm Gas Transmission Company (NGT) (formerly Arkla Energy Resources Company) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Rate Sheets Nos. 55 and 231 to become effective August 1, 1994.

NGT states that these revised rate sheets are filed in compliance with the Commission's May 27, 1994, Preliminary Determination on Jurisdictional Status of Facilities (Preliminary Determination) in Arkla Gathering Services Company, Docket No. CP94–36–000. These rate sheets reflect the addition to the General Terms and Conditions of NGT's tariff of the standards of conduct for transactions with its gathering affiliate that were set forth in the Commission's May 27, 1994 Preliminary Determination.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16384 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–204–000]

Pennsylvania Power & Light Co.; Notice of Filing

June 30, 1994.

Take notice that on June 24, 1994, Pennsylvania Power Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission supplemental material relating to the above docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16387 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–165–006]

Southern Natural Gas Co.; Notice of Refund Report

June 30, 1994.

Take notice that on June 27, 1994, Southern Natural Gas Company (Southern) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Refund Report reflecting its refund to interruptible transportation customers of certain amounts directed by the Commission to be refunded in its order in the captioned proceedings issued May 27, 1994 (May 27 Order).

The report states that Southern refunded $520,873 to its interruptible transportation customers on June 10, 1994, reflecting the amount, with interest, overcollected since April 1, 1994 under previously accepted tariff sheets that amortized the recovery of pricing differential costs from interruptible transportation customers in the instant proceeding over three months, rather than over twelve months as provided in the May 27 Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16388 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT94–53–000]

Stingray Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

June 30, 1994.

Take notice that on June 27, 1994, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to be effective as listed below:

To Be Effective December 1, 1993:

Substitute Original Sheet No. 1
Substitute Original Sheet No. 5
Substitute Original Sheet No. 10
Second Substitute Original Sheet No. 56
Substitute Original Sheet Nos. 100, 103, 105 and 109

To Be Effective April 1, 1994:

Substitute First Revised Sheet No. 5
Substitute First Revised Sheet No. 56

Stingray states that the purpose of these tariff sheets is to cancel Stingray's Rate Schedule T–1, a gas transportation agreement between Stingray, Natural Gas Pipeline Company of America (Natural) and Trunkline Gas Company (Trunkline) dated October 2, 1973, as amended, to reflect compliance with the Federal Energy Regulatory Commission's (Commission) Order issued December 17, 1993, in Stingray's restructuring proceeding, approving Section 5 of Rate Schedule T–1, 65 FERC 61,360 (1993). Section 5 provides for automatic authorization of abandonment of Rate Schedule T–1 service and commencement of Rate Schedule FTS service.

Stingray states that it served a copy of this filing on its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211. All such motions or protests must be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16389 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–298–000]

Transcontinental Gas Pipe Line Corp.; Notice of Petition for Declaratory Order

June 30, 1994.

Take notice that on June 23, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) filed a petition for declaratory order seeking Commission approval of a settlement agreement dated February 16, 1994, and executed by TGPL, Dakota Gasification Company, and the United States Department of Energy.

TGPL seeks a declaratory order from the Commission that:

(1) approves the settlement and finds that its implementation is in the public interest;

(2) amends Opinion No. 119 to implement the settlement pricing provisions (which action would also resolve a pending complaint-proceeding before the Commission insofar as it relates to the TGPL-Dakota arrangements); and

(3) allows TGPL to recover costs incurred pursuant to the agreement under the terms of TGPL's Great Plains Adjustment Provision set forth at Section 39 of the General Terms and Conditions of TGPL's FERC Gas Tariff, as the same may be amended from time to time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with 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 July 21, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16390 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–139–002]

Williston Basin Interstate Pipeline Co.; Notice of Compliance Tariff Filing

June 30, 1994.

Take notice that on June 22, 1994, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

Substitute Second Revised Sheet No. 33
Substitute Second Revised Sheet No. 63
First Revised Sheet No. 92
Substitute First Revised Sheet No. 93
Substitute Second Revised Sheet No. 109
Substitute First Revised Sheet No. 123

Williston Basin states that in compliance with the June 7, 1994 Letter Order in the above-referenced docket, Williston Basin submitted the above tariff sheets incorporating language to make it absolutely clear that only a Shipper may make the election to change its method of reimbursement for fuel use, lost and unaccounted for gas, all as more fully explained in the filing which is on file with the Commission and open for public inspection.

The proposed effective date of the above tariff sheets is April 14, 1994, the effective date of the tariff sheets approved by the June 7, 1994 Letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before July 8, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–16391 Filed 7–6–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5009–8]

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 August 8, 1994.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Title: Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (EPA No. 0801.10; OMB No. 2050–0039). This ICR is a renewal of an existing information collection.

Abstract: Under Section 3002(a)(5) of the Resource Conservation and Recovery Act (RCRA), EPA has established a hazardous waste manifesting system to assure that hazardous waste is designated for and arrives at a treatment, storage or disposal facility (TSDF) permitted under RCRA Subtitle C. The information collected in this system includes the completion, submission, and recordkeeping of the manifest itself, completion and submission of discrepancy and exception reports, notification of hazardous waste discharges in the event of an accident, and primary exporter manifest requirements. This information will be collected from large quantity and small quantity generators of hazardous waste, hazardous waste transporters, and owner/operators of treatment, storage and disposal facilities.

The information will be used to: (1) Provide notice to hazardous waste transporters and waste management facility workers on the risks posed by the wastes being handled; (2) track shipments from generator to facility; (3) assist emergency response personnel in determining appropriate responses to accidents; and (4) complement facility inspections to determine compliance.

Burden Statement: The public reporting burden for this collection of information is estimated to average 46 minutes to 1.3 hours per hazardous waste shipment for generators, 16 minutes to 1.8 hours per shipment for transporters, and 17 minutes to 6.5 hours per shipment for TSDFs. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering the data needed, reviewing the collection of information, and submitting the information.

Respondents: Generators, Transporters and Handlers of Hazardous Waste.

Estimated Number of Respondents: 223,173.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 434,944.

Frequency of Collection: As needed.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460;

and,

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: June 30, 1994.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 94–16458 Filed 7–6–94; 8:45 am]

BILLING CODE 6560–50–P

Acid Rain Division

[FRL–5008–4]

Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA today announces the allocation of allowances to small diesel refineries for desulfurization of fuel from October 1, 1993 through December 31, 1993. The eligibility for and calculation of allowances to small diesel

refineries is in accordance with Section 410(h) of the Clean Air Act, implemented at 40 CFR part 73 subpart G.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski, EPA Acid Rain Division (6204J), 401 M St., SW., Washington DC 20460; telephone (202) 233–9074.

SUPPLEMENTARY INFORMATION: EPA's Acid Rain Program was established by Title IV of the Clean Air Act Amendments of 1990 (CAAA) to reduce acid rain in the continental United States. The Acid Rain Program will achieve a 50 percent reduction in sulfur dioxide (SO_2) emissions from utility units. The SO_2 reduction program is a flexible market-based approach to environmental management. As part of this approach, EPA allocates "allowances" to affected utility units. Each allowance is a limited authorization to emit up to one ton of SO_2. At the end of each calendar year, each unit must hold allowances in an amount equal to or greater than its SO_2 emissions for the year. Allowances may be bought, sold, or transferred between utilities and other interested parties. Those utility units whose annual emissions are likely to exceed their allocation of allowances may either install pollution control technologies or switch to cleaner fuels to reduce SO_2 emissions, or buy additional allowances.

Section 410(h) of the Clean Air Act provides allowances for small diesel refineries which desulfurize diesel fuel from October 1, 1993 through December 31, 1999. Small diesel refineries are not otherwise affected by the Acid Rain Program and do not need the allowances to comply with any provision of the Clean Air Act. Thus, the allowances serve as a financial benefit to small diesel refineries desulfurizing diesel fuel. The following table lists the allowances to be allocated to each eligible small diesel refinery for desulfurization of fuel from October 1, 1993 to December 31, 1993:

Refiner	Refinery /Location	Allocation
Cenex	Laurel, Montana	682
Ergon	Vicksburg, Mississippi.	11
Frontier	Cheyenne, Wyoming.	813
Gary Williams	Bloomfield	306
Giant	Ciniza	300
Holly	Lea	275
Holly	Navajo	367
Kern Oil	Bakersfield, California.	432
Lion Oil	El Dorado	216
Paramount	Paramount, California.	555
Pennzoil	Atlas	369
Pennzoil	Roosevelt	82
Powerine	Santa Fe Springs, CA.	595
Pride	Abilene, Texas	365
Sinclair/Little America.	Casper	349
Sinclair	Sinclair, Wyoming.	592
Sinclair	Tulsa, Oklahoma.	1174
U.S. Oil & Refining Co.	Tacoma, Washington.	269
Wyoming Refining Company.	Denver, Colorado.	192

A total of 7944 allowances are allocated. Allowances for desulfurization which occurs from 1994 through 1999 will be made annually.

The allowances listed above will be placed in the refiners' accounts in the Allowance Tracking System (ATS) this fall. Until that time, the refiners can trade their allowances but the trades cannot be recorded in the ATS. Allowances allocated to small diesel refineries in 1994 (for 1993 desulfurization) and 1995 (for 1994 desulfurization) will have a compliance year of 1995, the first compliance year of the Acid Rain Program. The compliance year of allowances allocated subsequent to 1995 will be the year the allowances are allocated.

Dated: June 19, 1994.

Paul Stolpman,

Director, Office of Atmospheric Programs.

[FR Doc. 94–16459 Filed 7–6–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5007–8]

Campo Band of Mission Indians; Tentative Adequacy Determination of Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR Part 258). RCRA Section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate permit programs for MSWLFs. EPA believes that adequate authority exists under RCRA to allow Tribes to seek an adequacy determination for purposes of Sections 4005 and 4010.

On May 11, 1994, the Environmental Protection Agency (EPA) issued in the **Federal Register** (59 FR 24422) a notice of tentative determination on the application of the Campo Band of Mission Indians. In order to provide additional opportunity for all interested parties to review and comment on this proposed action, EPA is extending the public comment period beyond the original July 14, 1994, date provided for in the May 11, 1994 **Federal Register** notice to August 1, 1994.

DATES: All comments on the Campo Band of Mission Indians' application for determination of adequacy must be postmarked by August 1, 1994.

ADDRESSES: Copies of the Campo Band of Mission Indians' application for adequacy determination are available at the following addresses for inspection and copying: Campo Environmental Protection Agency, Campo Tribal Hall, BIA Route 10, Highway 94, Campo, California, 91906, telephone (619) 478–9369, from 9 a.m. to 4 p.m. Mondays through Fridays; Campo Public Library, 31466 Highway 94, Campo, California, 91906, telephone (619) 478–5945, from 9 a.m. to 1 p.m. and 1:30 p.m. to 4 p.m. Wednesdays, and 9 a.m. to 1 p.m. Fridays and Saturdays; U.S. EPA Region 9 Library, 75 Hawthorne Street, 13th Floor, San Francisco, California, 94105, telephone (415) 744–1510, from 9 a.m. to 5 p.m. Mondays through Fridays. Written comments should be sent to Christiane M. Camp, Mail Code H–3–1, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, Attn: Ms. Christiane Camp, Mail Code H–3–1, telephone (415) 744–2097.

Authority: This notice is issued under the authority of sections 2002, 4005 and 4010 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, and 6949(a).

Dated: June 21, 1994.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–16474 Filed 7–6–94; 8:45 am]

BILLING CODE 6560–50–P

[OPP–50791; FRL–4869–8]

Arthropod Pheromones; Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing in this notice that it is expanding the acreage cut-off for when an experimental use permit (EUP) is required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 10 acres to 250 acres for certain uses of biological pesticides. These uses include arthropod pheromones, irrespective of formulation, when used in non-food areas at a maximum use rate of 150 grams active ingredient (ai)/acre/year. Tests conducted on these pheromone uses under the conditions specified in this notice would not require an EUP at acreages up to and including 250 acres. Tests conducted with pheromone products on food crops entering commerce would still require an EUP and a temporary tolerance or an exemption from the requirement of a temporary tolerance. Similarly, testing on acreages exceeding 250 acres for all pheromones (food and nonfood uses) still requires an EUP.

EFFECTIVE DATE: This policy becomes effective July 7, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM–18), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–7690.

SUPPLEMENTARY INFORMATION:

I. Introduction

Biological pesticides, which include biochemical and microbial pesticides, comprise the single fastest growing segment of registration activity within EPA's Office of Pesticide Programs. Biochemical pesticides encompass both semiochemicals and pheromones plus other naturally occurring substances that elicit pesticidal effects by a nontoxic mode of action to the target pest [40 CFR 158.65(a)]. A semiochemical is a biochemical that transmits messages between living organisms. A pheromone is a subclass of semiochemicals and is defined as a chemical produced by an arthropod that modifies the behavior of other individuals of the same species [40 CFR 152.25(b)(1)]. Currently only pheromones labeled for use in pheromone traps and in which the pheromone are the sole active ingredient(s) are exempt from regulation under FIFRA [40 CFR 152.25(b)].

The Agency recognizes that pheromones are inherently different in their nontoxic pesticidal mode of action, low use rate, and target species specificity, and is employing various measures to facilitate their registration. Most recently the Agency has provided some regulatory relief for pheromones in retrievably sized polymeric matrix dispensers. EPA exempted the inert ingredients in the polymeric matrix dispenser from the requirement of a tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) on December 8, 1993 (58 FR 64493). EPA issued in the **Federal Register** of January 26, 1994 (59 FR 3681), a notice expanding the minimum acreage required for an experimental use permit from 10 to 250 acres for arthropod pheromones in polymeric matrix dispensers with an annual application rate limitation of 150 grams/acre for pest control in or on all raw agricultural commodities. And most recently, on March 30, 1994 (59 FR 14757), EPA exempted from the requirement of a tolerance under FFDCA the residues of arthropod pheromones resulting from the use of these compounds in polymeric matrix dispensers at the above use rates.

EPA has determined that additional regulatory relief for pheromones is warranted. The Agency now wishes to further broaden the scope of regulatory relief for arthropod pheromone researchers and producers to formulations beyond traps and polymeric matrix dispensers by including broadcast applications under certain non-food use conditions outlined in this notice. With the implementation of this policy, EPA hopes to encourage the development and use of environmentally acceptable biological pesticides as alternatives to more toxic conventional chemical pesticides. The aim is to ease the testing requirements of these products, to speed their market entry, and promote their integration into pest management strategies. It is important to note that this policy is only applicable to arthropod pheromone products where the pheromone is the sole active ingredient(s). For pheromone products formulated to include other pesticide active ingredients, the data requirements for biological/chemical pesticides is appropriate [40 CFR part 158].

The need for further regulatory relief above that provided for retrievable polymeric matrix dispensers prompted the Agency to reconsider broadcast application. Of consideration were human dietary exposure, promotion of reduced risk alternative pesticides, persistence, and environmental risk. In regard to nontarget organism effects, the risks from broadcast application should not be appreciably greater than from a polymeric dispenser application if the broadcast formulations are also for terrestrial use only and experimental application does not include use in or around marshes, swamps, rivers, streams, ponds, lakes, estuaries, flood plains, or drainage ditches, nor should the product be allowed to wash or drain into water. Low rates of experimental application, high volatility, limited acreage, and the current extent of knowledge indicating generally low orders of toxicity are all justifications to overcome potential increased risks to nontarget organisms due to exposure to foliar residues.

Today's notice sets forth that for non-food uses of arthropod pheromone pesticides only, EPA is permitting the acreage expansion from 10 to 250 acres for experimental testing at a maximum use rate of 150 grams ai/acre/year before triggering the requirement of an EUP under FIFRA. The Agency contends, that for experimental uses involving non-food crops and other nondietary uses, this change in policy provides significant flexibility to determine product efficacy without resulting in significant risk to human health or the environment due to the active ingredient's low use rate, high volatility, and lack of dietary exposure.

II. Toxicology

A. Ecological Effects

Wildlife toxicity data indicate high toxicity to aquatic invertebrates and moderate toxicity to fish, but practically no toxicity to birds tested. Therefore, these products should not be applied directly to water nor be allowed to runoff into water. To minimize the potential toxic effects on aquatic organisms, this policy is limited to pheromone products tested for terrestrial use only and would not apply to pheromones for use in or around marshes, swamps, rivers, streams, ponds, lakes, estuaries, flood plains, or drainage ditches. The Agency believes that aquatic exposure will be minimal if experimental use is limited to the terrestrial use only pattern of the pheromone. Similarly, the Agency has determined that exposure to wildlife will be minimal when release of the pheromone is confined to experimental purposes only and applications are limited to a maximum of 150 grams ai/acre/year on a maximum of 250 acres.

B. Human Health

The data available to date on arthropod pheromones, including several pheromones with aromatic

structures, have indicated no mammalian toxicity at the limit dose levels recommended for the following studies: acute oral toxicity (LD_{50} >5,000 mg/kg - category IV, nontoxic), acute dermal toxicity (LD_{50} >2,000 mg/kg category III-IV, nontoxic), acute inhalation toxicity (LD_{50} generally >5 mg/L - category III-IV, practically nontoxic), no evidence of mutagenicity (Ames Salmonella assay), and minimal eye and skin irritation. In general, the Agency recommends, however, that whenever using pesticides, adequate precautions to minimize applicator exposure should be taken.

Human health concerns arise for any experimentally treated crops that may enter the food supply. Experimentally treated food crops are normally destroyed as a routine provision to prevent the food from entering commerce. Crop destruction, however, may not be economically feasible for crop acreages of up to 250 treated acres. Under FFDCA, a food tolerance or an exemption from the requirement of a tolerance must be established prior to any treated crop entering commerce or the seller of the food crop will be in violation of FFDCA provisions for pesticide residues in food. Temporary tolerances may be established for food crops that have been treated with experimental pesticides under an EUP.

EPA is not able at this time to make a no unreasonable adverse effects finding for arthropod pheromone pesticides for use on food crops. Subsequent testing on food or feed crops of other formulations involving, for example, broadcast sprays or dispensers that are not retrievable, will require an EUP to generate adequate data for determining a food tolerance, or exemption from tolerance, and the greater exposure potential of the pesticide to the resulting food. For these uses, an EUP is needed to accompany a temporary tolerance and to generate adequate data to allow for a food tolerance determination. Requests for exemption from the requirement of a temporary tolerance will also be considered in conjunction with an EUP. EPA would consider waivers for many requirements for an experimental use permit on acreages from 10 to 250 acres and use rates up to a maximum of 150 grams ai/acre/year.

In the past, EPA has waived some or all of the required toxicology studies for volatile biochemical pesticide active ingredients in dispensers when the registrant has demonstrated an extremely low exposure scenario, lack of food residues, and inert materials of the dispenser were cleared by the Agency. The Agency will consider waivers for studies of other pheromone formulations when the registrant can adequately demonstrate that either a low application rate, rapid degradation of the active ingredient, high volatilization, and/or timing of the last application prior to harvest will result in no detectable pesticide residues in or on the food crop.

III. Statutory and Regulatory Authority

Section 5 of FIFRA, 7 U.S.C. 136c, and 40 CFR part 172 provide for issuance by the Agency of experimental use permits for the testing of new, unregistered pesticides or new uses of existing pesticides for product performance and registration purposes. Such permits are generally issued for large-scale testing of pesticides on more than 10 acres. Contained within the scope of the regulation, however, is the presumption that small-scale testing, i.e., on less than 10 acres of land, does not require an EUP providing that any treated crops are destroyed or a temporary tolerance for residues in or on the crop is in place (40 CFR 172.3(a)). This presumption, however, is caveated not to preclude experimental testing on larger areas in certain circumstances where the purpose of the large acreage test is only to determine the substance's value for pesticidal purposes or to determine its toxicity or other properties, and no benefit from pest control is expected (40 CFR 172.3(b)). EPA issued in the **Federal Register** of January 22, 1993 (58 FR 5878), a proposed amendment to 40 CFR part 172. The proposed amendment would, among other things, modify § 172.3 to clarify that the determination of whether an EUP is required is based on risk considerations. The amendment would provide that tests conducted on not more than 10 acres of land are presumed not to involve unreasonable risks, and therefore, do not require an EUP.

Due to the unique characteristics of pheromones, EPA believes that pheromone products used for non-food purposes must be tested at acreages larger than 10 acres and as large as 250 acres to determine the products' value for pesticidal purposes. Many pheromone uses are effective as mating disruptants to the adult insects. Larger test acreages are needed to evaluate sufficiently the disruption of the natural flight range of the adult target insect. An additional factor necessitating larger acreages is the volatile nature of most pheromone compounds. Separate treatments in adjoining small plots is unfeasible, and test plot sizes ranging from 20 to 60 acres are usually required depending upon the nature of the treated site and the pest in question. Thus, EPA believes that 250 acres should be sufficient to determine the value for pesticidal purposes of most pheromones.

The Agency has found that given the generally low expected toxicity and high volatility of arthropod pheromones, an upper limit of 150 grams ai/acre/year is adequate for testing the pheromone product performance while still protecting the public health, nontarget organisms and the environment from unreasonable risks. These application rates encompass the majority of pheromone uses seen by the Agency to date.

IV. Agency Determination

EPA is now expanding the terrestrial use limitation for testing arthropod pheromone pesticides without the need for an experimental use permit from 10 acres to 250 acres for non-food use patterns at treatment rates not exceeding 150 grams ai/acre/year. Upon meeting the above conditions, the Agency has determined that pheromones of the type described do not present an unreasonable adverse effect to human health or the environment due to unlikely exposure.

The above policy applies to only the experimental phase of pheromone product development and not to registration of the product. The intent of this regulatory relief policy is to permit adequate conditions for practical research and development, while protecting the food supply and nontarget species from higher pheromone levels than occur naturally The current set of studies listed in 40 CFR 158.690 are still required for the registration and sale of the final product.

Dated: June 28, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs

[FR Doc. 94–16461 Filed 7–6–94; 8:45 am]

BILLING CODE 6560–50–F

[OPP–64023; FRL–4897–9]

Tributyltin Fluoride (TBTF); Receipt of Request to Cancel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Request to Cancel Registrations.

SUMMARY: This Notice, issued pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces EPA's receipt of a request

from ELF ATOCHEM North America, Inc. ("Atochem") to voluntarily cancel its registrations for products containing Tributyltin Fluoride (TBTF). Following a 30–day comment period, EPA intends to cancel these registrations. Further, this notice announces the Agency's proposal regarding sale, distribution and use of existing stocks of these products.

DATES: The Agency expects to publish a cancellation order in the **Federal Register** on or after August 8, 1994.

ADDRESSES: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Room 1132, Crystal Mall Building #2, 1921 Jefferson Davis Highway., Arlington, VA 22202, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ann Sibold, Review Manager, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. Office location and telephone number: 3rd floor, 2800 Crystal Drive, Arlington, VA. 22202 (703) 308–8033.

SUPPLEMENTARY INFORMATION: This notice announces the receipt of a request for cancellation of Atochem's registrations for TBTF products and the Agency's intent to accept these cancellations. In addition, this notice sets forth the Agency's proposal regarding sale, distribution and use of existing stocks of products bearing the affected registration numbers.

I. Background

TBTF compounds are registered for use in paint formulations as an antifoulant treatment for hulls, outboard motors, and lower drive units of certain types of marine vessels. They are used to inhibit the growth of fouling organisms such as barnacles and algae. Atochem manufactures the technical product, an intermediate formulation, and one end-use product. In October, 1991, under sections 4 and 3(c)2(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, a Data Call-in (DCI) for the data necessary for the reregistration of TBTF was issued to certain registrants of products containing TBTF, including Atochem. Two bridging studies (studies used to justify the use of data developed on one pesticide for another pesticide) and the associated progress reports required by this DCI are now overdue, and Atochem's registrations of TBTF are subject to suspension.

II. Receipt of Request and Notice of Intent to Cancel

Section 6(f) of FIFRA provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. FIFRA further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request and provide for a 30–day comment period.

In a letter dated April 21, 1994. Atochem requested voluntary cancellation of its TBTF registrations, EPA registration numbers 5204–19, 5204–61, and 5204–64. EPA proposes to accept these voluntary cancellations, and intends to issue a cancellation order for these product registrations immediately after the close of the comment period.

If, during the 30–day comment period, Atochem chooses to withdraw its request for cancellation, it must submit a request for withdrawal in writing to the address listed above prior to (insert date 30 days after date of publication in the **Federal Register**). Should Atochem withdraw its request for cancellation, its affected registrations of TBTF will remain subject to suspension until overdue data requirements are satisfied. The Agency will issue a Notice of Intent to Suspend these registrations as soon as possible after any such withdrawal.

III. Existing Stocks Determination

In its letter of April 21, 1994, Atochem also requested that EPA allow Atochem a 1–year timeframe to continue the distribution and sale of existing stocks.

The Agency's established policy for determinations concerning existing stocks was published in the **Federal Register** on June 26, 1991 (56 FR 29362). In that Notice, EPA said that it would permit a registrant to sell and distribute existing stocks for 1 year after the earliest date that the registrant failed to meet an obligation of registration. In addition, persons other than the registrant would generally be permitted to sell, distribute, or use existing stocks of the cancelled product until supplies are exhausted.

EPA has determined that Atochem has failed to meet an obligation of reregistration of its TBTF products by its failure to meet certain data requirements of the DCI of October, 1991, as follows:

Guideline	Overdue Items
82–1(a) — 90–day rodent feeding study (bridging study).	Progress Report due January, 1993. Final Report due September, 1993
85–2 — dermal penetration study (bridging study).	Progress Report due January, 1993. Final Report due September, 1993.

EPA has considered the registrant's request for sale and distribution of existing stocks for 1 year. In accordance with EPA's policy on existing stocks, EPA has determined that the 1 year for existing stocks sale, distribution, and use by Atochem or its agents began January 8, 1993, the earliest date that the registrant failed to meet an obligation of reregistration, and expired January 8, 1994. Therefore, Atochem will not be permitted to sell, distribute, or use existing stocks as of the effective date of cancellation. Furthermore, it is Atochem's responsibility as the basic registrant to notifiy any and all supplemental registrants of its product(s) that this Agency action also applies to their supplementally registered products, Registrants may be held liable for violations committed by their supplemental registrants. Other dealers and distributors will be permitted to sell and distribute existing stocks of affected Atochem products until stocks are exhausted. End users may use existing stocks until stocks are exhausted.

Dated: June 29, 1994.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 94–16460 Filed 7–6–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for

comments and protests are found in § 560.602 and/or § 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.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200868.

Title: Port of Houston Authority/ Cargo Terminal Venture Freight Handling Agreement.

Parties:

Port of Houston ("Port")
Cargo Terminal Venture ("CTV")

Filing Agent: Martha T. Williams, Houston Port Authority, P.O. Box 2562, Houston, Texas 77252–2562.

Synopsis: The proposed Agreement permits CTV to perform freight handling services at the Port's Jacintoport Terminal Dockside Shed. The Agreement has an initial term of nine years.

Agreement No.: 224–200869.

Title: Port of Houston Authority/ James J. Flanagan Stevedores, Inc. Freight Handling Agreement.

Parties:

Port of Houston ("Port")
James J. Flanagan Stevedores, Inc. ("JJFSI").

Filing Agent: Martha T. Williams, Houston Port Authority, P.O. Box 2562, Houston, Texas 77252–2562.

Synopsis: The proposed Agreement permits JJFSI to perform freight handling services at the Port's Transit Shed Number 21–A.

Dated: June 30, 1994.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–16375 Filed 7–6–94; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

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, 800 North Capitol Street, NW., 9th Floor. 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.: 202–000150–107.

Title: Trans-Pacific Freight Conference of Japan.

Parties:

American President Lines, Ltd.
Hapag-Lloyd AG
Mitsui O.S.K. Line, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines Limited
Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed amendment modifies Article 8(e)(3)(d) by deleting the requirement of voting by secret ballot and permitting changes in service contract rates to be decided by a two-thirds majority of all votes actually cast.

Agreement No.: 207–011436–002.

Title: Hornet Shipping Company Limited/Lauritzen Reefers A/S Joint Service Agreement.

Parties:

Hornet Shipping Company Limited
Pacific Shipping Limited
Lauritzen Reefers A/S

Synopsis: The proposed amendment expands the geographic scope of the Agreement to include ports and points in Mexico. The parties have requested a shortened review period.

Agreement No.: 203–011452–001.

Title: Trans-Pacific Policing Agreement.

Parties:

American President Lines, Ltd.
A.P. Moller-Maersk Line
Cho Yang Line
China Ocean Shipping Company
DSR-Senator Joint Service
Evergreen Marine Corp.
Hanjin Shipping Co., Ltd.
Hyundai Merchant Marine Co., Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.

Synopsis: The proposed amendment modifies Article XIII and Appendix B of the Agreement to be consistent with the policing provisions. The parties have requested a shortened review period.

Agreement No.: 224–200164–010.

Title: Port of Oakland/Norsul Internacional S.A.

Parties:

Port of Oakland
Norsul Internacional S.A.

Synopsis: The proposed amendment extends the term of the Agreement to July 31, 1994.

Agreement No.: 224–200865–001.

Title: Port of Oakland/Hanjin Shipping Company, Ltd.

Parties:

Port of Oakland ("Port")
Hanjin Shipping Company, Ltd. ("Hanjin")

Synopsis: The proposed amendment would permit the Port to make certain wharfage tariff refunds to Hanjin in the event Hanjin generates 55,000 or more loaded TEUs in a contract year. It also provides for additional wharfage reductions for Interior Point Intermodal ("IPI") cargo of $10.00 per loaded TEU when IPI cargo equals or exceeds 4,000 loaded TEUs in a contract year.

Agreement No.: 224–200870.

Title: Port of Oakland/Marine Terminals Corporation.

Parties:

Port of Oakland ("Port")
Marine Terminals Corporation ("MTC")

Synopsis: The proposed Agreement provides MTC the responsibility of management, terminal operation and cargo solicitation services at the Port's Seventh Street Marine Container Terminal, for Berths 35, 37 and 38, and the loading and discharge of cargoes and operations supplemental thereto. In addition, the Agreement provides for incentive payments to MTC for any new business they might bring to the above facilities.

Dated: June 30, 1994.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–16374 Filed 7–6–94; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Zior NY Ltd., 145–34 157th Street, Jamaica, NY 11434, Officers: Amitta Ben-Aviv, President, Zipora Ben-Aviv, Treasurer

Vanik, Inc., 17W708 Butterfield Road, #209, Oakbrook, Terrace, IL 60181, Vandana C. Bahl, Sole Proprietor

World Asia Freight Systems, Inc., 1065 Sneath Lane, San Bruno, CA 94066, Officer: Harrison Park, President.

Dated: June 30, 1994.

By the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–16342 Filed 7–6–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Hal Jonathan Shaffer; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 26, 1994.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Hal Jonathan Shaffer, Cherry Hill, New Jersey; Carl Anderson Lingle, Elmer, New Jersey, and Jerome S. Goodman, Cherry Hill, New Jersey, to acquire 79.60 percent of the voting shares of First Bank of Philadelphia, Philadelphia, Pennsylvania. Jerome S. Goodman currently owns 0.25 percent of the stock of the Bank. He owns less than 1 percent of the shares of CoreStates Financial Corp., Philadelphia, Pennsylvania which, in turn, owns 24.8 percent of the shares of the Bank. Notificants will collectively purchase the stock to be issued by the Bank and their total ownership of Bank's stock, upon consummation, will equal 79.65 percent.

Board of Governors of the Federal Reserve System, June 30, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16429 Filed 7–6–94; 8:45 am]

BILLING CODE 6210–01–F

Mellon Bank Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 29, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Mellon Bank Corporation, Pittsburgh, Pennsylvania, to acquire Stone Trust Company, Tipton, Pennsylvania, and thereby engage in permissible trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 30, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16428 Filed 7–6–94; 8:45 am]

BILLING CODE 6210–01–F

BOK Financial Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 26, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. BOK Financial Corporation, Tulsa, Oklahoma, to engage *de novo* through its subsidiary BOKF Leasing

Corporation, Tulsa, Oklahoma, in leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 30, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16427 Filed 7–6–94; 8:45 am]

BILLING CODE 6210–01–F

AmSouth Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 29, 1994.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. AmSouth Bancoporation, Birmingham, Alabama, to merge with The Tampa Banking Company, Tampa, Florida, and thereby indirectly acquire The Bank of Tampa, Tampa, Florida.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Community Bancorporation of New Mexico, Inc., Santa Fe, New Mexico, to become a bank holding company by acquiring 100 percent of the voting shares of El Pueblo State Bank, Espanola, New Mexico.

Board of Governors of the Federal Reserve System, June 30, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–16426 Filed 7–6–94; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[GN # 2557]

Notice of Meeting of the Commission on Research Integrity

Pursuant to P.L. 92–463, notice is hereby given of the meeting of the Commission on Research Integrity, on Monday, July 25, 1994, from 9 a.m. to 5 p.m., in the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Salon 5, Arlington, VA 22202. The meeting will be open to the public.

The mandate of the Commission is to develop recommendations for the Secretary of Health and Human Services and the Congress on the administration of Section 493 of the Public Health Service Act as amended by and added to by Section 161 of the NIH Revitalization Act of 1993.

The purpose of this meeting will be to review the history of the definition of scientific misconduct in the Public Health Service (PHS); to discuss a definition of science, its role, purpose and goals in society; to develop a preliminary working definition of research misconduct; and to compare and contrast the processes of investigating alleged misconduct in science at the PHS and NSF. Discussion items may include but will not be limited to the issues noted above.

Henrietta D. Hyatt-Knorr, Executive Secretary, Commission on Research Integrity, Office of Research Integrity, Division of Policy and Education, Rockwall II, Suite 700, 5515 Security Lane, Rockville MD 20852, (301) 443–5300, will furnish the meeting agenda, the Committee charter, and a roster of the Committee members upon request. Members of the public wishing to make presentations should contact the Executive Secretary. Depending on the number of presentation and other considerations, the Executive Secretary will allocate a time frame for each speaker.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 94–16430 Filed 7–6–94; 8:45 am]

BILLING CODE 4160–17–M

Administration for Children and Families

[Program Announcement No. 93631–94–02]

Developmental Disabilities: Availability of Financial Assistance for Projects of National Significance for Fiscal Year 1994

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Announcement of availability of financial assistance for Projects of National Significance for Fiscal Year 1994.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that applications are being accepted for funding of Fiscal Year 1994 Projects of National Significance.

This program announcement consists of five parts. Part I, the Introduction, discusses the goals and objectives of ACF and ADD. Part II provides the necessary background information on ADD for applicants. Part III describes the review process. Part IV describes the priorities under which ADD solicits applications for Fiscal Year 1994 funding of projects. Part V describes in detail how to prepare and submit an application. All of the forms and instructions necessary to submit an application are published as part of this announcement following Part V.

No separate application kit is either necessary or available for submitting an application. If you have a copy of this announcement, you have all the information and forms required to submit an application.

Grants will be awarded under this program announcement subject to the availability of funds for support of these activities.

DATE: Closing date for submittal of applications under this announcement is August 8, 1994.

ADDRESSES: Applications should be mailed to: Department of Health and Human Services, ACF/Division of Discretionary Grants, Sixth Floor, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Gail Evans, Program Development Division, Administration on Developmental Disabilities, (202) 690–5911.

SUPPLEMENTARY INFORMATION:

Part I. Introduction

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific populations it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, ACF and ADD envision:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, persons with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including people with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of persons with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000, *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for people with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks to enhance the capabilities of families in assisting people with developmental disabilities to achieve their maximum potential to support the increasing ability of people with developmental disabilities to exercise greater choice and self-determination; to engage in leadership activities in their communities; as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

Part II. Background Information

A. Description of Projects of National Significance

Under Part E of the Act, grants and contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for people with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;
—Educating policy makers;
—Federal interagency initiatives;
—The enhancement of participation of racial and ethnic groups in public and private sector initiatives in developmental disabilities;
—Transition of youth with developmental disabilities from school to adult life; and
—Special pilots and evaluation studies to explore the expansion of programs under part B (State developmental disabilities councils) to individuals with severe disabilities other than developmental disabilities.

B. Comments on FY 1994 Proposed Priority Areas

The notice soliciting comments on the FY 1994 proposed priority areas was published in the Federal Register on February 24, 1994. A 60 day period was required to allow the public to comment

on the proposed areas. After review and analysis of these comments, ADD is publishing its final priorities in this announcement.

The public comment notice requested specific comments and suggestions on the proposed funding priorities, in addition to recommendations for additional priority areas which would assist in bringing about the increased independence, productivity, and integration into the community of people with developmental disabilities.

ADD received a total of 52 letters and 93 individual comments in response to the public comment notice. The majority of the comments expressed support of the priority areas. Other comments were supportive of the priority areas, but suggested changes.

Agencies which commented were identified as follows:

- Advocacy agencies, which includes national organizations and associations, national advocacy groups and State/local advocacy groups;
- Service organizations, which includes agencies that provide services for individuals with developmental disabilities as well as providing advocacy services on behalf of a particular disability, including developmental disabilities councils;
- Educational systems, which includes schools, colleges and universities, programs located within a university setting (CA/N, R&TC, youth w/disabilities) and university affiliated programs;
- Private agencies, which includes national, State and local non-profit organizations;
- Government agencies, which includes Federal, State, county and local government agencies;
- Private individuals; and
- Foundations.

The comments ranged from requests for copies of the final application solicitation to general support to substantive, insightful responses for this year's proposed funding priorities and recommendations for other priority areas. Few of the comments provided specific guidance on the development of the final priority areas. Rather, the majority were supportive of and expanded upon what we proposed in the announcement, in addition to relating specifically to the program goals and priorities of the particular agencies submitting the comments.

The comments received were helpful in highlighting the concerns of the developmental disabilities field and have been used in refining the final priority areas.

Comment: 24 letters were submitted to ADD recommending additional funding priorities for FY 1994. Suggestions included best practice and systems change, development of standards, and training in Personal Assistance Services (PAS); projects that focus on the integration into community activities of families who have a child who is medically fragile and severely disabled; a project that cares for children with HIV/AIDS; projects on home ownership; dissemination of information to families and practitioners; and aging and developmental disabilities.

Response: ADD funded five PAS projects in FY 1993. We continue to fund those projects and support a variety of other activities in the area of personal assistance services.

Although ADD has not funded any recent projects on community integration of individuals with severe disabilities or medically fragile children through the PNS program, we continue to support projects and activities in this area through the university affiliated program.

ADD funded five HIV/AIDS projects from FY 1990–1992. We continue to support HIV/AIDS projects and activities through the university affiliated program.

ADD funded two projects on home ownership from FY 1991–1994. We also awarded a five year grant in FY 1993 to the university affiliated program at the University of New Hampshire to establish a national information network on consumer based housing.

ADD supports a number of grant-related activities that focus on dissemination of information on issues relating to developmental disabilities. It has become a requirement of each grant award made.

We continue to fund projects on elderly persons with disabilities through the university affiliated program's Training Initiative component.

ADD appreciates the suggestions for additional priority areas for this fiscal year. While we are unable to add new priority areas at this time because of budget constraints, we will consider these suggestions and recommendations for future grant announcements.

Comment: ADD received 34 comments on Proposed Priority Area 1, Leadership Education and Development of Individuals with Disabilities and Their Families from Culturally Diverse Backgrounds. The majority of the comments received in this priority area were supportive of what was proposed in the published notice. However, some of the comments provided recommendations for project design and specific suggestions for how the projects should be funded (based on the particular focus of the organization submitting the comments). There was also a letter writing campaign from advocacy groups supporting strong linkages to and between ADD's national network associations. That writing campaign also included adding a qualifier to the grant requirements regarding composition of the funded agencies board of directors (at least 51% individuals with disabilities or family members of individuals with disabilities). Another letter writer suggested that we collaborate our activities with other Federal and State agencies. There was a suggestion that the requirements of the final priority area be specific about how information would be disseminated as well as how the project would be evaluated. There were also numerous recommendations for ADD to specifically focus its FY 1994 efforts on Youth Leadership Development.

Response: The above comments are representative of the comments received in this priority area. We will make every effort to coordinate this priority area's activities with the Department of Education and other Federal agencies. We will also make every effort to collaborate with our national network associations during the funded projects' grant period. We agree with the recommendation for information dissemination and evaluation. The final priority area project design requirements include dissemination, evaluation, and composition of the project's advisory body. In addition, because there was interest expressed that ADD focus this priority area on youth leadership development, the final leadership education and development priority area will be an inclusive one—to cover individuals and families of all ages.

Comment: ADD received fifteen comments on Proposed Priority Area 2, Expanding the Scope of Developmental Disabilities Councils. The majority of the comments received in this priority area were supportive of what ADD proposed in the published notice. Some of the comments also provided recommendations for project length, specific suggestions for which Councils should be eligible for funding, and ideas on project design. There were two non-supportive letters submitted in this priority area. Those letters will be addressed at the end of this discussion.

There was a recommendation that the project conduct an assessment of the population of persons with disabilities served by the developmental disabilities network (Developmental Disabilities Councils, University Affiliated Programs, and Protection and Advocacy

Systems) in their States. Several writers suggested that participation in the fifteen month pilot studies not be limited to just the additional five States. It was also noted that six months to complete the short-term study would be too short of a time frame. ADD was also encouraged to receive input for the studies from the States and not limit participation to the network associations. We were cautioned that each of the DD program components not lose sight of their specific mission and focus during the expansion studies. This was reiterated in one of the non-supportive letters, in addition to the fact that expansion would duplicate the efforts of other State and Federally funded agencies. The other non-supportive letter indicated that the Councils were not adequately addressing the issues of the disability groups they already serve, and suggested that the Councils make some changes in the way they do business before they take on expansion.

Response: The expansion priority area is a legislatively mandated activity. ADD is limited in the number of States to participate in the pilot studies or the length of time to complete each phase of the expansion study. In addition, the short term study of Councils and the national study have already been funded under a separate contractual solicitation. The fifteen month pilot studies are the only part of the expansion study to be funded through this grant announcement. We do, however, agree with the remainder of the comments (including the non-supportive ones) and the final priority area reflects such, as well as a sensitivity to specific foci of Councils and their ability to take on expansion activities without negatively impacting their original mission.

Comment: ADD received three comments on providing technical assistance (through separate contractual solicitations) to improve the functions of the developmental disabilities planning council, protection and advocacy system, and the university affiliated program; and to develop information and referral systems. Two letters supported and expanded upon what we proposed. One letter was non-supportive. The supportive letters recommended specific technical assistance activities, i.e., ongoing technical assistance and information and referral on cultural diversity; and technical assistance activities on self-advocacy of consumers. The one non-supportive letter requested that the technical assistance contract solicitations be provided to all Councils, P&As, and UAPs, and not a sole source contractor.

Response: The technical assistance component of the PNS program is a legislatively mandated activity targeted at supporting and improving the functions of the developmental disabilities program components (Councils, P&As, and UAPs). Contract awards for technical assistance to UAPs and P&As are in their last year of funding. A full and open competition for UAP and P&A technical assistance funds will be announced during the FY 1995 PNS funding cycle. Likewise, an announcement for a full and open competition for technical assistance funds for Councils has been made through the ACF procurement process. Technical assistance for information and referral systems will not be announced this fiscal year, but considered for future PNS funding announcements.

Comment: ADD received two comments on funding projects through demonstrations as well as procurements that would ensure the integration and active participation of racial and ethnic groups into the "mainstream" of theservice delivery system. Both letters recommended that we offer an additional solicitation for a data collection and analysis project to establish a national multicultural database.

Response: The FY 1994 PNS program budget is limited in providing funds for additional grants and contracts. Therefore, these recommendations will not be considered this fiscal year, but considered for future PNS announcements.

Comment: ADD received fifteen general comments, the majority of which were supportive of what we proposed for our FY 1994 funding priorities. Several comments were received that commended us for the way in which we approached this year's priorities, but wanted to see changes in the focus of the priority areas.

Response: We appreciate the input and commendations given for this year's priority areas. We believe the final priority areas reflect the input received from the public comment process and a sensitivity to the concerns expressed in each of the letters received.

Part III. The Review Process

A. Eligible Applicants

Before applications are reviewed, each will be screened to determine that the applicant is eligible for funding, as specified under the selected priority area. Applications from organizations which do not meet the eligibility requirements for the priority area will not be considered or reviewed in the competition, and the applicant will be so informed.

Only public or non-profit private entities, *not individuals*, are eligible to apply under any of the priority areas. On all applications developed jointly by more than one agency or organization, the applications must identify only one organization as the lead organization and official applicant. The other participating agencies and organizations can be included as co-participants, subgrantees or subcontractors.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. One means of accomplishing this is by the non-profit agency providing a copy of the applicant's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate.

ADD cannot fund a non-profit applicant without acceptable proof of its non-profit status.

B. Review Process and Funding Decisions

Applications from eligible applicants that meet the deadline date requirements under Part V, Section C will be reviewed and scored competitively. Experts in the field, generally persons from outside of the Federal government, will use the appropriate evaluation criteria listed later in this part to review and score the applications. The results of this review are a primary factor in making funding decisions.

ADD reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. It may also solicit comments from ADD Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ADD in making funding decisions.

In making decisions on awards, ADD may give preference to applications which focus on or feature: Culturally diverse racial or ethnic populations; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations involved in the

administration or delivery of human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ADD may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

Using the evaluation criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each proposal in terms of the evaluation criteria, provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process.

1. Objectives and Need for Assistance (20 points)

The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional or other problems requiring a solution; demonstrates the need for the assistance; States the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; and includes and/or footnotes relevant data based on the results of planning studies. The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids may be attached.

2. Results or Benefits Expected (20 points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the proposal, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs are reasonable in view of the expected results.

3. Approach (35 points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved. It lists the activities to be carried out in chronological order, showing a reasonable schedule of accomplishments and target dates.

The extent to which, when applicable, the application identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and successes of the project. The extent to which the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. The application also lists each organization, agency, consultant, or other key individuals or groups who will work on the project, along with a description of the activities and nature of their effort or contribution.

4. Staff Background and Organization's Experience (25 points)

The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer this project. The application describes the relationship between this project and other work planned, anticipated or underway by the applicant which is being supported by Federal assistance.

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

- *Eligible Applicants:* This section specifies the type of organization which is eligible to apply under the particular priority area.
- *Purpose:* This section presents the basic focus and/or broad goal(s) of the priority area.
- *Background Information:* This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular priority area activity. Relevant information on projects previously funded by ACF and/or other State models are noted, where applicable.
- *Minimum Requirements for Project Design:* This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers in evaluating the applications against the evaluation criteria. Project products, continuation of the project effort after the Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.
- *Project Duration:* This section specifies the maximum allowable length of time for the project period; it refers to the amount of time for which Federal funding is available.
- *Federal Share of Project Costs:* This section specifies the maximum amount of Federal support for the project.
- *Matching Requirement:* This section specifies the minimum non-Federal contribution, either through cash or in-kind match, that is required to the maximum Federal funds requested for the project.
- *Anticipated Number of Projects To Be Funded:* This section specifies the number of projects that ADD anticipates it will fund in the priority area.
- *CFDA:* This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded. This information is needed to complete item 10 on the SF 424.

Please note that applicants that do not comply with the specific priority area requirements in the section on "*Eligible Applicants*" will not be reviewed.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. In addition, previous experience has shown that an application which is broader and more

general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused on and directly responsive to the concerns of that specific priority area.

E. Available Funds

ADD intends to award new grants resulting from this announcement during the fourth quarter of fiscal year 1994, subject to the availability of funding. The size of the actual awards will vary. Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term "budget period" refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term "project period" refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas when the applicant is able to do so.

For multi-year projects, continued Federal funding beyond the first budget period, but within the approved project period, is subject to the availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

F. Grantee Share of Project Costs

Other than the exception described below, Federal funds will be provided to cover up to 75% of the total allowable project costs. The total allowable project costs are the sum of the ACF share and the non-Federal share. Therefore, the non-Federal share must amount to at least 25% of the total (Federal plus non-Federal) project cost. This means that, for every $3 in Federal funds received, up to the maximum amount allowable under each priority area, applicants must contribute at least $1. For example, the cost breakout for a project costing $100,000 to implement would be:

Federal request	Non-Federal share	Total cost
$75,000 75%	$25,000 25%	$100,000 100%

The exception to the grantee cost sharing requirement relates to applications originating from American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Applications from these areas are covered under section 501(d) of Pub. L. 95–134, which requires that the Department waive "any requirement for local matching funds for grants under $200,000."

The applicant contribution must generally be secured from non-Federal sources. Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. However, funds from some Federal programs benefitting Tribes and Native American organizations have been used to provide valid sources of matching funds. If this is the case for a Tribe or Native American organization submitting an application to ADD, that organization should identify the programs which will be providing the funds for the match in its application. If the application successfully competes for PNS grant funds, ADD will determine whether there is statutory authority for this use of the funds. The Administration for Native Americans and the DHHS Office of General Counsel will assist ADD in making this determination.

The non-Federal share of total project costs may be in the form of grantee-incurred costs and/or third party in-kind contributions. ADD strongly encourages applicants to meet their match requirement through a cash contribution, as opposed to an in-kind contribution. For further information on in-kind contributions, refer to the instructions for completing the SF 424A—Budget Information, in Part IV.

The required amount of non-Federal share to be met by the applicant is the amount indicated in the approved application. Grant recipients will be required to provide the agreed upon non-Federal share, even if this exceeds 25% (or other required portion) of the project costs. Therefore, an applicant should ensure the availability of any amount proposed as match prior to including it in its budget.

The non-Federal share must be met by a grantee during the life of the project. Otherwise, ADD will disallow any unmatched Federal funds.

G. Cooperation in Evaluation Efforts

Grantees funded by ADD may be requested to cooperate in evaluation efforts funded by ADD. The purpose of these evaluation activities is to learn from the combined experience of multiple projects funded under a particular priority area.

H. Closed Captioning for Audiovisual Efforts

Applicants are encouraged to include "closed captioning" in the development of any audiovisual products.

Part IV. Fiscal Year 1994 Priority Areas for Projects of National Significance

The following section presents the final priority areas for Fiscal Year 1994 Projects of National Significance (PNS) and solicits the appropriate applications.

Fiscal Year 1994 Priority Area 1: Leadership Education and Development of Individuals With Disabilities and Their Families From Culturally Diverse Backgrounds

- *Eligible Applicants:* State agencies, public or private nonprofit organizations, institutions or agencies.
- *Purpose:* Under this priority area, ADD will award demonstration grant funds on Leadership Education and Development of Individuals With Disabilities and Their Families From Culturally Diverse Backgrounds. The lead initiative intends to target individuals with developmental disabilities and their families from culturally diverse backgrounds to enable them to impact service delivery and fully access the services they need. This priority area is also a very inclusive one meant to cover individuals and families of all ages. However, we are particularly interested in proposals that foster the leadership development of young adults (15–25 years of age).

These projects would strengthen the ability of individuals with developmental disabilities and their families from culturally diverse backgrounds to serve as leaders and advocates on critical issues in the developmental disabilities field in the nation, and in their own communities.

- *Background Information:* Demographic trends continue to rapidly change the character of our Nation. As communities become more culturally, ethnically, and racially diverse, the need has increased to assist individuals from culturally diverse backgrounds and their families in the development and implementation of effective methods of communication that increase public awareness, inform individuals from other ethnic groups with disabilities of issues and services, and develop and implement networking strategies that improve access to community resources. Therefore, it is imperative to include persons with disabilities who are from diverse cultural and ethnic backgrounds in all aspects of service delivery.

The institutionalization of action strategies that promote culturally

competent policies and practices which are family-centered and community-based will depend on the ease with which physicians and other practitioners successfully incorporate ethnic and cultural factors in their work. For example, issues of importance may include: cultural and ethnic background of the health care professionals; sensitivity and competence of the health care professionals to deal with cultural and ethnic factors; or language and the strength of cultural and ethnic identification.

• *Minimum Requirements for Project Design:* ADD is seeking Historically Black Colleges and Universities (HBCUs), grassroots organizations, racial and ethnic coalitions, civil rights and other private non-profit organizations experienced in working with culturally diverse populations to develop successful models for accessing services; and supporting the ability of these constituencies with developmental disabilities to perform leadership functions, and make their own choices—personal or professional.

In order to successfully compete under this priority area, the application must include activities which would:

• Strengthen the ability of members of culturally diverse racial and ethnic groups with disabilities to serve as leaders and advocates on critical issues in the developmental disabilities field, particularly in their own communities;

• Enable and actively support members of culturally diverse racial and ethnic groups with disabilities and their families to take part in and benefit from advocacy in accessing health care services; recreational activities, public education efforts and employment programs;

• Support and train members of culturally diverse racial and ethnic groups with disabilities and their families to participate on boards of organizations that plan for and make decisions on their behalf;

• Support and train members of culturally diverse racial and ethnic groups and their families in establishing effective methods of communication at the community level, and establishing collaborative relationships between local systems in the provision of individualized services that they have choice and control of;

• Develop and implement public awareness campaigns and other written materials specifically geared toward members of culturally diverse groups with disabilities to inform them of the services available in their catchment areas;

• Provide evidence of the applicant's ability to establish an advisory board comprised of 51% persons with disabilities and 51% persons from culturally diverse groups. Applicants must also commit to including members of the project's advisory body into the board membership of the organization. A plan to accomplish this goal must be submitted to ADD; and

• Provide leadership development and training to increase and strengthen active participation by individuals with developmental disabilities and their families from culturally diverse racial and ethnic backgrounds.

• Proposals should also include provisions for the travel of two key personnel during the first and last year of the project to Washington, DC. for a one day meeting with ADD staff.

• Describe an evaluation component which will measure the project's effectiveness in achieving desired objectives.

• In addition, proposals should provide for the widespread dissemination of their products (reports, summary documents, audio-visual materials, and the like) in accessible formats. A plan to accomplish this goal must be submitted to ADD.

• *Project Duration:* This announcement is soliciting applications for project periods up to three years under this priority area. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under this priority area beyond the one-year budget period, but within the three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government.

• *Federal Share of Project Costs:* The maximum Federal share is not to exceed $100,000 for the first 12-month budget period or a maximum of $300,000 for a 3-year project period.

• *Matching Requirement:* The minimum non-Federal matching requirement in proportion to the maximum Federal share of $300,000 is $100,000 for a 3-year project period. This constitutes 25 percent of the total project budget.

• *Anticipated Number of Projects to be Funded:* It is anticipated that up to two (2) projects will be funded.

• *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance.

Fiscal Year 1993 Priority Area 2: Expanding the Scope of Developmental Disabilities Planning Councils

• *Eligible Applicants:* State Developmental Disabilities Councils (DDCs) in States with approved State plans and assurances as required by the Act which do not have a State mandate to focus on individuals with disabilities other than developmental disabilities.

• *Purpose:* Under this priority area, ADD will award up to five (5) individual grants at a maximum of $150,000 and/or one or more consortium grants to consortiums including a total of no more than five States to explore the implications of expanding the current scope of DDC activities to include individuals with a broad range of severe disabilities. Individuals with severe disabilities other than developmental disabilities can and have benefitted from the systems change, capacity building and advocacy activities of the DDCs. ADD is interested in determining the feasibility and implications of expanding the focus constituency of the DDCs in States differing in size, population, geographical distribution, and allotments received under Part B of the Act.

• *Background Information:* While individuals with developmental disabilities and their families directly benefit from DDC advocacy, systemic change, and capacity building activities, there are many people with severe disabilities other than developmental disabilities who might benefit further if their concerns were within the purview of DDCs. Therefore, ADD is accepting proposals, as mandated through a special initiative under Part E of the Act, for studies in consultation with and active support from State Protection and Advocacy Systems and University Affiliated Programs, to explore the feasibility and implications of expanding the scope of DDC systems change, capacity building, advocacy and other activities mandated under Part B of the Act to address the issues and concerns of people with a broader range of severe disabilities. ADD is looking for information which examines the potential effect, positive and/or adverse, of expanding the target constituency to include individuals with severe disabilities whose eligibility will be based on an extended age of onset and other determining criteria.

• *Minimum Requirements for Project Design:* These projects must be conducted in consultation with and active support from the State Protection and Advocacy System and the University Affiliated Program. Through

this collaboration, DDCs should conduct an assessment of the characteristics of individuals with disabilities currently served by all three ADD-funded networks in their States and address consumer comments and 1990 report findings, particularly those pertaining to individuals who are unserved or underserved. The project must address the needs of individuals with developmental disabilities and other severe disabilities from culturally diverse racial and ethnic backgrounds. Individuals with disabilities, advocacy groups, and State and other service agencies must play a role in these studies.

ADD is particularly interested in supporting projects which include the following:

- Propose criteria which define the constituency to be served through potential DDC expansion (e.g.; age, functional limitations, or other factors such as individuals from culturally diverse racial and ethnic backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas, or specific groups of individuals with severe disabilities, including individuals with developmental or other disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments).
- Identify the service and support needs of the expanded population of individuals with severe disabilities other than developmental disabilities, and provide strategies that will assist all such individuals and their families, the developmental disabilities network, and others, in effecting positive changes on their behalf.
- Identify State and local linkages that would be essential to establishing collaborative relationships with service organizations.
- Delineate the barriers, opportunities, and critical issues related to DDC expansion to a broader range of disabilities as well as other economic and organizational implications, and the allocation of resources.
- Define outreach activities and collaborative relationships with other State agencies, organizations, task forces and commissions, and the impact of these relationships on systems change, advocacy and capacity building for the expanded constituency.
- Explore the effects of expansion activities on the staff support and other resources of the DDC. Provide a cost analysis of the proposed expansion.
- Describe how Federal, State, or other funds would be used.
- Identify the potential for, and the strategies to avoid, duplication of activities funded by the State or by other Federal agencies.
- Describe the anticipated changes in DDC board membership, agency policies and procedures, and other requirements necessary to respond to the needs of the expanded constituency.
- *Project Duration:* This announcement is soliciting applications for a 15-month project period to meet the legislative provision for a 15-month investigation under this priority area. Awards, on a competitive basis, will be for a 15-month budget period. Applications for continuation grants will not be entertained.
- *Federal Share of Project Costs:* The maximum Federal share is not to exceed $150,000 for the 15-month budget period for individual DD Council grants and/or $750,000 for one or more consortium grants to consortiums that include a total of no more than five States for the 15-month budget period.
- *Matching Requirement:* The minimum non-Federal matching requirement in proportion to the maximum Federal share of $150,000 is $50,000 for a 15-month project period for individual DD Council grants. The minimum non-Federal matching requirement in proportion to the maximum Federal share of $750,000 is $250,000 for a 15-month project period for one consortium grant. This constitutes 25 percent of the total project budget.
- *Anticipated Number of Projects to be Funded:* It is anticipated that up to five individual DD Council expansion studies and/or at least one consortium DD Council expansion project will be funded.
- *CFDA:* ADD's CFDA (Code of Federal Domestic Assistance) number is 93.631—Developmental Disabilities—Projects of National Significance. This information is needed to complete item 10 on the SF 424.

Fiscal Year 1994 Priority Area 3: Technical Assistance Projects

(This priority area appeared in the February 1994 announcement without a priority area number designation)

For this priority area, ADD will be awarding funds separately using the procurement process to provide technical assistance to improve the functions of the Developmental Disabilities Planning Councils. Protection and Advocacy Systems, and University Affiliated Programs have ongoing technical assistance contracts and will not be competing for funds this fiscal year.

Part V. Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms are provided along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in Part IV.

A. Required Notification of the State Single Point of Contact

All applications under the ADD priority areas are required to follow the Executive Order (E.O.) 12372 process, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these 18 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions.

Applicants must submit all required materials to the SPOC as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials and indicate the date of this submittal (or date SPOC was contact, if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new or competing continuation awards. However, because PNS grant applications are due 30 days from the

date of publication, and grants are to be awarded in September 1994, there is insufficient time to allow for a complete SPOC comment period. Therefore, we have reduced the comment period to 30 days from the closing date for applications. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in delays in awarding grants.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendation which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Sixth Floor, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: 93.631 ADD—Projects of National Significance.

Contact information for each State's SPOC is found at the end of this Part.

B. Notification of State Developmental Disabilities Planning Councils

A copy of the application must also be submitted for review and comment to the State Developmental Disabilities Council in each State in which the applicant's project will be conducted. A list of the State Developmental Disabilities Councils is included at the end of this announcement.

C. Deadline for Submittal of Applications

One signed original and two copies of the application must be submitted on or before August 8, 1994 to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 6th Floor, Washington, DC. 20447, Attn: 93.631 ADD—Projects of National Significance.

Applications may be mailed or hand-delivered. Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications shall be considered as meeting an announced deadline if they are either:

1. Received *on or before* the deadline date at the ACF Grants Office specified in this section; or
2. Sent *on or before* the deadline date and received by ACF in time for the independent review.

(Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing)

Late applications: Applications which do not meet the criteria stated above are considered late applications. ACF/ADD shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

D. Instructions for Preparing the Application and Completing Application Forms

The SF 424, SF 424A, SF 424A, Page 2 and Certifications have been reprinted for your convenience in preparing the application. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. "Type of Submission"—Preprinted on the form.

Item 2. "Date Submitted" and "Applicant Identifier"—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. "Date Received By State"—State use only (if applicable).

Item 4. "Date Received by Federal Agency"—Leave blank.

Item 5. "Applicant Information".

"Legal Name"—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

"Organizational Unit"—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

"Address"—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

"Name and telephone number of the person to be contacted on matters involving this application (give area code)"—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. "Employer Identification Number (EIN)"—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. "Type of Applicant"—Self-explanatory.

Item 8. "Type of Application"—Preprinted on the form.

Item 9. "Name of Federal Agency"—Preprinted on the form.

Item 10. "Catalog of Federal Domestic Assistance Number and Title"—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title. For all of ADD's priority areas, the following should be entered, "93.631—Developmental Disabilities: Projects of National Significance."

Item 11. "Descriptive Title of Applicant's Project"—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. "Areas Affected by Project"—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. "Proposed Project"—Enter the desired start date for the project and projected completion date.

Item 14. "Congressional District of Applicant/Project"—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be

located. If Statewide, a multi-State effort, or nationwide, enter "00."

Items 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 17 month or less project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15 b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or "matching funds." The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part III, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of program income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this program income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. "Is Application Subject to Review By State Executive Order 12372 Process? Yes."—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application.

Item 16b. "Is Application Subject to Review By State Executive Order 12372 Process? No."—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. "Is the Applicant Delinquent on any Federal Debt?"—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. "To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded."—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. "Typed Name of Authorized Representative, Title, Telephone Number"—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. "Signature of Authorized Representative"—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. "Date Signed"—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) The total project period of 15 months or less or (2) the first year budget period, if the proposed project period exceeds 15 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) The total project period of 17 months or less or (2) the first year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify major items, as indicated below. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, "Other."

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, "Other."

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, "equipment" is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. For all other applicants, the threshold for equipment is $500 or more per unit and the required useful life is more than two years. The higher threshold for State and local governments became effective October 1, 1988, through the implementation of 45 CFR part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justificotion: Specify general categories of supplies and their costs.

Controctuol—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, "Other."

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: Insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as "miscellaneous" and "honoraria" are not allowable.

Justificotion: Specify the costs included.

Totol Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Chorges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter "none." Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b*) from (a*). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Progrom Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled "Totals." In-kind contributions are defined in title 45 of the Code of Federal Regulations, §§ 74.51 and 92.24, as "property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant."

Justification: Describe third party in-kind contributions, if included.

Section D—Forecosted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column "(b) First." If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under "(c) Second." Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. They should remain blank.

Section F—Other Budget Informotion

Direct Chorges—Line 21. Not applicable.

Indirect Chorges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remorks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the proposal. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary

description, together with the information on the SF 424, will constitute the project "abstract." It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part IV. The narrative should also provide information concerning how the application meets the evaluation criteria, using the following headings:

(a) *Objectives and Need for Assistance;*

(b) *Results and Benefits Expected;*

(c) *Approach;* and

(d) *Staff Background and Organization's Experience.*

The specific information to be included under each of these headings is described in Section C of Part III, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½" x 11" sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Part V—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. Applicants must also provide certifications regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications, and need not be mailed back with the application.

In addition, applicants are required under section 162(c)(3) of the Act to provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who will receive services under projects assisted under Part E will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities). Each application must include a statement providing this assurance.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

D. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

—Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–88);

—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable.

—Budget Information—Non-Construction Programs (SF 424A, REV 4–88);

—Budget justification for Section B—Budget Categories;

—Table of Contents;

—Letter from the Internal Revenue Service, etc. to prove non-profit status, if necessary;

—Copy of the applicant's approved indirect cost rate agreement, if appropriate;

—Project summary description and listing of key words;

—Program Narrative Statement (See Part III, Section C);

—Organizational capability statement, including an organization chart;

—Any appendices/attachments;

—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);

—Certification Regarding Lobbying; and

—Certification of Protection of Human Subjects, if necessary.

E. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: June 30, 1994.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

Executive Order 12372—State Single Points of Contact

Arizona

Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor

Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX # (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX # (501) 682–5206

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, room 121, Sacramento, California 95814, Telephone: (916) 323–7480, FAX # (916) 323–3018

Colorado

State Single Point of Contact State Clearinghouse, Division of Local Government, 1313 Sherman Street, room 521, Denver, Colorado 80203, Telephone: (303) 866–2156, FAX # (303) 866–2251

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX # (302) 739–5661

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street NW., Suite 500, Washington, DC 20005, Telephone: (202) 727–6551, FAX # (202) 727–1617

Florida

Suzanne Traub-Metlay, Florida State Clearinghouse, Intergovernmental Affairs, Policy Unit, Executive Office of the Governor, The Capitol (room 1603), Tallahassee, Florida 32399–0001, Telephone: (904) 488–8114, FAX # (904) 488–9005

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street SW., room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX # (404) 656–7938

Illinois

Steve Klokkenga, State Single Point of Contact Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone: (217) 782–1671, FAX # (217) 782–6620

Indiana

Frances E. Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–2972, FAX # (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX # (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX # (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38 Augusta, Maine 04333, Telephone: (207) 287–3261, FAX # (207) 287–6489

Maryland

Mr. Roland E. English III, Chief, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street, room 1104, Baltimore, Maryland 21201–2365, Telephone: (410) 225–4490, FAX # (410) 225–4480

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, room 1803, Boston, Massachusetts 02202, Telephone: (617) 727–7001 ext. 443, FAX # (617) 727–4259

Michigan

Richard S. Pastula, Director, Office of Federal Grants, Michigan Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Telephone: (517) 373–7356, FAX # (517) 373–6683

Mississippi

Cathy Malette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, Department of Finance and Administration, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone: (601) 949–2174, FAX # (601) 949–2125

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX # (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX # (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX # (603) 271–1728

New Jersey

Gregory W. Adkins, Director, Division of Community Resources, New Jersey Department of Community, Affairs

Please direct all correspondence and questions about intergovernmental review to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, room 609, Trenton, New Jersey 08625–0814, Telephone: (609) 292–9025, FAX # (609) 984–0386

New Mexico

George Elliott, Deputy Director, State Budget Division, room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503. Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX # (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX # (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to: Linda Wise, Telephone: (614) 466–0698, FAX # (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX # (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact Grant Services, Office of the Governor, 1205 Pendleton Street, room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX # (803) 734–0385

Tennessee

Charles Brown, State Single Point of Contact State Planning Office, 500 Charlotte Avenue, John Sevier Building, suite 309, Nashville, Tennessee 37243–0001, Telephone: (615) 741–1676

Texas

Tom Adams, Director, Intergovernmental Coordination, PO Box 13005, Austin, Texas 78711, Telephone: (512) 463–1771, FAX # (512) 463–1984

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX # (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, FAX # (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX # (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street, 6th Floor, PO Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX # (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, FAX # (307) 638–8967

Territories (SPOC)

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, PO Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX # 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, PO Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444, (809) 723–6190, FAX # (809) 724–3270, (809) 724–3103

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX # (809) 776–0069

State Developmental Disabilities Planning Councils

Alabama

Joan B. Hannah, Ed.D., Executive Director, Alabama Developmental Disabilities Planning Council, 200 Interstate Park Dr., PO Box 3710, Montgomery, Alabama 36193–5001, (205) 270–4680, 1–800–232–2158, FAX # (205) 240–3195

Alaska

David Maltman, Director, Govenor's Council on Disabilities and Special Education, PO Box 240249, Anchorage, Alaska 99524–0249, (907) 563–5355, FAX # (907) 563–5357

Arizona

Diane Skay, Director, Governor's Council on Developmental Disabilities, 1717 West Jefferson Street, Site Code 074Z, Phoenix, Arizona 85007, (602) 542–4049, FAX # (602) 542–5339

Arkansas

Orson Berry, Executive Director, Governor's Developmental Disabilities, Planning Council, 4815 West Markham, Slot 12, Little Rock, Arkansas 72205–3867, (501) 661–2589, FAX # (501) 661–2399

California

Roberta A. Marlowe, Ph.D., Executive Director, CA State Council on Developmental Disabilities, 2000 "O" Street, suite 100, Sacramento, California 95814, (916) 322–8481, FAX # (916) 443–4957

Colorado

Donald St. Louis, Executive Director, Colorado Developmental Disabilities Planning Council, 777 Grant Street, suite 304, Denver, Colorado 80203, (303) 894–2345, FAX # (303) 894–2880

Connecticut

Edward T. Preneta, Director, CT Council on Developmental Disabilities, 90 Pitkin Street, East Hartford, Connecticut 06108, (203) 725–3829, FAX # (203) 528–3680

Delaware

James F. Linehan, Director, Developmental Disabilities Planning Council, Department of Administrative Services, Box 1401, Townsend Building, Dover, Delaware 19901, (302) 739–3333, FAX # (302) 739–6704

District of Columbia

Carol Boykins, Executive Director, Developmental Disabilities State Planning Council, 801 N. Capitol St. NE., suite 954, Washington, DC. 20002, (202) 279–6085, FAX # (202) 727–6587

Florida

K. Joseph Krieger, Executive Director, Florida Developmental Disabilities Planning Council, 820 East Park Avenue, suite I–100, Tallahassee, Florida 32301, (904) 488–4180, FAX # (904) 922–6702

Georgia

Zebe Schmitt, Executive Director, Governor's Council on Developmental Disabilities, 2 Peachtree St. NE, room 3–210, Atlanta, Georgia 30303, (404) 657–2126, FAX # (404) 657–2132, TDD 657–2133

Hawaii

Diana Tizard, Director, State Planning Council on Developmental Disabilities, Five Waterfront Plaza, 500 Ala Moana Boulevard, suite 5–200, Honolulu, Hawaii 96813, (808) 586–8100, FAX # (808) 586–8129

Idaho

John D. Watts, Director, Idaho State Council on Developmental Disabilities, 280 North 8th Street, suite 208, Boise, Idaho 83720, (208) 334–2178, FAX # (208) 334–3417, 800–544–2433 (Idaho only)

Illinois

Rene Christensen-Leininger, Director, Illinois Council on Developmental Disabilities, 830 S. Spring Street, Springfield, IL 62704, (217) 782–9696, FAX # (217) 524–5339

Joan Asturrizaga, Director, Illinois Council on Developmental Disabilities, 100 W. Randolph/10–600, Chicago, Illinois, (312) 814–2080, FAX # (312) 814–7141

Indiana

Ms. Suellen Jackson-Boner, Director, Governor's Planning Council for People with Disabilities, 143 W. Market Street, Harrison Building, suite 404, Indianapolis, Indiana 46204, (317) 232–7770/3, FAX # (317) 233–3712

Iowa

Mr. Jay Brewer, Executive Director, Governor's Planning Council for Developmental Disabilities, Hoover State Office Building, 1st Floor, Des Moines, Iowa 50319, (515) 281–7632, FAX # (515) 281–4597

Kansas

Ms. Jane Rhys, Executive Director, Kansas Planning Council on Developmental Disabilities, 915 Harrison, room 141, Topeka, Kansas 66612, (913) 296–2608/9, FAX # (913) 296–1158

Kentucky

Prudence Reilly, Executive Director, Kentucky Developmental Disabilities Planning Council, Department for Mental Health and Mental Retardation Services, 275 East Main Street, Frankfort, Kentucky 40621, (502) 564–7842, FAX # (502) 564–3844

Louisiana

Clarice Eichelberger, Executive Director, Louisiana State Planning Council on Developmental Disabilities, PO Box 3455 Bin 14, 1201 Capitol Access, 5th floor, DOT Edition, East Entrance, Baton Rouge, Louisiana 70821–3455, (504) 342–6804, FAX # (504) 342–4419

Maine

Peter R. Stowell, Executive Director, Maine Developmental Disabilities Council, Nash Building, Station #139, Augusta, Maine 04333–0139, (207) 287–4213, FAX # (207) 287–4268

Maryland

Susanne Elrod, Executive Director, Maryland State Planning Council on Developmental Disabilities, One Market Center, Box 10, 300 West Lexington Street, Baltimore, Maryland 21201–2323, (410) 333–3688, FAX # (401) 333–6674

Massachusetts

Jody Williams, Executive Director, Massachusetts Developmental Disabilities Council, 600 Washington Street, room 670, Boston, Massachusetts 02111, (617) 727–6374, FAX # (617) 727–1174, TDD 617 727–1885

Michigan

Ms. Sharon Tipton, Executive Director, Dept. of Mental Health, Michigan DD Council,

Lewis Cass Building, 6th floor, Lansing, Michigan 48913, (517) 334–6123, 7240, FAX # (517) 334–7353

Minnesota

Ms. Colleen Wieck, Ph.D., Executive Director, Governor's Planning Council on Developmental Disabilities, 300 Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, (612) 296–4018, FAX # (612) 296–3698

Mississippi

Ed C. Bell, Staff Director, Mississippi Developmental Disabilities Planning Council, 1101 Robert E. Lee Building, Jackson, Mississippi 39201, (601) 359–6238, FAX # (601) 359–6295

Missouri

Ms. Kay Conklin, Director, Missouri Planning Council for Developmental Disabilities, PO Box 687, 1706 East Elm Street, Jefferson City, Missouri 65102, (314) 751–8611, FAX # (314) 751–9207

Montana

Greg A. Olsen, Executive Director, Developmental Disabilities Planning and Advisory Council, 111 N. Last Chance Gulch, Arcade Bldg., Unit C, Box 526, Helena, Montana 59620, (406) 444–1334, FAX # (406) 444–5999.

Nebraska

Ms. Mary Gordon, Director, Dept. of Health/Developmental Disabilities, 301 Centennial Mall South, PO Box 95007, Lincoln, Nebraska 68509, (402) 471–2330, FAX # (402) 471–0383.

Nevada

Donny Loux, Director, DD Council, Dept. of Rehab., 711 S. Stewart, Carson City, Nevada 89710, (702) 687–4440, FAX # (702) 687–5980.

New Hampshire

Thomas Playton, (Acting) Executive Director, New Hampshire Developmental Disabilities Council, The Concord Center—Room 315, PO Box 315, 10 Ferry Street, Concord, New Hampshire 03301–5022, (603) 271–3236,7,8, FAX # (603) 225–6766.

New Jersey

Ethan B. Ellis, Executive Director, NJ Developmental Disabilities Planning Council, 32 W. State Street, CN 700, Trenton, New Jersey 08625–0700, (609) 292–3745, FAX # (609) 292–7114.

New Mexico

Chris Isengard, Executive Director, Developmental Disabilities Planning Council, State of New Mexico, 435 St. Michael's Drive, Building D, Santa Fe, New Mexico 87501, (505) 827–7590, FAX # (505) 827–7589.

New York

Isabel T. Mills, Executive Director, New York State Developmental Disabilities Planning Council, 155 Washington Avenue, 2nd Floor, Albany, New York 12210, (518) 432–8233, FAX # 518–432–8238.

North Carolina

Holly Riddle, Executive Director, North Carolina Council on Developmental Disabilities, 1508 Western Blvd., Raleigh, North Carolina 27606–1359, (919) 733–6566, FAX # (919) 733–1863.

North Dakota

Tom Wallner, Director, North Dakota Council on Developmental Disabilities, c/o Department of Human Services, State Capitol, 600 E. Boulevard Avenue, Bismarck, North Dakota 58505–0250, (701) 224–3219, FAX # (701) 224–2359.

Ohio

Mr. Ken Campbell, Executive Director, Ohio Developmental Disabilities, Planning Council, Department of Mental Retardation/Developmental Disabilities, 8 East Long Street, 6th Floor, Columbus, Ohio 43266–0523, (614) 466–5205, FAX # (614) 466–0298.

Oklahoma

Ann Trudgeon, Director, Developmental Disabilities Planning Council, Department of Human Services, PO Box 25352, Oklahoma City, Oklahoma 73125–0352, (405) 521–4984(5), FAX # (405) 521–6684.

Oregon

Charlotte Duncan, Executive Director, Oregon Developmental Disabilities Planning Council, 540 24th Place NE, Salem, Oregon 97301–4517, (503) 373–7555, FAX # (503) 373–7172.

Pennsylvania

David B. Schwartz, Executive Director, Developmental Disabilities Planning Council, Forum Building, Room 569, Commonwealth Avenue, Harrisburg, Pennsylvania 17120, (717) 787–6057.

Rhode Island

Marie V. Citrone, Executive Director, Rhode Island Developmental Disabilities Council, State Executive Department, 600 New London Avenue, Cranston, Rhode Island 02920–3028, (401) 464–3191, FAX # (401) 464–3570.

South Carolina

Charles Lang, Interim Executive Director, South Carolina Developmental Disabilities, Planning Council, Edgar Brown Building, Room 372, 1205 Pendleton Street, Columbia, South Carolina 29201–3731, (803) 734–0465, FAX # (803) 734–0356.

South Dakota

Charles A. Anderson, Director, South Dakota Governor's Planning Council on Developmental Disabilities, Hillsview Plaza, c/o 500 East Capitol, Pierre, South Dakota 57501–5070, (605) 773–6415, FAX # (605) 773–5483.

Tennessee

Wanda Willis, Director, Developmental Disabilities Planning Council, Department of Mental Health and Mental Retardation, 706 Church Street, 3rd Floor, Doctor's Building, Nashville, Tennessee 37219–5393, (615) 741–9791, FAX # (615) 741–0770.

Texos

Roger A. Webb, Executive Director, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Blvd., Austin, Texas 78751–2399, (512) 483–4080, FAX # (512) 483–4097.

Utah

Catherine E. Chambless, Director, Utah Governor's Council for People with Disabilities, PO Box 1958, Salt Lake City, Utah 84110–1958, (801) 533–4128, FAX # (801) 533–5302.

Vermont

Thomas A. Pombar, Executive Secretary, Vermont Developmental Disabilities Council, Waterbury Office Complex, 103 South Main Street, Waterbury, Vermont 05671–1534, (802) 241–2612, FAX # (802) 241–2979.

Virginia

Sandy Reen, Director, Virginia Board for People with Disabilities, Post Office Box 613, Richmond, Virginia 23205–0613, (804) 786–0016, FAX # (804) 786–1118.

Washington

Edward M. Holen, Executive Director, Developmental Disabilities Planning Council, Department of Community Development, 906 Columbia St., SW, Post Office Box 48314, Olympia, Washington 98504–8314, (206) 753–3908, 1–800–634–4473, FAX # (206) 586–2424.

West Virginia

Julie Pratt, Director, West Virginia Developmental Disabilities, Planning Council, 1601 Kanawha Blvd., West—Suite 200, Charleston, West Virginia 25312–2500, (304) 558–0416 (Voice), (304) 558–2376 (TDD), FAX # (304) 558–0941.

Wisconsin

Ms. Jayn Wittenmyer, Executive Director, Council on Developmental Disabilities, State of Wisconsin, 722 Williamson Street, PO Box 7851, Madison, Wisconsin 53707–7851, (608) 266–7826, FAX # (608) 267–3906.

Wyoming

Sharron C. Kelsey, Executive Director, Governor's Planning Council on Developmental Disabilities, 122 West 25th Street, Herschler Bldg., First Floor East, Cheyenne, Wyoming 82002, (307) 777–7230, 1–800–442–4333 (in-state-only), FAX # (307) 777–5690.

National Office

Ms. Susan Ames-Zierman, Executive Director, National Association of Developmental Disabilities Councils (NADDC), 1234 Massachusetts Avenue, NE., Suite 103, Washington, DC 20005, (202) 347–1234, FAX # (202) 347–4023.

TERRITORIES (DDCs)

American Samoa

Henry Sesepasara, Executive Director, American Samoa Developmental Disabilities Council, PO Box 184, Pago Pago, American Samoa 96799, (684) 633–2919, FAX # (684) 633–1139

Commonwealth of the Northern Mariana Islands

Juanita S. Malone, CNMI DD Council, PO Box 2565, Saipan, MP 96950, (011) 670–323–3014/16, FAX # (011) 670–322–4168.

Government of Federated State of Micronesia

Yosiro Suta, Gov't of Federated States, of Micronesia, Dept of Ed., Palikir, Pohnpei, FM 96941, (691) 320–2609, FAX # (691) 320–5500.

Guam

Frances Limitiaco Standing Soldier, Executive Director, Guam Developmental Disabilities Council, 122 IT&E Plazza, Rm. 201, Harmon, Guam 96911, (671) 646–9468, 9469, FAX # (671) 649–7672, TDD 671–649–3911.

Northern Mariana Islands

Juanita S. Malone, Executive Director, Developmental Disabilities Council, Department of Education, PO Box 2565, Saipan, CM 96950, W (670) 322–3014, H (670) 322–1398.

Puerto Rico

Maria Luisa Mendia, Executive Director, Puerto Rico Developmental Disabilities State Council, PO Box 9543, Santurce, Puerto Rico 00908, (809) 722–0595, FAX # (809) 721–3622.

Virgin Islands

Mark Vinzant, Director, VI Developmental Disabilities Council, P.O. Box 2671 Kings Hill, St. Croix, U.S. Virgin Islands 00850–9999, (809) 772–2133

Western Carolina Islands (Trust Territories of the Pacific)

Minoru Ueki, MD, Trust Territory Health Council, MacDonald Memorial Hospital KOROR, Palau. WCI 96940

BILLING CODE 4184–01–P

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):
_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐ ☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE_____
b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of the applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Line 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17 Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

BILLING CODE 4184–01–P

APPENDIX B

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Appendix C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Appendix D

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall completer and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer of employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United states to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:	13. Type of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply)*: ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

[FR Doc. 94-16315 Filed 7-6-94; 8:45 am]

BILLING CODE 4184-01-C

Administration on Aging

White House Conference on Aging; Recognition of National Pre-White House Conferences on Aging

AGENCY: White House Conference on Aging, AoA, HHS.

ACTION: Notice.

SUMMARY: This notice complements the March 17 and April 19, 1994 **Federal Register** Notices announcing the White House Conference on Aging's (WHCoA's) intent to recognize local programs/events and mini-conferences as part of its grass roots pre-1995 WHCoA strategy. The WHCoA proposes to recognize an additional category of events which is national in scope and which will precede the official 1995 WHCoA. Recognition implies the WHCoA's acknowledgement of the relevancy of the event to the goals of the WHCoA. To qualify for this additional category, interested organizations must adhere to the guidelines listed below.

ADDRESSES: Letters of intent should be sent to the WHCOA, 501 School Street SW., 8th Floor, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Judy Satine, White House Conference on Aging, 202–245–7826. See address above.

SUPPLEMENTARY INFORMATION: A White House Conference on Aging is intended to produce policy recommendations to guide national aging policy over the next decade. To further these efforts, the WHCoA proposes to recognize National Pre-White House Conferences on Aging (National Pre-Conference) to address in detail and to develop substantive recommendations for those topics identified as WHCoA agenda items.

Guidelines

In order for an organization to qualify as a National Pre-Conference, it must have nationwide representation and/or an affiliate structure; have a national focus and an impact on national policy; have an organizational mission or purpose related to aging and related issues; conduct national substantive meetings and propose to conduct the National Pre-Conference in conjunction with an annual or regular national meeting. The program of the proposed National Pre-Conference must be structured to ensure specific discussion on one or more of the major topic areas of the White House Conference on Aging as listed in the agenda expected to be published in the **Federal Register** in the fall of 1994. Recommendations in each of these topic areas must be the specific product of the National Pre-Conference. Organizations are encouraged to develop discussion papers which could be presented to the participants in these National Pre-Conferences and which may later be distributed to the delegates to the 1995 White House Conference on Aging. The proposed National Pre-Conference should be held by March 31, 1995.

Recognition by the White House Conference on Aging allows the organization conducting the event to publicize that the event has been recognized by the WHCoA and that it will be listed in the final report of the Conference. However, recognition is not meant to imply and does not signify that the WHCoA agrees with or endorses the recommendations. Interested organizations should submit a letter of intent to the above address by August 31, 1994. The letter should include the name, address, telephone number and contact person of the organization as well as a brief description of the proposed National Pre-Conference including the theme and/or title.

Fernando M. Torres-Gil,

Assistant Secretary for Aging.

[FR Doc. 94–16367 Filed 7–6–94; 8:45 am]

BILLING CODE 4130–02–M

Centers for Disease Control and Prevention

[Announcement 484]

Initiatives by Organizations To Strengthen National Tobacco Control Activities in the United States

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1994 funds for cooperative agreements to establish programs to demonstrate methodologies to train personnel, provide national leadership, and mobilize constituencies regarding tobacco control programs. This announcement's purpose is to develop capacity among organizations, which have not previously focused efforts on tobacco control, to develop the infrastructure necessary to educate, support, and mobilize their membership to promote and implement Healthy People 2000 tobacco control objectives. The primary constituencies served by the organizations should be minorities (African-Americans, Hispanics/Latinos, Asians/Pacific Islanders, and American Indians/Alaska Natives), youth, women, blue collar and/or agricultural workers. Tobacco control is defined as preventing tobacco use, encouraging cessation, and protecting both smokers and nonsmokers through public policy and public education.

Organizations that have not traditionally been active in the tobacco control field, but have a newly emerging interest in tobacco control, are encouraged to apply for this award. Upon receiving funding, organizations will be expected to demonstrate a focus on increasing tobacco control capacity within target communities or among an organization's constituents at the national, State or local level. Funding will be used to build the organization's capacity for leadership among its constituency for, and to assist State and local health agencies and other appropriate organizations and agencies in, the development of tobacco prevention and control.

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 to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of tobacco, with emphasis on target populations specified in risk reduction objective 3.4 and reducing the initiation of smoking by children and youth as described in Objective 3.5. (For ordering a copy of "Healthy People 2000," see the section "Where to Obtain Additional Information.")

Authority

This program is authorized under Section 317(k)(3) [42 U.S.C. 247b(k)(3)] of the Public Health Service Act, as amended.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Eligible Applicants

Eligible applicants are public and private, nonprofit, and minority organizations. Experience with tobacco control activities or programs is not required. However, applicants must have established organizational capacities and experience in:

- Coalition building;
- Leadership;
- Advocacy skills;
- Impacting policy development at the local, State, regional, and/or national level;
- Working with legislators and decision makers;
- Serving one or more of the following constituencies: minorities

(African-Americans, Hispanics/Latinos, Asians/Pacific Islanders, and American Indians/Alaska Natives), youth, women, blue collar and/or agricultural workers;

• Collaboration with State and local health agencies, and/or other relevant agencies, on programmatic activities.

In addition to the requirements described above, national eligible organizations must have a primary relationship to one of the target populations. A primary relationship is one in which the organization's service to the target population is viewed as the most important component of its mission. The relationship to the target population must be direct (membership, service, advocacy) rather than indirect or secondary (philanthropy, fund raising, educational).

Eligible organizations must have affiliate offices or organizations in more than one State or territory. Individual chapters or affiliates of parent organizations are not eligible to apply.

States or their bona fide agents or instrumentalities are not eligible for funding under this program announcement. States are currently funded for tobacco control activities under Program Announcement 332 or by the National Cancer Institute under the America Stop Smoking Intervention Study (ASSIST) demonstration program. CDC intends to support full and open competition among the States at the termination of the ASSIST demonstration program.

In addition to the eligibility requirements above, minority applicants must meet the following criteria:

1. At least 51 percent of persons on the governing board must be members of racial or ethnic minority populations.

2. The organization must possess a documented history of serving racial and ethnic minority populations through its offices, affiliates, or participating minority organizations for at least 12 months before the submission of the application to CDC.

Limited competition is justified under this program announcement because of the need to diversify and increase the number and type of organizations with the capacity to serve and represent a diverse target population. In addition, the organizations must have the capacity to work with these target populations to effectively strengthen existing tobacco control coalitions and assist State tobacco control programs. It is critical that organizations, in working with their target populations, are able to create leadership networks and mobilize them for action, and work with other organizations representative of the target population to increase their commitment to tobacco control. The coordination and implementation of a more inclusive and comprehensive tobacco control strategy requires organizations with the capacity, experience, leadership, and organizational skills to influence the health-related actions of their constituency, and an interest in developing the capacity to identify, assess, and advocate scientifically proven, environmental (policy and legislative changes at State, local, and community levels) tobacco control activities.

Availability of Funds

Approximately $1,000,000 is available in FY 1994 to fund approximately 10 awards. It is expected that the average award will be $150,000, ranging from $50,000 to $200,000.

1. Approximately one award will be funded in each of the following target populations: youth, women, and blue collar and/or agricultural workers.

2. Approximately $500,000 of the total $1,000,000, will be available to fund approximately 5 minority organizations which serve one or more of the following constituencies: African-Americans, Hispanics/Latinos, Asians/Pacific Islanders, and American Indians/Alaska Natives.

It is expected that the awards will begin on or about September 30, 1994, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

This is a demonstration program to expand the developing network of organizations beyond those traditionally involved with tobacco control. The purpose is to demonstrate that these organizations can provide leadership, assistance, and training to facilitate the development, organization, and implementation of tobacco control programs among selected target populations, in order to achieve Healthy People 2000 tobacco objectives.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

1. Collaborate with constituents, State and local health agencies, and other appropriate organizations and agencies to establish a broad-based coalition to advise and support tobacco control program activities.

2. Establish specific, measurable, and realistic goals and objectives that focus on the development and implementation of program activities (i.e., leadership training, consultation with primary tobacco organizations, providing constituent education) over time.

3. Establish an operational plan to include, but not be limited to:

a. Achievement of goals.

b. Identification of the target population and appropriate tobacco control strategies.

c. Establishment of tobacco control as a high organizational priority and promotion of tobacco control initiatives, especially those directed at minorities, youth, women, and blue collar and/or agricultural workers.

d. Facilitation of organizational policies and initiatives, within affiliates and/or other organizations serving target populations, aimed at decreasing tobacco use at the national, State, and local levels.

e. Acquisition of technical advice, training, and assistance by: voluntary health agencies (such as the American Cancer Society, the American Lung Association, and the American Heart Association) and tobacco control organizations (such as Americans for NonSmokers Rights, Doctors Ought To Care, Stop Teenage Addiction To Tobacco, and the Advocacy Institute).

f. Mobilization of existing national, State, and local alliances, networks, coalitions, and support systems to support initiatives.

g. Participation in the CDC's Office on Smoking and Health (OSH) sponsored national tobacco control campaigns.

h. Provision of strategic support to State and local affiliates.

i. Development of procedures for the evaluation of performance in achieving goals and objectives.

4. Disseminate programmatic information to CDC and other interested recipients through appropriate methods, including:

a. Identifying and submitting pertinent programmatic information for incorporation into an appropriate computerized database of health information and health promotion resources.

b. Sharing information on electronic bulletin boards, such as SCARCNet.

5. Collaborate with CDC and other appropriate agencies in planning and participating in an annual conference, and two 2-day workshops in Atlanta,

Georgia, for no more than two individuals.

B. CDC Activities

1. Provide and periodically update information related to the purposes or activities of this program announcement.

2. Coordinate with national, State, and local health agencies and other relevant organizations in planning and conducting national strategies designed to strengthen programs for preventing tobacco use among youth, protecting nonsmokers, and creating a supportive environment for those who wish to quit tobacco use.

3. Provide programmatic consultation and guidance related to program planning, implementation, and evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

4. Plan meetings of national, State, and local partners, including training meetings, to address issues and program activities related to improving tobacco control programs.

5. Assist in the evaluation of program activities.

6. Monitor the recipient's performance of program activities.

Evaluation Criteria (Total 100 Points)

Applications will be reviewed and evaluated according to the following criteria:

A. Background/Need (10 points). The extent to which the applicant justifies the need for, and describes the geographic boundaries of, the project.

B. Capacity (15 points). The extent to which the applicant identifies and describes a target population and constituency; and demonstrates the capacity, ability, and leadership potential to address the identified needs and develop and conduct program activities.

C. Goals and Objectives (15 points)

1. Goals. The extent to which the applicant has submitted specific and realistic goals for the projected three-year project period that are consistent with program requirements.

2. Objectives. The extent to which the applicant has submitted objectives for each one-year budget period that are specific, measurable, feasible, and are directly related to the program's goals. Objectives should focus on the development and implementation of activities over time.

D. Operational Plan (20 points).

The feasibility and appropriateness of the Operational Plan and the extent to which it:

1. Is consistent with the applicant's level of experience and proposed strategy;

2. Targets one or more priority populations;

3. Uses effective strategies that are culturally appropriate to the target population;

4. Proposes activities that are likely to accomplish proposed program objectives; and

5. Provides a reasonable time line for conducting proposed activities.

E. Project Management and Staffing (15 points).

The extent to which the applicant identifies staff and affiliates that have the professional experience, authority, and responsibility to carry out each activity as evidenced by job descriptions, curricula vitae, organizational charts, and letters of support from collaborating agencies.

F. Sharing Experiences and Resources (5 points).

The extent to which the applicant indicates how it will share and use effective materials and activities.

G. Collaborating (10 points).

The extent to which the applicant describes in detail how it will collaborate with CDC, local and State tobacco control programs, and other appropriate regional and/or national organizations.

H. Evaluation (10 points).

The extent to which the applicant presents a reasonable plan designed to measure progress in meeting goals and objectives, evaluate performance, obtain and assess data, and report and use the results for programmatic decisions.

I. Budget and Accompanying Justification (Not Weighted) The extent to which the applicant provides a detailed and clear budget narrative consistent with the stated objectives and planned activities of the project.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Lobbying Activities

Title 31 U.S.C. Section 1352 prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant or cooperative agreement.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Control Number 0937–0189) must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, on or before August 16, 1994.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from Leah D. Simpson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6803.

Programmatic technical assistance may be obtained from Carole C. Rivera, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC),

4770 Buford Highway, NE., Mailstop K–50, Atlanta, GA 30341–3724, telephone (404) 488–5707.

Please refer to Announcement 484 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock Number 017–001–00474–0), or "Healthy People 2000" (Summary Report, Stock Number 017–001–00473–1), referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 783–3238.

Dated: June 30, 1994.

Arthur C. Jackson,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–16396 Filed 7–6–94; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming joint meeting of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Joint Meeting of the Nonprescription Drugs and the Pulmonary-Allergy Drugs Advisory Committees

Date, time, and place. November 14, 1994, 8:30 a.m., Parklawn Bldg., conference rms. G through J, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 4 p.m.; open public hearing, 4 p.m. to 5 p.m., unless public participation does not last that long; the agency anticipates that the meeting will last only 1 day, but if there is sufficient interest in participation, the meeting will be extended an additional day at the discretion of the chairperson; Lee L. Zwanziger or Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committees. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases. The Pulmonary-Allergy Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committees. Those desiring to make formal presentations should notify a contact person before September 30, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committees will jointly discuss over-the-counter (OTC) drug products for the treatment of asthma and will address topics such as: (1) OTC bronchodilator drug products currently available and possible pending changes in their marketing status; (2) whether there is a population for which OTC antiasthma drug products are appropriate; (3) the general question of whether antiasthma drug products should be available OTC; (4) antiasthma drug products currently available by prescription only that could be considered for OTC status; and (5) data requirements necessary to support conversion of prescription antiasthma drug products to OTC status. Public comments are available for inspection in docket no. 94N–0232 at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee; and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above)

beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 30,1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–16365 Filed 7–6–94; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meetings are announced:

Subcommittee Meeting of the National Task Force on AIDS Drug Development on Drug Development Issues

Date, time, and place. July 19, 1994, 12:30 p.m., Sheraton National Hotel, 900 South Orme St., Arlington, VA.

Type of meeting and contact person. Open subcommittee discussion, 12:30 p.m. to 2 p.m.; open public hearing, 2 p.m. to 3 p.m., unless public participation does not last that long; Jean H. McKay, Office of AIDS and Special Health Issues (HF–12), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0104.

General function of the task force. The National Task Force on AIDS Drug Development shall identify any barriers and provide creative options for the rapid development and evaluation of treatments for human immunodeficiency virus (HIV) infection and its sequelae. It also advises on issues related to such barriers, and provides options for the elimination of these barriers.

Open task force discussion. The subcommittee will present, hear, and discuss issues on the barriers to the development of drugs for acquired immunodeficiency syndrome (AIDS) from the perspective of the subcommittee members, members of the Federal government, and the public.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the task force. Those desiring to make formal presentations should notify the contact person before July 13, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Subcommittee Meeting of the National Task Force on AIDS Drug Development on Public/Private Issues

Date, time, and place. July 19, 1994, 1 p.m., Sheraton National Hotel, South Ballroom, 900 South Orme St., Arlington, VA.

Type of meeting and contact person. Open subcommittee discussion, 1 p.m. to 3 p.m.; open public hearing, 3 p.m. to 4 p.m., unless public participation does not last that long; Jean H. McKay, Office of AIDS and Special Health Issues (HF–12), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0104.

General function of the task force. The National Task Force on AIDS Drug Development shall identify any barriers and provide creative options for the rapid development and evaluation of treatments for HIV infection and its sequelae. It also advises on issues related to such barriers, and provides options for the elimination of these barriers.

Open task force discussion. The subcommittee will present, hear, and discuss issues on the barriers to collaboration on AIDS drug development from the perspective of the subcommittee members, members of the Federal government, and the public.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the task force. Those desiring to make formal presentations should notify the contact person before July 13, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the

Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 30, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–16366 Filed 7–6–94; 8:45 am]

BILLING CODE 4160–01–F

Social Security Administration

Social Security Acquiescence Ruling 94–2(4)—Lively v. Secretary of Health and Human Services, 820 F.2d 1391 (4th Cir. 1987)—Effect of Prior Disability Findings on Adjudication of a Subsequent Disability Claim Arising Under the Same Title of the Social Security Act—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Rule 94–2(4).

EFFECTIVE DATE: July 7, 1994.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Fourth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 7, 1994. If we made a determination or decision on your application for benefits between June 29, 1987, the date of the Court of Appeals' decision and July 7, 1994, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivors Insurance; 93.806-Special Benefits for Disabled Coal Miners; 93.807-Supplemental Security Income.)

Dated: May 11, 1994.

Shirley S. Chater,

Commissioner of Social Security.

Acquiescence Ruling 94–2(4)

Lively v. Secretary of Health and Human Services, 820 F.2d 1391 (4th Cir. 1987)—Effect of Prior Disability Findings on Adjudication of a Subsequent Disability Claim Arising Under the Same Title of the Social Security Act—Titles II and XVI of the Social Security Act.

Issue

Whether, in making a disability determination or decision on a subsequent disability claim with respect to an unadjudicated period, an adjudicator must adopt a finding regarding a claimant's residual functional capacity, or other finding required under the applicable sequential evaluation process for determining disability, made in a final decision by an Administrative Law Judge or the Appeals Council on a prior disability claim arising under the same title of the Social Security Act.*

Statute/Regulation/Ruling Citation

Section 205(a) and (h) and 1102 of the Social Security Act (42 U.S.C. 405(a) and (h) and 1302), 20 CFR 404.955, 404.957(c)(1), 404.981, 416.1455, 416.1457(c)(1), 416.1481.

Circuit

Fourth (Maryland, North Carolina, South Carolina, Virginia, West Virginia) *Lively v. Secretary of Health and Human Services*, 820 F.2d 1391 (4th Cir. 1987).

Applicability of Ruling

The Ruling applies to determinations or decisions at all levels of the administrative review process (i.e., initial, reconsideration, Administrative Law Judge hearing and Appeals Council).

Description of Case

In a decision dated October 19, 1981, an Administrative Law Judge found that the plaintiff, Mr. Lively, was not disabled under Rule 202.10 of the medical-vocational guidelines, 20 CFR Part 404, Subpart P, Appendix 2, and denied his application for disability insurance benefits. In applying Rule 202.10, the Administrative Law Judge found that Mr. Lively had the residual functional capacity for light work. The decision that Mr. Lively was not entitled to disability insurance benefits became the final decision of the Secretary and was affirmed by the district court.

The plaintiff filed a second application for disability insurance benefits on December 14, 1983. After holding a hearing, an Administrative Law Judge concluded that the plaintiff was not entitled to disability insurance benefits. The Administrative Law Judge determined that Mr. Lively retained the functional capacity for the performance of work activity of any exertional level on and prior to December 31, 1981, the date his insured status expired. The Administrative Law Judge did not discuss in his decision the 1981 finding by another Administrative Law Judge that the plaintiff had the residual functional capacity to do only light work. This decision became the final decision of the Secretary and was appealed to the district court. The case was referred to a United States Magistrate who found that the evidence before the Administrative Law Judge on the plaintiff's 1983 application was sufficient to sustain the Secretary's

* Although Lively was a title II case, similar principles also apply to title XVI. Therefore, this Ruling extends to both title II and title XVI disability claims.

decision that the plaintiff was not disabled as of December 31, 1981. The district court adopted the Magistrate's Report and Recommendation. Mr. Lively then appealed to the United States Court of Appeals for the Fourth Circuit.

Holding

The Fourth Circuit stated that:

> Congress has clearly provided by statute that *res judicata* prevents reappraisal of both the Secretary's findings and his decision in Social Security cases that have become final. 42 U.S.C. § 405(h), and the courts have readily applied *res judicata* to prevent the Secretary from reaching an inconsistent result in a second proceeding based on evidence that has already been weighed in a claimant's favor in an earlier proceeding.

The court noted that the plaintiff became 55 years of age two weeks after the Administrative Law Judge, in connection with the first application for benefits, found that Mr. Lively was limited to light work. The court further noted that a person with the plaintiff's education and vocational background who is 55 years of age or older and limited to light work would be considered disabled under Rule 202.02 of the medical-vocational guidelines, 20 CFR Part 404, Subpart P, Appendix 2. The court found it inconceivable that Mr. Lively's condition had improved so much in two weeks as to enable him to perform medium work. Accordingly the court held:

> Principles of finality and fundamental fairness * * * indicate that the Secretary must shoulder the burden of demonstrating that the claimant's condition had improved sufficiently to indicate that the claimant was capable of performing medium work. * * * [E]vidence, not considered in the earlier proceeding, would be needed as an independent basis to sustain a finding contrary to the final earlier finding.

Statement as to How Lively Differs From SSA Policy

Under SSA policy, if a determination or decision on a disability claim has become final, the Agency may apply administrative *res judicata* with respect to a subsequent disability claim under the same title of the Act if the same parties, facts and issues are involved in both the prior and subsequent claims. However, if the subsequent claim involves deciding whether the claimant is disabled during a period that was not adjudicated in the final determination or decision on the prior claim, SSA considers the issue of disability with respect to the unadjudicated period to be a new issue that prevents the application of administrative *res judicata*. Thus, when adjudicating a subsequent disability claim involving an unadjudicated period, SSA considers the facts and issues *de novo* in determining disability with respect to the unadjudicated period.

The United States Court of Appeals for the Fourth Circuit concluded that where a final decision of the Secretary after a hearing on a prior disability claim contained a finding about a claimant's residual functional capacity, the Secretary may not make a different finding in adjudicating a subsequent disability claim with an unadjudicated period arising under the same title of the Act as the prior claim unless there is new and material evidence relating to the claimant's residual functional capacity.

Explanation of How SSA Will Apply the Decision Within the Circuit

This Ruling applies only to disability findings in cases involving claimants who reside in Maryland, North Carolina, South Carolina, Virginia, or West Virginia at the time of the determination or decision on the subsequent claim at the initial, reconsideration, Administrative Law Judge hearing or Appeals Council level. It applies only to a finding regarding a claimant's residual functional capacity or other finding required at a step in the sequential evaluation process for determining disability provided under 20 CFR 404.1520, 416.920 or 416.924, or a finding required under the evaluation process for determining disability provided under 20 CFR 404.1578, as appropriate, which was made in a final decision by an Administrative Law Judge or the Appeals Council on a prior disability claim. When adjudicating a subsequent disability claim with an unadjudicated period arising under the same title of the Act as the prior claim, adjudicators must adopt such a finding from the final decision by an Administrative Law Judge or the Appeals Council on the prior claim in determining whether the claimant is disabled with respect to the unadjudicated period unless there is new and material evidence relating to such a finding.

[FR Doc. 94-16418 Filed 7-6-94; 8:45 am]

BILLING CODE 4190-29-M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13-A-54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its

letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800–541–4931/205–263–5745

Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817–282–2257

American Medical Laboratories, Inc., 14225 Newbrook Drive, Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810

Center for Laboratory Services, a Division of LabOne, Inc., 8915 Lenexa Drive, Overland Park, Kansas 66214, 913–888–3927

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984

CompuChem Laboratories, Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093

CPF MetPath Laboratories, 21007 Southgate Park Boulevard, Cleveland, OH 44137–3054 (Outside OH) 800–338–0166/(Inside OH) 800–362–8913 (formerly Southgate Medical Laboratory; Southgate Medical Services, Inc.)

Damon/MetPath, 8300 Esters Blvd., Suite 900, Irving, TX 75063 214–929–0535 (formerly: Damon Clinical Laboratories)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Dept. of the Navy, Navy Drug Screening Laboratory, Norfolk, VA, 1321 Gilbert Street, Norfolk, VA 23511–2597, 804–444–8089 ext. 317

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Drive, Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Laboratory of Pathology of Seattle, Inc., 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310

Eagle Forensic Laboratory, Inc., 950 N. Federal Highway, Suite 308, Pompano Beach, FL 33062, 305–946–4324

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 601–236–2609 (moved 6/16/93)

EXPRESSLAB, INC., 405 Alderson Street, Schofield, WI 54476, 800–627–8200 (formerly: Alpha Medical Laboratory, Inc., Employee Health Assurance Group)

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

HealthCare/MetPath, 24451 Telegraph Road, Southfield, MI 48034, Inside MI: 800–328–4142/Outside MI: 800–225–9414 (formerly: HealthCare/Preferred Laboratories)

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, OH 45229, 513–569–2051

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Avenue, Marshfield, WI 54449, 715–389–3734/800–222–5835

Med-Chek/Damon, 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200 (formerly: Med-Chek Laboratories, Inc.)

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Avenue, Toledo, OH 43699–0008, 419–381–5213

Medical Science Laboratories, 11020 W. Plank Court, Wauwatosa, WI 53226, 414–476–3400

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Boulevard, Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888

MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000

Metropolitan Reference Laboratories, Inc., 2320 Schuetz Road, St. Louis, MO 63146, 800–288–7293

National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc.)

National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (formerly: Med Arts Lab)

National Health Laboratories Incorporated, 5601 Oberlin Drive, Suite 100, San Diego, CA 92121, 619–455–1221

National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, Outside NC: 919–760–4620/800–334–8627/Inside NC: 800–642–0894

National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522

National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100

National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492

National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250

Nichols Institute Substance Abuse Testing (NISAT), 7470–A Mission Valley Road, San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute)

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361

Occupational Toxicology Laboratories, Inc., 2002 20th Street, Suite 204A, Kenner, LA 70062, 504–465–0751

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352

PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th Street, Overland Park, KS 66210, 913–338–4070/800–821–3627 (formerly: Physicians Reference Laboratory Toxicology Laboratory)

Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600/800–882–7272

Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 210–493–3211

Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601–264–3856/800–844–8378

Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400

Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286

Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986

Saint Joseph Hospital Toxicology Laboratory, 601 N. 30th Street, Omaha, NE 68131–2197, 402–449–4940

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th Street, Temple, TX 76504, 800–749–3788

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–848–8800

Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520

SmithKline Beecham Clinical Laboratories, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)

South Bend Medical Foundation, Inc., 530 N. Lafayette Boulevard, South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Road, Suite 6, Tempe, AZ 85283, 602–438–8507

St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee Street, Oklahoma City, OK 73102, 405–272–7052

St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Avenue, Miami, FL 33166, 305–593–2260

TOXWORX Laboratories, Inc., 6160 Variel Avenue, Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.; moved 12/21/92)

UNILAB, 18408 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MetWest-BPL Toxicology Laboratory)

The following laboratory withdrew from the Program on June 15:

National Health Laboratories Incorporated, 75 Rod Smith Place, Cranford, NJ 07016–2843, 908–272–2511

The following laboratory will be withdrawing on July 8:

Hermann Hospital Toxicology Laboratory, Hermann Professional Building, 6410 Fannin, Suite 354, Houston, TX 77030, 713–793–6080

Patricia S. Bransford,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 94–16529 Filed 7–6–94; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–94–1731; FR–3611–N–02]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 23, 1994.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Consolidated Plan for Community Investment (FR–3611).

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: State and units of general local government are required to submit to HUD and to implement a Comprehensive Housing Affordability Strategy (CHAS) as a condition for receiving funds made available under Title I of the National Affordable Housing Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act.

Form Number: HUD–40090–A and 40091–A.

Respondents: State or Local Governments.

Frequency of Submission: Recordkeeping and Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	950		1		416		395,200
Recordkeeping	950		1		39		29,050

Total Estimated Burden Hours: 424,250.

Status: Revision.

Contact: Salvatore Sclafani, HUD, (202) 708–1283; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 23, 1994.

[FR Doc. 94–16433 Filed 7–6–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–1346; FR–1761–N–03]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 24, 1994.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Loans for Housing for the Elderly or Handicapped—Housing Assistance Payments Contract and Project Management (FR–1761)

Office: Housing

Description of the need for the information and its proposed use: This regulation will amend 24 CFR Part 885, which governs projects that receive direct loans under Section 202 of the Housing Act of 1959, and housing assistance under Section 8 of the United States Housing Act of 1937. The rule will add regulatory provisions to govern the housing assistance payments contract, project operations and project management. In addition, the rule proposes changes to 24 CFR Part 813 to reflect the addition of contract and management regulations in Part 885.

Form Number: None

Respondents: Individuals or Households, Federal Agencies or Employees, and Non-Profit Institutions

Frequency of Submission: Annually, On Occasion, and Recordkeeping

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	4,294		50		.404		86,739

Total Estimated Burden Hours: 86,739

Status: Reinstatement with changes

Contact: Eugene R. Fogel, HUD, (202) 708–3287; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Date: June 24, 1994.

[FR Doc. 94–16432 Filed 7–6–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–3795]

Notices of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of

Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for this information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required: (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act. 42 U.S.C. 3535(d).

Dated: June 23, 1994.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Evaluation of the New Congregate Housing Services Program
Office: Policy Development and Research
Description of the Need for the Information and its Proposed Use: The evaluation of the Congregate Housing Services Program will test the effectiveness of combining housing with supportive services in allowing frail elderly and disabled persons to continue to live in their own homes. The evaluation will also document how grantees have implemented their programs.
Form Number: None
Respondents: Individuals or Households and State or Local Governments
Frequency of Submission: Annually
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hour per response	=	Burden hours
Evaluation	3,236		1		.986		3,191

Total Estimated Burden Hours: 3,191
Status: New
Contact: Priscilla Prunella, HUD (202) 708–3700; Joseph F. Lackey, Jr., OMB (202) 395–7316.

Date: June 23, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Management Review Report for Unsubsidized Multifamily Housing Programs and Management Review Worksheet
Office: Housing
Description of the Need for the Information and Its Proposed Use: This information is used by coinsuring lenders to evaluate the adequacy of project management applying for coinsured loans. The information is needed to periodically monitor and evaluate ongoing management operations and procedures at coinsured projects with regard to maintenance and security; financial management; leasing and occupancy; tenant management relations; and general management practices.
Form Number: HUD–9838
Respondents: Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Management Review Worksheet	450		1		7		3,150
Management Review Report	450		1		1		450

Total Estimated Burden Hours: 3,600
Status: Extension, no changes
Contact: Richard C. Pace, HUD, (202) 401–3272; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 20, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Relocation and Acquisition Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implementing regulations at 49 CFR Part 24, and related HUD program regulations
Office: Community Planning and Development
Description of the Need for the Information and Its Proposed Use: Agencies that acquire real property or displace property occupants must collect information to process claims, make payments and document compliance with 49 CFR Part 24 and HUD program rules. Expanded URA coverage (effective April 2, 1989) and new HUD-assisted programs have increased the overall reporting burden.
Form Number: None
Respondents: State or Local Governments
Frequency of Submission: Recordkeeping
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Recordkeeping	2,000		1		85		170,100

Total Estimated Burden Hours: 170,000
Status: Reinstatement, no changes
Contact: Harold J. Huecker, HUD, (202) 708–0336; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: June 20, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Transfer of Physical Assets
Office: Housing
Description of the Need for the Information and Its Proposed Use: The form is completed and submitted to HUD by prospective purchasers of properties with mortgages either HUD-insured or HUD-held before the transfer. The information is needed by HUD for approval of a transfer of physical assets. HUD uses the information to ensure that the project is not placed in physical, financial, or managerial jeopardy by the transfer.
Form Number: HUD–92266
Respondents: Businesses or Other For-Profit and Non-Profit Institutions
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	350		1		92		32,200

Total Estimated Burden Hours: 32,200
Status: Extension, no changes
Contact: James J. Tahash, HUD, (202) 708–3944; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 10, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Home Ownership Assistance Under Section 235 of the National Housing Act
Office: Housing
Description of the Need for the Information and Its Proposed Use: The information collection will be used to determine a homeowner's eligibility for and amount of financial assistance to be provided under Section 235, Homeowners Assistance Payments Program.
Form Number: HUD–93100
Respondents: Individuals or Households and Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–93100	55,000		1.25		.25		17,187

Total Estimated Burden Hours: 17,187
Status: Extension, no changes
Contact: Florence B. Brooks, HUD, (202) 708–1719; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 30, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Reporting Requirements Associated with 24 CFR 203.508 and 235.1001—Providing Information
Office: Housing
Description of the Need for the Information and Its Proposed Use: Mortgagees are required to provide homeowners with the amount of interest paid and taxes disbursed from the escrow account for income tax purpose. For Section 235 mortgages, lenders are required to provide the interest accounting in such a way as to allow the homeowner to easily deduct the amount of subsidy the Department paid on behalf of the homeowner.
Form Number: None
Respondents: Businesses or Other For-Profit
Frequency of Submission: Annually
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Annual Reporting	12,000		1		.25		3,000

Total Estimated Burden Hours: 3,000
Status: Extension, no changes
Contact: Ann M. Sudduth, HUD, (202) 708–1719; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 30, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Issuer's Monthly Remittance Advice
Office: Government National Mortgage Association
Description of the Need for the Information and its Proposed Use: Government National Mortgage Associations (GNMA) issuers are required to provide summary information to the holder of each GNMA mortgage-backed security with respect to the current month's account transactions and calculations of the

holder's fractional share of total cash distribution.

Form Number: HUD–11714 and HUD–11714SN

Respondents: Businesses or Other For-Profit

Frequency of Submission: Monthly

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Issuer's Monthly Remittance	824		6,456		1/60		88,668

Total Estimated Burden Hours: 88,668

Status: Extension with changes

Contact: Charles Clark or Brenda Countee, HUD, (202) 708–1535; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 30, 1994.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Information Request to the Owners and Managers of all HUD-assisted housing in the Boston Metropolitan Statistical Area, pursuant to Section II.A of the March 11, 1991, Consent Decree Entered in NAACP, Boston Chapter v. Kemp

Office: General Counsel

Description of the Need for the Information and its Proposed Use: In order for HUD to implement Section II.A of the March 11, 1991, consent decree entered in *NAACP, Boston Chapter v. Kemp*, it must require owners and managers of HUD-assisted housing to provide certain information to the Boston Housing Opportunity Clearing Center.

Form Number: None

Respondents: Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations

Frequency of Submission: On Occasion and Recordkeeping

Reporting Burden:

	Number of respondents	x	Frequence of response	x	Hours per response	=	Burden hours
Information Collection	550		1–12		.25		300
Recordkeeping	550		1		.18		100

Total Estimated Burden Hours: 400

Status: Extension with changes

Contact: Linda G. Katz, HUD, (617) 565–5126; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 30, 1994.

[FR Doc. 94–16431 Filed 7–6–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–1679; FR–3449–N–02]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 23, 1994.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Residential Antidisplacement and Relocation Assistance Plan (FR–3449) (24 CFR Part 43)

Office: Community Planning and Development

Description of the need for the information and its proposed use: The rule implements Section 200 of the Housing and Community Development Act (HCD) of 1992. This rule adds a requirement that a recipient funded under the HOME program must certify under its 1994 Comprehensive Housing Affordability Strategy (CHAS) that it is following a "residential antidisplacement and relocation assistance Plan." This plan must be equivalent to that required for the Community Development Block Grant Program under Section 104(d) of the HCD Act of 1974, as amended.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	60		1		40		2,400
Recordkeeping	435		1		12		5,218

Total Estimated Burden Hours: 7,218.
Status: New.
Contact: H.J. Huecker, HUD, (202) 708–0336; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: June 23, 1994.

[FR Doc. 94–16434 Filed 7–6–94; 8:45 am]
BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–94–1067; FR–3744–D–01]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This notice redelegates the power and authority of the Assistant Secretary for Housing—Federal Housing Commissioner to order a Limited Denial of Participation, affecting certain contractors and participants in programs of the Department of Housing and Urban Development ("HUD" or "Department"), to the Department's Deputy Assistant Secretary for Multifamily Housing Programs and the Deputy Assistant Secretary for Single Family Housing.

EFFECTIVE DATE: June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Michael D. Noonan, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10251, Washington, DC 20410, (202) 708–1424 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The HUD regulations, at 24 CFR 24.700, have been modified effective April 19, 1994, to provide that officials designated by the Secretary, including the Assistant Secretary for Housing—Federal Housing Commissioner, are authorized to order Limited Denials of Participation (LDP) and to redelegate this authority. This Notice redelegates the authority to order Limited Denials of Participation (LDP) from the Assistant Secretary for Housing—Federal Housing Commissioner to the Deputy Assistant Secretary for Multifamily Housing Programs and the Deputy Assistant Secretary for Single Family Housing.

In November of 1993, the Secretary announced the reorganization of HUD's structure to improve HUD's performance and provide HUD's customers—members of the public and program beneficiaries—more efficient service and less bureaucracy by empowering HUD employees to serve HUD's customers more effectively. This redelegation of authority implements the Secretary's objective with respect to ordering LDPs.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates authority as follows:

Section A. Authority Redelegated

The Assistant Secretary for Housing—Federal Housing Commissioner of the United States Department of Housing and Urban Development redelegates to the Deputy Assistant Secretary for Multifamily Housing Programs and to the Deputy Assistant Secretary for Single Family Housing the power and authority to order Limited Denials of Participation, pursuant to 24 CFR 24.700.

Authority: Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).

Dated: June 21, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 94–16436 Filed 7–6–94; 8:45 am]
BILLING CODE 4210–27–M

[Docket No. D–94–1066; FR–3743–D–01]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This redelegation of authority redelegates from the Assistant Secretary for Housing—Federal Housing Commissioner to the Director, Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller, and to each Debt Management Center ("DMC") Director of the HUD FHA-Debt Management Centers in Albany, New York, Chicago, Illinois, and Seattle, Washington the power and authority to perform the following functions, without respect to geographical area, in connection with FHA debt referred to the DMC for collection and debt arising from the payment of claims under Title I of the National Housing Act: 1) execute documents necessary to transfer or subordinate title in and to any debt, contract, claim or security instrument obtained by the Secretary; 2) satisfy and/or execute deeds, liens, and notes; and 3) execute settlement agreements and/or write-offs in connection with the collection of any such debt, contract, claim, or security instrument. The Director of the Title I Accounting and Servicing Division, Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller is also redelegated the authority to issue implementing policies and procedures with respect to all functions specified in this redelegation.

EFFECTIVE DATE: June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Paulette Porché, Director, Title I Accounting and Servicing Division, Department of Housing and Urban Development, 451 7th Street SW., Room B–133, Washington, DC 20410, (202) 755–7550. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 25, 1991, at 48 FR 40959, the Assistant Secretary for Housing—Federal Housing Commissioner redelegated to the Director, Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller, and to each Debt Management Center ("DMC") Director of the HUD Debt Management Centers in Albany, New York, Chicago, Illinois, and Seattle, Washington the power and authority to execute documents necessary to transfer title in and to any debt and contract, claim or security instrument obtained by the Secretary in connection with the payment of claims under Title I of the National Housing Act and to execute settlement agreements in connection with the collection of any such debt, contract, claim, or security instrument.

In FY 1987 HUD began consolidating the Title I program by establishing the first of three multi-regional Debt Management Center ("DMC's") in Seattle, Washington. The purpose of the DMC was to collect debts owed to the Department which result from defaulted Title I loans assigned to the Department. The consolidation effort was completed

in FY 1989 with the opening of the Chicago, Illinois center. The three DMC's are located in Albany, New York, Chicago, Illinois, and Seattle, Washington. The role of the Debt Management Centers has expanded to include collection and management responsibility for not only Title I, but other FHA debt that has been referred to the DMCs for collection.

This redelegation of authority grants to the Director, Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller, and to each of the three DMC Directors the power and authority to perform the following functions, without regard to geographical area, in connection with FHA debt referred to the DMC for collection and debt arising from the payment of claims under Title I of the National Housing Act: 1) execute documents necessary to transfer or subordinate title in and to any debt, contract, claim or security instrument obtained by the Secretary; 2) satisfy and/or execute deeds, liens, and notes; and 3) execute settlement agreements and/or write-off in connection with the collection of any such debt, contract, claim, or security instrument. The Director of the Title I Accounting and Servicing Division, Office of Mortgage Insurance Accounting and Servicing is also redelegated the authority to issue implementing policies and procedures with respect to all functions specified in this redelegation. This redelegation does not in any way include the power and authority to transfer title to real property, except as it relates to the collection and settlement of Title I and referred FHA debt.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates the following authority:

Section A. Redelegation of Authority

The Assistant Secretary for Housing—Federal Housing Commissioner redelegates to the Director of the Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller, and to the Director of the HUD FHA-Debt Management Centers in Albany, New York, Chicago, Illinois, and Seattle, Washington the power and authority to perform the following functions, without regard to geographical area, in connection with FHA debt referred to the DMC for collection and debt arising from the payment of claims under Title I of the National Housing Act: 1) execute documents necessary to transfer or subordinate title in and to any debt, contract, claim or security instrument obtained by the Secretary; 2) satisfy and/or execute deeds, liens, and notes; and 3) execute settlement agreements and/or write-off in connection with the collection of any such debt, contract, claim, or security instrument. The authority to issue policies and procedures with respect to the above-stated functions is hereby redelegated to the Director of the Title I Accounting and Servicing Division, Office of Mortgage Insurance Accounting and Servicing, Office of the FHA-Comptroller.

Section B. No Further Redelegation

The authority redelegated under Section A may not be further redelegated.

Section C. Redelegation of Authority Superseded

The redelegation of authority published on October 25, 1991, at 48 FR 40959, is hereby superseded in its entirety.

Authority: Section 2(c)(2) of the National Housing Act, 12 U.S.C. 1703(c)(2); Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 21, 1994.

Nicholas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 94–16435 Filed 7–6–94; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Shooting Closure on Public Lands in San Diego County, CA

AGENCY: Bureau of Land Management.

ACTION: Closure order.

SUMMARY: The Bureau of Land Management (BLM) is closing part of the public lands on Otay Mountain, located in San Diego County, California, to recreational target shooting. The closure is permanent and covers all public lands located on and within 300 feet of the Otay Mountain Truck Trail, communication sites, historic bunkers, and water tank structures. The closure does not apply to hunters in lawful pursuit of game. It is BLM's intent to protect public users on the road, eliminate shooting damage occurring to numerous structures, and reduce the litter occurring near wilderness study areas. The closure will affect all of the current, popular shooting areas being accessed by vehicle, thus eliminating target shooting from most of the public lands on Otay Mountain.

EFFECTIVE DATE: July 7, 1994.

FOR FURTHER INFORMATION CONTACT:

Julia Dougan, Area Manager, Palm Springs-South Coast Resource Area at (619) 251–0812.

SUPPLEMENTARY INFORMATION: BLM administers 16,675 acres of public lands in the Otay Mountain area. The area includes two wilderness study areas, one area of critical environmental concern, four communication tower sites, three historic military bunker structures, and five water storage tanks. Although there are several existing roads, the general public's only access through the area is on the Otay Mountain Truck Trail, which connects Otay Mesa Road on the West to Marron Valley Road on the East. This primitive road, with the adjacent communication sites, bunker structures, and water tanks, is where most public users concentrate on the mountain. It is used by four-wheelers, off-highway vehicles, mountain bikers, hikers, hang gliders, remote control airplane operators, target shooters, hunters, and law enforcement personnel. Three problems exist from the target shooters that this closure will address: First, most of the popular shooting areas are located so that individuals are shooting from, down, or across the roadway, or are shooting from ridge lines offering no backstop. This creates a safety hazard for all recreationists using the road and, more than once, has jeopardized law enforcement officers in the field not visible from the road. Second, most of the communication, bunker, and water tank structures are being used as backstops or targets by target shooters. This has result in damaged communications equipment, cracked concrete water tanks, and scarred bunker structures. Finally, all of the shooting areas were trashed, seriously impacting the wilderness values of the area. Over 3 tons of trash were removed from the mountain in December, 1993, and most of it was debris left from target shooters. By closing this area to one type of recreational activity, the health and safety of all other recreationists using the mountain will be protected, the man-made structures will be protected, and the natural resource values of the public lands will be enhanced. The closure does not limit hunters in lawful pursuit of game, nor address other BLM lands in San Diego County where target shooting is still legal.

Authority for this permanent closure is established by 43 CFR 8364.1. Violation of the closure is punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

Dated: June 16, 1994.

Lucia Kuizon,

Acting District Manager.

[FR Doc. 94–16353 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Oakhill Center for Rare and Endangered Species, Oklahoma City, OK, PRT–791552

The applicant requests a permit to import one captive born male Amur leopard (*Panthera pardus orientalis*) from Zoo Praha, Prague, Czech Republic, for the purpose of enhancement of the survival of the species through propagation.

Applicant: San Diego Zoological Society, San Diego, CA PRT–790854

The applicant requests a permit to import blood and tissue samples collected from wild and captive-held Chinese monals (*Lophophorus lhuysii*) from the Beijing Center for Breeding Endangered Animals, Beijing, China, for the purpose of enhancement of the survival of the species through scientific research.

Applicant: Ray Gill, Memphis, TN, PRT–791439

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Contour (National Nature Conservation and Tourism Board), "Tsolwana Game Reserve", Tarkastad, Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: University of Illinois, College of Veterinary Medicine, Urbana, IL, PRT–791956

The applicant requests a permit to import the pituitary gland taken from the carcass of a male Northern White rhinoceros (*Ceratotherium simum cottoni*) from the Matobo National Park, Bulawayo, Zimbabwe, for scientific research aimed at enhancing the propagation and survival of the species.

Applicant: Arthur Swanstrom, Edina, MN, PRT–791503

The applicant request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. M. G. Wienand, "Longwood," Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: George Butsikaris, Brooklyn, NY, PRT–791709

The applicant request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. A.G. Spaeth, "Doornboom," Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

Applicant: David Blasko, Napa, CA, PRT–791518

The applicant request a permit to export one captive-born male Asian elephant (*Elephas maximus*) to Promotora Zoofari S.A. de C.U. in Mexico for the purpose of enhancement of the survival of the species through education.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: June 30, 1994.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–16402 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–P

Managing Migratory Bird Subsistence Hunting in Alaska; Strategy for Regulating the Spring and Summer Taking of Migratory Birds in Alaska for Subsistence Purposes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of final environmental assessment and finding of no significant impact.

SUMMARY: This Notice is to inform the public of the availability of the U.S. Fish and Wildlife Service's (Service) final environmental assessment (EA) evaluating alternatives for resolving the problem of ongoing spring and summer migratory bird subsistence hunting. This notice also makes available to the public the substance of the Service's proposed Finding of No Significant Impact which results from the EA. The Service has finalized the selection of the preferred alternative set out in the EA, i.e., to amend the 1916 Convention Between the United States and Great Britain for the Protection of Migratory Birds (Convention) to allow a regulated migratory bird subsistence harvest during what is now the closed period of March 10 to September 1. The final EA is available from the Service upon request at either of the addresses provided below (See **ADDRESSES:** and/or **FOR FURTHER INFORMATION CONTACT:**).

DATES: The decision stated in the Finding of No Significant Impact will be effective no earlier than August 8, 1994.

ADDRESSES: The contact point for this matter is: Director (FWS/MBMO), U.S. Fish and Wildlife Service, 634 ARLSQ, 1849 C St., NW., Washington, DC 20240; or Regional Director (MBC), Region 7, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503. Any comments received on previous drafts are available for public inspection during normal business hours in Room 634 Arlington Square Building, 4401 No. Fairfax Drive, Arlington, VA 22203; or, for those comments originating within Alaska, 3rd Floor, Room 3387, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Morehouse, Staff Specialist, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 634 ARLSQ, 1849 C St., NW., Washington, DC 20240 (703/358–1714); or Mr. Robin West, Migratory Bird Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503 (907/786–3423).

SUPPLEMENTARY INFORMATION:

Subsistence hunting of migratory birds for cultural and nutritional purposes occurs in Alaska and in the far northern areas of Canada as a customary and traditional activity during the closed period (between March 10 and September 1) required by the Convention and the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), which implements the terms of the Convention. Apparently, the framers of the Convention were aware of migratory bird subsistence hunting activity but unaware of the extent to which it was

needed and practiced by far northern rural peoples. Thus, the Convention provides inadequately for this particular subsistence use, with the result that much of the current subsistence hunting activity is illegal. However, restricting subsistence hunting to a time period outside of that in which birds are available neither provides equitable access to the resource nor accommodates customary and traditional uses. Because the Service recognizes the legitimate need for equitable access to the migratory bird resource for subsistence purposes, regulatory strategies have been under evaluation which would bring about successful resolution of the problem. The Service has recently completed the environmental assessment process regarding this issue and the results are contained in the final EA titled "Regulation of Migratory Bird Subsistence Hunting in Alaska," dated May 1994. All comments received during the review of the draft EA have been considered in the preparation of the final EA. The Service has also completed a proposed Finding of No Significant Impact for the EA process, which is as follows:

Finding of No-Significant Impact

Finding of no significant impact for managing migratory bird subsistence hunting in Alaska

On the basis of the final environmental assessment analysis contained in the document titled "Managing Migratory Bird Subsistence Hunting in Alaska" and dated May 1994, the U.S. Fish and Wildlife Service finds that no significant impacts will result from the action to be taken to amend the 1916 Convention Between the U.S. and Great Britain [For Canada] For the Protection of Migratory Birds (Convention). The Service examined five alternatives for dealing with the subsistence hunting of migratory bird issue, which are: (1) maintaining the status quo; (2) expanding the universe of cooperative agreements; (3) enforcing the terms of the current Convention; (4) amending the Convention; and (5) amending the Migratory Bird Treaty Act to allow subsistence hunting outside of the Convention. Action modifiers which specify how subsistence harvest of migratory birds would be managed were considered in conjunction with the five alternatives. Amendment of the Convention is the Service's preferred strategy for resolving problems associated with the illegal subsistence hunting of migratory birds by far northern peoples in Alaska and Canada.

Of the five alternatives considered, only amending the Convention responds to problems created by its current provisions for subsistence harvest. Selection of this alternative, amending the Convention, is based on the following factors: The Convention currently proscribes hunting for migratory birds during the period March 10 to September 1, except under very limited circumstances; there is an existing need for the customary and traditional use of migratory bird resources that must be accommodated; accommodation of this need recognizes existing levels of use and will not significantly increase levels of harvest; migratory birds used for subsistence purposes are generally not available when harvest is allowed under the Convention; regulatory mechanisms now available to management agencies to monitor and control harvest will be enhanced by this action; and that, because the same subsistence harvest problems exist within Canada because of inadequacies in the Convention, amendment is the best alternative for ensuring the future of the North American migratory bird resource. Also, there is a preponderance of public opinion that believes amending the Convention is the most satisfactory way of dealing with the migratory bird subsistence hunting issue.

Based upon my review and evaluation of the enclosed environmental assessment and other supporting documentation, I have determined that the action that is anticipated to be taken to regulate migratory bird subsistence hunting in Alaska is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement on the proposed action is not required.

The EA presents a menu of action modifiers that allow the Service a range of approaches to regulating subsistence harvest within an amended Convention. Action modifiers selected that specify how the Service would regulate a migratory bird subsistence harvest, as well as associated principles that are intended to guide the process, are as follows: *First*, the subsistence harvest should be available to Alaska Natives and other qualified residents residing in designated subsistence harvest areas; *Second*, the Service believes that nothing in this action should grant entitlement, rights or preference of some users over any other users of migratory birds in the U.S. As with sport hunting, promulgation of appropriate regulations will be the vehicle for opening subsistence hunting season(s). A management system would be established that allows coordination among user groups, State and Federal interests, and the Flyway Councils. All the ordinary strategies of bag limits, seasons, species restrictions, quotas, management units, zones, etc., could be used to manage, as appropriate. Windows of harvest opportunity would be set that would vary from area to area, but would, to the maximum extent possible, protect breeding birds; *Third*, the migratory bird and/or migratory bird egg subsistence harvest should be regionally limited, e.g., Southeast and Southcentral Alaska generally would be excluded because of fall harvest options, and urban areas such as the North Star Borough would be similarly excluded Communities outside of the proposed inclusion areas should be allowed to petition for consideration of hunting opportunity based on specific criteria including past and ongoing customary and traditional take of migratory birds for food during the closed season; *Fourth*, birds should be taken for food, for personal and family use and could be shared within the communities. Items crafted from non-edible by-products could be utilized for personal, cultural or ceremonial uses. Birds, parts, eggs and craft items may be bartered or traded in limited quantities but may not be sold; *Fifth*, variable levels of harvest should be set that fluctuate with population numbers. However, it is the Service's goal that there should be no significant increase in levels of harvest in the future beyond the variable levels referenced above. Harvest of eggs should be considered for all traditional species. However, limited harvest of waterfowl eggs would be considered where it is shown as an established customary use *and* egg resources from nonwaterfowl species are not available; and *Sixth*, there should be moderate enforcement in cooperation with subsistence users. That is, enforcement for this activity should be consistent with enforcement during the other part of the year and sufficiently great on an as-needed basis to help ensure compliance.

Since international agreement negotiations of the U.S. Department of State are not bound by agency NEPA process results, the foregoing position of the Service represents the desired, but may not be the actual, results of Convention amendment. However, it is the Service's intent to pursue amendment results which incorporate these features.

Dated: July 1, 1994.

Bruce Blanchard.

Acting Director.

[FR Doc. 94–16449 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–M

Availability of a Technical/Agency Draft Recovery Plan for Puerto Rican Endangered Ferns for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces availability for public review of a technical/agency draft recovery plan for Puerto Rican endangered ferns. They occur in the

limestone or karst region of northwestern Puerto Rico and in the central mountains. Deforestation and fragmentation of habitat may have restricted these species to their present locations. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before (September 6, 1994) to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting Ms. Marelisa Rivera, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa Rivera, Caribbean Field Office, P.O. Box 491, Boquerón, P.R. 00622, Tel. 809–851–7297.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

This Technical/Agency Draft is for seven Puerto Rican endangered ferns, all endemic to the island of Puerto Rico. These ferns are currently restricted to one, two or three locations each. *Adiantum vivesii, Tectaria estremerana* and *Thelypteris verecunda* are found in the limestone or karst region of northwestern Puerto Rico. *Adiantum vivesii* and *Tectaria estremerana* are only known from one locality each in Quebradillas and Arecibo, respectively. *Thelypteris verecunda* is known from Quebradillas, Hatillo and San Sebastian. *Elaphoglossum serpens, Polystichum calderonense, Thelypteris inabonensis,* and *Thelypteris yaucoensis* are found in the mountains of the central region of Puerto Rico. *Elaphoglossum serpens* and *Thelypteris inabonensis* are known from the Toro Negro commonwealth Forest and *Polystichum calderonense* is known from Monte Guilarte Commonwealth Forest. *Thelypteris yaucoensis* is known from Yauco and Ciales. The seven species face extinction due to the extreme rarity and restricted distribution, habitat destruction and modification, forest management practices, hurricane damage and possible collection.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 24, 1994.

Susan Silander,

Acting Field Supervisor, Caribbean Field Office, Puerto Rico.

[FR Doc. 94–16344 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–M

Availability of a Draft Recovery Plan for Rough-leaved Loosestrife for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of an agency draft recovery plan for rough-leaved loosestrife (*Lysimachia asperulaefolia*). This rare perennial herb, native only to North Carolina and South Carolina, grows on moist sand or peat in the transition zone between longleaf pine or oak savannas and wetter, shrubby plant communities. Only nine populations of rough-leaved loosestrife are currently known to exist. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before September 6, 1994, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the address above; Telephone: 704–665–1195 (Ext. 231).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is rough-leaved loosestrife (*Lysimachia asperulaefolia*). The areas of emphasis for recovery actions are the southern coastal plain and sandhills of North Carolina (Cumberland, Pamlico, Onslow, Brunswick, Beaufort, and Pender Counties) and the sandhills of South Carolina (Richland County). Habitat protection and management,

reintroduction, and preservation of genetic material are major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 23, 1994.

Brian P. Cole,

Field Supervisor, Asheville Field Office, North Carolina.

[FR Doc. 94–16352 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–M

[PRT–684154]

Receipt of Application for Permit

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *ET SEQ.*)

Applicant

Dr. G. David Johnson, Chairman, Department of Vertebrate Zoology, National Museum Natural History, Smithsonian Institution, Washington, D.C.

The applicant requests renewal of his permit to salvage dead endangered and/or threatened sea turtles that may occur anywhere in the United States and territories for scientific research and recovery purposes aimed at enhancement of propagation or survival of the species. The species involved are: green (*Chelonia mydas [incl. agassizi]*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys Kempii*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), and olive (*Lepidochelys olivacea*).

Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 and must be received by the Assistant Regional Director within 30 days of the date of this publication.

Documents and other information submitted with this application is available for review by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See address above)

James A. Young,

Assistant Regional Director, Ecological Services, Southwest Region (2).

[FR Doc. 94–16398 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Anchorage Museum of History and Art, Anchorage, Alaska

AGENCY: National Park Service, Interior

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act of 1990 of the intent to repatriate a cultural item in the possession of the Anchorage Museum of History and Art that meets the definition of "object of cultural patrimony" under Section 2 of the act.

The item consists of a headdress in the form of a wolf's head, with a wicker frame, calico lining, red trade cloth tongue, and cape with ermine skins. The headdress was purchased by the Museum in 1983 from Boyd Didrickson and is designated accession number 83.134 in the Museum records.

Evidence provided by the Yanyeidi Clan of the Taku Tlingit confirms that the headdress is of ongoing historical, traditional, and cultural importance to the clan, and that at the time the headdress was separated from the Yanyeidi Clan of the Taku Tlingit, no individual clan member was considered to have the right to convey it to a non-clan member without clan consent.

The Douglas Indian Association, an association recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, has petitioned for the repatriation of the headdress on behalf of the Yanyeidi Clan of the Taku Tlingit. Representatives of the Douglas Indian Association, the Yanyeidi Clan of the Taku Tlingit, and the Museum have determined pursuant to 25 U.S.C. 3001 (2) that there is a relationship of shared group identity which can be reasonably traced between the headdress, the Douglas Indian Association, and the Yanyeidi Clan of the Taku Tlingit. The Museum has agreed to repatriate the headdress.

Representatives of any other Indian tribe or Alaska Native village or corporation that believes itself to be culturally affiliated with this item should contact Patricia B. Wolf, Museum Director, Anchorage Museum of History and Art, 121 W. 7th Avenue, Anchorage, Alaska 99501, (907) 343–4326, before [*thirty days following publication of this notice*]. Repatriation of the item to the Douglas Indian Association, on behalf of the Yanyeidi Clan of the Taku Tlingit, may begin after that date if no additional claimants come forward.

Dated: June 30, 1994

C. Timothy McKeown,

Acting Departmental Consulting ArcheologistActing Chief, Archeological Assistance Division.

[FR Doc. 94–16457 Filed 7–6–94; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–360]

Decision Not To Review an Initial Determination Finding a Violation of Section 337 and Schedule for the Filing of Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

In the Matter of: Certain Devices for Connecting Computers Via Telephone Lines.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) final initial determination (ID) issued on May 24, 1994, in the above-captioned investigation finding a violation of section 337 in the importation into the United States, and the sale within the United States after importation, of certain devices for connecting computers via telephone lines.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Telephone: (202) 205–3113.

SUPPLEMENTARY INFORMATION: Farallon Computing, Inc. ("Farallon") filed a complaint on October 12, 1993, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) alleging that 16 respondents had violated section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain devices for connecting computers via telephone lines. Those 16 respondents were: (1) ABL Electronics Corp. ("ABL"), (2)

Caltechnology International Ltd. ("Caltechnology"), (3) CPU Products ("CPU"), (4) Enhance Cable Technology ("Enhance"), (5) Focus Enhancements, Inc. ("Focus"), (6) Full Enterprises Corp. ("Full"), (7) Good Way Industrial Co., Ltd. ("Good Way"), (8) MACProducts (USA) (now known as DGR Technologies, Inc.) ("DGR"), (9) MicroComputer Cable Co., Inc. ("MCC"), (10) Ming Technology Corp. ("Ming"), (11) Pan International (USA) ("Pan"), (12) Shiunn Yang Enterprises Co., Ltd. ("Shiunn Yang"), (13) Taiwan Techtron Corp. ("Techtron"), (14) Technology Works, Inc. ("TechWorks"), (15) Total Technologies, Ltd. ("Total"), and (16) Tremon Enterprises Co., Ltd. ("Tremon"). Complainant Farallon alleged infringement of certain claims of U.S. Letters Patent 5,003,579, which it owns. The Commission published a notice of investigation in the **Federal Register** on November 17, 1993 (58 *FR* 60671). Two additional respondents were subsequently added to the investigation: Ji-Haw Industrial Co., Ltd. ("Ji-Haw"), and Tri-Tech Instruments Co., Ltd. ("Tri-Tech"). *See* 59 *Fed. Reg.* 10164 (March 3, 1994).

Of the 18 respondents named in this investigation, the Commission has approved terminations based on settlements with respect to the following 16 respondents: ABL, Caltechnology, CPU, DGR, Enhance, Focus, Full, Good Way, Ji-Haw, MCC, Ming, Pan, Shiunn Yang, Techtron, Total, and Tremon. Only respondents Tri-Tech and TechWorks have not settled with complainant Farallon.

On April 26, 1994, the ALJ granted Farallon's motion for a summary determination that a domestic industry exists in accordance with subsections 337(a)(2) and (a)(3). The Commission published a notice of its decision not to review that ID on May 24, 1994. *See* 59 *Fed. Reg.* 26811–12 (May 24, 1994).

On April 28, 1994, Farallon filed a motion for summary determination of violation of section 337. The motion was unopposed by any respondent and was supported by the Commission investigative attorney. On May 24, 1994, the presiding ALJ issued an ID finding that there was a violation of section 337. The ALJ found that the '579 patent was valid and infringed, that Tri-Tech imported the infringing product into the United States, and that after importation, TechWorks sold the infringing product in the United States. No petitions for review of the ID or government comments were received by the Commission.

In connection with final disposition of this investigation, the Commission may issue (1) An order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed, if remedial orders are issued.

Written Submissions

The parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding.

Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on July 8, 1994. Reply submissions must be filed no later than the close of business on July 15, 1994. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.53 and 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53 and 210.58).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: June 29, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16471 Filed 7–6–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–359]

Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding administrative law judge in the above captioned investigation terminating the following respondent on the basis of a settlement agreement: Com Dev, Ltd.

In the matter of: Certain Dielectric Miniature Microwave Filters and Multiplexers Containing Same.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the

date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on June 30, 1994.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC. 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted.

The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: June 30, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16472 Filed 7–6–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–686 (Final)]

Certain Steel Wire Rod From Belgium

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On June 20, 1994, the Commission received a letter from counsel for petitioner in the subject investigation (Wiley, Rein & Fielding) withdrawing its petition. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping duty investigation concerning certain steel wire rod from Belgium (investigation No. 731–TA–686 (Final)) is terminated.

EFFECTIVE DATE: June 29, 1994.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: June 30, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16470 Filed 7–6–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 701–TA–363 and 364 (Preliminary), and Investigations Nos. 731–TA–711 through 717 (Preliminary)]

Oil Country Tubular Goods From Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–363 and 364 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and preliminary antidumping investigations Nos. 731–TA–711 through 717 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Austria and Italy of oil country tubular goods (OCTG),[1] that are alleged to be subsidized by the Governments of Austria and Italy, and by reason of imports from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain of OCTG, that are alleged to be sold in the United States at less than fair value. The product subject to these investigations is provided for in subheadings 7304.20, 7305.20, and 7306.20 of the Harmonized Tariff Schedule of the United States.

The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in these cases by August 15, 1994. For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 30, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 30, 1994, by Bellville Tube Corp., Bellville, TX; IPSCO Steel, Inc., Camanche, IA; Koppel Steel Corp., Beaver Falls, PA; Maverick Tube Corp., Chesterfield, MO; North Star Steel Ohio, Youngstown, OH; USX Corp., Pittsburgh, PA; and USS/Kobe Steel Co., Lorain, OH.[2]

[1] The imported merchandise which is the subject of this petition is casing, tubing, and drill pipe used in drilling for oil or gas, whether seamless or welded, of iron (other than cast iron) or steel (both carbon or alloy), whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes). This petition does not cover casing, tubing, or drill pipe containing 10.5 percent or more by weight of chromium.

[2] Not all firms are petitioners in all investigations.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on July 22, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Messer (202–205–3193) not later than July 20, 1994, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 27, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: July 1, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16489 Filed 7–6–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–669 and 670 (Final)]

Certain Cased Pencils from the People's Republic of China and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–669 and 670 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China (China) and Thailand of certain cased pencils (with leads encased in a rigid sheath), provided for in subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 16, 1994.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain cased pencils from China and Thailand are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 10, 1993, by the Pencil Makers Association, Inc., Marlton, NJ.

Participation in the Investigations and Public Service List

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will

[1] As defined by Commerce, the products covered by these investigations are certain cased pencils of any shape or dimension, which are writing and/or drawing instruments that feature cores of graphite or other materials encased in wood and/or manmade materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened.

Specifically excluded from the scope of these investigations are mechanical pencils, cosmetic pencils, pens, noncased crayons (wax), pastels, charcoals, or chalks.

make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on August 12, 1994, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on August 25, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 17, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 19, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigations as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is August 19, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is September 2, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before August 22, 1994. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § § 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: June 28, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–16473 Filed 7–6–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–284 (Sub-No. 4X)]

Iowa Northern Railway Co.—Abandonment Exemption—in Tama and Benton Counties, IA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Iowa Northern Railway Company of a 14.1-mile line of railroad in Tama and Benton Counties, IA, subject to standard labor protective conditions, a trail use condition, and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 22, 1994. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)[1] and requests for interim trail use/rail banking under 16 U.S.C. 1247(d) must be filed by July 18, 1994. Petitions to stay must be filed by July 14, 1994. Requests for a public use condition and petitions to reopen must be filed by July 18, 1994.

ADDRESSES: Send pleadings, referring to Docket No. AB–284 (Sub-No. 4X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423; and (2) Petitioner's representative: T. Scott Bannister, 1300 Des Moines Building, 405 Sixth Avenue, Des Moines, IA 50309.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: June 29, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, Commissioners Simmons and Morgan.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16454 Filed 7–6–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32529]

Northeast Kansas & Missouri Division, Mid-Michigan Railroad, Inc.—Trackage Rights Exemption—Blue Rapids Railway Company

Blue Rapids Railway Company (BR), has agreed to grant Northeast Kansas & Missouri Division of Mid-Michigan Railroad, Inc. (NEKM) local trackage rights over BR's entire line, which runs between milepost 0.12 at Marysville, KS and milepost 10.12 at Bestwall, KS, a distance of approximately 10 miles.[1] The trackage rights were to become effective on or after June 14, 1994.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[1] On March 31, 1994, BR acquired the line from the Union Pacific Railroad pursuant to an exemption granted in *Blue Rapids Ry.—Acquisition & Operation Exemption—Line of Union Pacific R.R. between Milepost 0.12 at Marysville, KS and Milepost 10.12 at Bestwall, KS*, Finance Docket No. 32483 (ICC served Apr. 20, 1994).

on: Eugenia Langan, Shea & Gardner, 1800 Massachusetts Avenue, NW., Washington, DC 20036.

As a condition to use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: June 29, 1994.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–16453 Filed 7–6–94; 8:45 am]

BILLING CODE 7035–01–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Invitation for Membership on Advisory Committee

The Joint Board for the Enrollment of Actuaries (Joint Board) established under the Employment Retirement Income Security Act of 1974 (ERISA), is responsible for the enrollment of individuals who wish to perform actuarial services under ERISA. The Joint Board has established an Advisory Committee on Actuarial Examinations (Advisory Committee) to assist in its examination duties mandated by ERISA. The term of the current Advisory Committee will expire on November 1, 1994. The charter for the Joint Board's Advisory Committee has been renewed, and a new Advisory Committee will be formed. This notice describes the Advisory Committee and invites applications from those interested in service on it.

1. General

To qualify for enrollment to perform actuarial services under ERISA, an applicant must have requisite pension actuarial experience and must satisfy knowledge requirements as provided in the Joint Board's regulations. The knowledge requirements may be satisfied by successful completion of Joint Board examinations in basic actuarial mathematics and methodology, and in actuarial mathematics and methodology relating to pension plans qualifying under ERISA.

The Joint Board, the Society of Actuaries and the American Society of Pension Actuaries jointly offer examinations acceptable to the Joint Board for enrollment purposes and acceptable to those actuarial organizations as part of their respective examination programs.

2. Purposes

The Advisory Committee plays an integral role in the examination program by assisting the Joint Board in offering examinations which will enable examination candidates to demonstrate the knowledge necessary to qualify for enrollment. The purpose of the Advisory Committee, as renewed, will remain that of assisting the Joint Board in fulfilling this responsibility. The Advisory Committee will discuss the philosophy of such examinations, will review topics appropriately covered in them, and will make recommendations relative thereto. It also will recommend to the Joint Board proposed examination questions. The Joint Board will maintain liaison with the Advisory Committee in this process to ensure that its views on examination content are understood.

3. Function

The manner in which the Advisory Committee functions in preparing examination questions is intertwined with the jointly administered examination program. Under that program, the participating actuarial organizations draft questions and submit them to the Advisory Committee for its consideration. After review of the draft questions, the Advisory Committee selects appropriate questions, modifies them as it deems desirable, and then prepares one or more drafts of actuarial examinations to be recommended to the Joint Board. (In addition to revisions of the draft questions, it may be necessary for the Advisory Committee to originate questions and include them in what is recommended.)

4. Membership

The Joint Board will take steps to ensure maximum practicable representation on the Advisory Committee of points of view regarding the Joint Board's actuarial examination extant in the community of actuaries. In this regard, appointment will be made from the actuarial community at large and from nominees provided by the actuarial organizations. Since the members of the actuarial organizations comprise a large segment of the actuarial profession, this appointive process ensures expression of a broad spectrum of viewpoints. All members of the Advisory Committee will be expected to act in the public interest, that is, to produce examinations which will help ensure a level of competence among those who will be accorded enrollment to perform actuarial services under ERISA.

Membership normally will be limited to actuaries previously enrolled by the Joint Board. However, individuals having academic or other special qualifications of particular value for the Advisory Committee's work also will be considered for membership. The Advisory Committee will be comprised of not more than nine members.

The Advisory Committee will meet about four times a year. Advisory Committee members should be prepared to devote from 100 to 150 hours, including meeting time, to the work of the Advisory Committee over the course of a year. Members will be reimbursed for Advisory Committee travel, meals and lodging expenses incurred in accordance with applicable government regulations.

Actuaries interested in serving on the Advisory Committee should express their interest and fully state their qualifications in a letter addressed to: Joint Board for the Enrollment of Actuaries, c/o Office of Director of Practice, Internal Revenue Service, suite 600, 801 Pennsylvania Avenue NW., Washington, DC 20004.

Any questions may be directed to the Joint Board's Executive Director at 202–376–1421.

The deadline for accepting applications is September 6, 1994.

Dated: June 29, 1994.

Leslie S. Shapiro,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 94–16368 Filed 7–6–94; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Consistent with the policy set forth in Section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended ("CERCLA"), 42 U.S.C. § 9622(d)(2)(B), and the Department of Justice regulations at 28 CFR 50.7, notice is hereby given that on June 22, 1994, a proposed partial Consent Decree was lodged with the United States District Court for the District of Alaska in *United States* v. *Alaska Railroad Corporation et al*, No. A–91–589 CV. The Consent Decree resolves claims asserted by the United States on behalf of the U.S. Environmental Protection Agency pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, against six of the defendants in this action (and the

United States as a counterclaim defendant) for past response costs incurred in connection with the Standard Steel & Metals Salvage Yard Site (the "Site") in Anchorage, Alaska. The settling defendants include the Alaska Railroad Corporation, Chugach Electric Association, Inc. ("Chugach"), Westinghouse Electric Corporation, Montgomery Ward & Co., Inc., J.C. Penney, Inc. and Bridgestone/Firestone, Inc. The Consent Decree also obligates five of the settling defendants to reimburse Chugach and the United States for their share of the costs currently being incurred in connection with performance of a remedial investigation and feasibility study ("RI/FS") for the Site. The proposed partial Consent Decree also allocates past costs and RI/FS costs among all the settlers based on aliquot shares or percentages agreed upon among the parties for these phases of work and investigation at the Site only.

The Department of Justice will receive written comments relating to the proposed partial consent decree for thirty (30) days from the date of publication of this notice. Comments should be directed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Alaska Railroad Corporation et al.*, DOJ Reference #90–11–3–810.

The proposed partial consent decree and appendices may be examined at the Office of the United States Attorney for the District of Alaska, Room 253, Federal Building and U.S. Courthouse, 222 West Seventh Avenue, Anchorage, Alaska 99513–7567 and at the Region 10 office of the Environmental Protection Agency, 7th Floor Records Center, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed consent decree and appendices (if requested) may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. In requesting copies, please enclose a check in the amount of $9.25 (without appendices) or $34.50 (with appendices) (25 cents per page reproduction cost) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–16354 Filed 7–6–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Commission on the Future of Worker-Management Relations; Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of Public Meeting.

SUMMARY: The Commission on the Future of Worker-Management Relations was established in accordance with the Federal Advisory Committee Act (FACA) Pub. L. 92–463. Pursuant to Section 10(a) of FACA, this is to announce that the Commission will meet at the time and place shown below:

Time and Place

The meeting will be on Monday, July 25, 1994 from 9:00 a.m. to 3:00 p.m. in Room N–3437 A–D, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

Agenda

The agenda for the meeting is as follows:

The Commission is seeking proposals and options to deal with the problems identified in its Fact Finding Report related to the appropriate coverage of labor relations and employment law with respect to (1) the dividing line between employee and individual contractor (part of "contingent workers"), and (2) the proper scope of the exclusion of managers, supervisors and salaried employees from the protection of such laws.

The Fact Finding Report identifies some of the facts and questions relevant to these issues at varying points including the following pages: 21–22, 39–40, 55–57, 93–95, 110–111, 123–125.

The Commission invites the views of interested parties about both problems cited above that are reported to arise under current law and the recommendations they would make to deal with these problems. The Commission would also welcome comparisons of the current treatment of these questions under the National Labor Relations Act and various forms of employment regulation (such as FLSA, OSHA, ERISA and civil rights law).

Public Participation

The meeting will be open to the public. It will be in session from 9:00 a.m. until 3:00 p.m. when it will adjourn. Seating will be available to the public on a first-come, first-served basis. Disabled individuals wishing to attend should contact the Commission no later than July 25, 1994, if special accommodations are needed.

The Commission welcomes by July 18 written statements of proposals to deal with the issues identified above. The Commission may schedule, time permitting, the authors of such statements for a brief presentation and questions on July 25th, if they indicate they would like to appear, in addition to organizational representatives invited to present proposals to the Commission. Individuals who wish to submit written statements should send 15 copies on or before July 18, to Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. telephone (202) 219–9148.

Signed at Washington, DC this 30th day of June, 1994.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 94–16395 Filed 7–6–94; 8:45 am]

BILLING CODE 4510–23–M

Mine Safety and Health Administration

Coal Mine Respirable Dust Standard; Single-Shift and Noncompliance Determinations

AGENCIES: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) will hold additional hearings to receive comments on proposed changes to the Federal program for respirable coal mine dust. The first hearing will address a joint finding by the Secretary of Labor and the Secretary of Health and Human Services that the average concentration of respirable dust to which each miner in the active workings of a coal mine is exposed can be measured accurately over a single shift. This hearing is being held under section 101 of the Federal Mine Safety and Health Act of 1977 (Mine Act). Following that hearing, MSHA will hold a second hearing to receive public comments on the Agency's intent to use single, full-shift respirable dust measurements to determine noncompliance under the MSHA coal mine respirable dust standard. The hearings will be held in Salt Lake City, Utah.

DATES: Requests to make oral presentations should be submitted prior to the hearings. The hearings will be held on Tuesday, July 19, 1994. The

joint MSHA-NIOSH hearing is scheduled from 9:00 a.m. to 12:00 p.m. The MSHA hearing is scheduled from 1:00 p.m. to 5:00 p.m.

ADDRESSES: Both hearings will be held at the Holiday Inn, 999 South Main Street, Salt Lake City, Utah 84111, (801) 395–8600.

Send requests to make oral presentations to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On February 18, 1994, the Secretary of Labor and the Secretary of Health and Human Services jointly published a notice in the **Federal Register** (59 FR 8357) announcing a new finding that the average concentration of respirable dust to which each miner in the active workings of a coal mine is exposed can be accurately measured over a single shift in accordance with section 202(f)(2) of the Federal Mine Safety and Health Act of 1977. Based on this finding, the Secretaries are proposing to rescind the finding issued on July 17, 1971, and affirmed on February 23, 1972.

Concurrently, MSHA published a notice in the **Federal Register** (59 FR 8356) announcing its intention to use both single, full-shift respirable dust measurements, and the average of multiple, full-shift respirable dust samples, to determine noncompliance and issue citations for violations of the respirable dust standard under the MSHA coal mine respirable dust program.

Public hearings on these matters were held on July 6, 1994, in Morgantown, West Virginia (59 FR 29348–29349). In response to requests from the mining community, MSHA has scheduled a second set of public hearings in the West. NIOSH concurs with this action and will participate. The hearings will be held in accordance with the same procedures cited in the **Federal Register** notices for the July 6, 1994, hearings.

To allow for the submission of post-hearing comments, the record will remain open until August 5, 1994.

Dated: July 5, 1994.

Edward C. Hugler,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 94–16573 Filed 7–6–94; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communication Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Electrical and Communication Systems—1196.

Date and time: July 28–29, 1994/8:30 a.m.–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (Room 530).

Type of meeting: Closed.

Contact Person: Dr. Radhikishan Bahaeti, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1180.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda

To review and evaluate proposal submitted for financial support.

Reason for Closing

The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16465 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Renewals

The Assistant Directors having responsibility for the Advisory Committees listed below have determined that renewal of these groups is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration. Authority for these Advisory Committees will expire on June 30, 1996, unless they are renewed.

Code	Name
30	USGS/DOI/NSF Council for Continental Scientific Drilling.
57	Special Emphasis Panel in Graduate Education & Research Development.
59	Special Emphasis Panel in Elementary, Secondary & Informal Education.
66	Advisory Committee for Mathematical and Physical Sciences.
139	Advisory Panel for Presidential Faculty Fellows.
173	Special Emphasis Panel in Engineering Education and Centers.
1151	Advisory Committee for Computer & Information Science & Engineering.
1196	Special Emphasis Panel in Electrical & Communications System.
1171	Advisory Committee for Social, Behavioral & Economic Sciences.
1173	Committee on Equal Opportunities in Science & Engineering.
1185	Special Emphasis Panel in Advanced Scientific Computing.
1186	Special Emphasis Panel in Astronomical Sciences.
1189	Special Emphasis Panel in Bioengineering & Environmental Systems (nee Biological & Critical Systems).
1190	Special Emphasis Panel in Chemical & Transport Systems (nee Chemical & Thermal Systems).
1191	Special Emphasis Panel in Chemistry.
1192	Special Emphasis Panel in Computer & Computation Research.
1193	Special Emphasis Panel in Cross-Disciplinary Activities.
1194	Special Emphasis Panel in Design, Manufacturing & Industrial Innovation (nee Design & Manufacturing Systems).
1198	Special Emphasis Panel in Systemic Reform.
1199	Special Emphasis Panel in Human Resource Development.
1200	Special Emphasis Panel in Information, Robotics & Intelligent Systems.
1201	Special Emphasis Panel in International Programs.
1203	Special Emphasis Panel in Materials Research.
1204	Special Emphasis Panel in Mathematical Sciences.

Code	Name
1205	Special Emphasis Panel in Civil & Mechanics (nee Mechanical & Structural Systems).
1206	Special Emphasis Panel in Microelectronics Information Processing Systems.
1207	Special Emphasis Panel in Networking & Communications Research & Infrastructure.
1208	Special Emphasis Panel in Physics.
1209	Special Emphasis Panel in Polar Programs.
1210	Special Emphasis Panel in Research, Evaluation & Dissemination.
1214	Special Emphasis Panel in Undergraduate Education.

Dated: June 30, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16462 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture and Industrial Innovation; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—1194.

Date and Time: August 4, 1994, 8:30 a.m. to 5:00 p.m.

Place: Rooms 340, 360, and 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. F. Stan Settles, Design and Integration Engineering, Dr. Cheena Srinivasan, Manufacturing Processes and Equipment, and Dr. Pius Egbelu, Operations Research and Production Systems, Division of Design, Manufacture, and Industrial Innovation, located in room 550, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, phone/(703) 306–1328.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate rapid prototyping proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16463 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Graduate Education and Research Development; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Graduate Education and Research Development.

Date and Time: August 1-2, 1994; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Roosevelt Y. Johnson, Program Director, 4201 Wilson Boulevard, Room 907, Arlington, VA 22230 Telephone: (703) 306–1696.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Graduate Research Traineeships Program (GRT).

Agenda: Review and evaluate GRT proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16467 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Dates and Times: July 25, 1994, 7:00 pm–9:00 pm; July 26, 1994, 8:00 am–8:00 pm; July 27, 1994, 8:00 am–5:00 pm.

Place: July 25, 1994: South Coast Inn, 5620 Calle Real, (Meeting Room), Goleta, CA: July 26 and 27, 1994: University of California, Santa Barbara, Santa Barbara, California, 93106.

Type of Meetings: Closed.

Contact Person: Dr. LaVerne D. Hess, Program Director, Electronic Materials Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone (703) 306–1837.

Purpose of Meetings: To provide advice and recommendations concerning support for the Science and Technology Center (STC) for Quantized Electronic Structures (QUEST) at the University of California, Santa Barbara.

Agenda: To evaluate progress at this Science and Technology Center in relation to continuing support for this renewal proposal.

Reason for Closing: The proposal being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16475 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Committee of Visitors; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematics and Physical Sciences Committee of Visitors for Physics—#66.

Date and Time: July 28–29, 1994; 8:30 a.m. to 6:00 p.m.; July 30, 1994; 8:30 a.m. to 3:00 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Robert A. Eisenstein, Director, PHY, Room 1015, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide oversight review of the PHY programs.

Agenda: To carry out Committee of Visitors review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C.552b.(c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16468 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Engineering; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Engineering.

Date and Time: August 2, 1994—8:30 a.m. to 5:00 p.m.

Place: Room 530 National Science Foundation, 4201 Wilson Boulevard, Arlington VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. F. Stan Settles, Program Director, Design and Integration Engineering, Division of Design, Manufacture, and Industrial Engineering, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, phone/703–306–1328.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Closed Session: August 2, 1994, 8:30 a.m.–5:30 p.m., to provide oversight review of the Design and Integration Engineering Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16466 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

Committee of Visitors of the Advisory Committee of Education and Human Resources; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: July 21–22, 1994; 8:30 a.m.–5:30 p.m.

Place: Room 830, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Costello Brown, Dr. Betty Jones, Program Directors for Career Access Programs, Division of Human Resources Development, Room 815, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1640.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Comprehensive Regional Centers for Minorities (CRCM) Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: July 1, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–16464 Filed 7–6–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

NUREG–1478, "Non-Power Reactor Operator Licensing Examiner Standards"; Availability

The Nuclear Regulatory Commission has issued NUREG–1478, "Non-Power Reactor Operator Licensing Examiner Standards." The Commission will use this document to provide policy and guidelines for NRC examiners and to establish the procedures and practices for conducting initial and requalification written examinations and operating tests for license applicants and licensed operators at non-power reactor facilities pursuant to Part 55 of Title 10 of the Code of Federal Regulations. The policies and guidelines contained in the NUREG will be used for all examinations commencing 30 days from the date of this notice.

Copies of NUREG–1478 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC.

Dated at Rockville, Maryland, this 21st day of June 1994.

For the Nuclear Regulatory Commission.

Robert M. Gallo,

Chief, Operator Licensing Branch, Division of Reactor Controls and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16443 Filed 7–6–94; 8:45 am]

BILLING CODE 7590–01–M

NUREG–1021, Revision 7, Supplement 1, "Operator Licensing Examiner Standards"; Availability

The Nuclear Regulatory Commission has issued Supplement 1 to Revision 7 of NUREG–1021, "Operator Licensing Examiner Standards." The Commission uses this document to provide policy and guidelines for NRC examiners and to establish the procedures and practices for conducting initial and requalification written examinations and operating tests for licensed applicants and licensed operators at power reactor facilities pursuant to Part 55 of Title 10 of the Code of Federal Regulations. The policies and guidelines contained in the supplement will be used for all examinations commencing 30 days from the date of this notice.

Copies of NUREG–1021, Revision 7, Supplement 1, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Dated at Rockville, Maryland, this 21st day of June 1994.

For the Nuclear Regulatory Commission.

Robert M. Gallo,

Chief, Operator Licensing Branch, Division of Reactor Controls and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16444 Filed 7–6–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8584]

Kennecott Uranium Company; Sweetwater Uranium Mill, Located in Sweetwater County, WY; Receipt of Application To Amend Source Material License SUA–1350 (Renotice) and Notice of Opportunity To Request Hearing on License Amendment

By letter dated July 21, 1993, Kennecott Uranium Company, holder of Source Material License SUA–1350 for the Sweetwater Uranium Mill, located in Sweetwater County, WY, requested an amendment to License Condition No.

10.6 to allow for disposal of byproduct material from U.S. Energy's Green Mountain Ion Exchange Facility, which is being decommissioned. On February 28 1994, the NRC published notice of its receipt of this request in the Federal Register (59 FR 9502). On April 15, 1994, the NRC published notice of its intent to issue the requested license amendment (59 FR 18168). Neither Federal Register notice specifically offered interested persons an opportunity to request a hearing pursuant to Title 10, Code of Federal Regulations, Part 2 Subpart L. Accordingly, notice is hereby provided that interested parties may request a hearing, pursuant to the provisions of 10 CFR 2.1205(c) within thirty (30) days of the publication of this notice. Further information concerning the requested license amendment is located in the Federal Register notices referenced above.

For Further Information, Contact: Charlotte E. Abrams, Project Manager, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–7 F9, Washington, D.C. 20555. Telephone (301) 415–5808.

The licensee and any person whose interest may be affected by the issuance of this license amendment may file a request for hearing. A request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the Federal Register; must be served on the NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555; must be served on the licensee (Kennecott Uranium Company, 505 South Gillette Avenue, Gillette, Wyoming 82717); and must comply with the requirements set forth in the Commission's regulations, 10 CFR 2.1205. The request for hearing filed by a person other than the licensee must describe in detail the interest of the requestor in the proceeding and how that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the following factors:

1. The nature of the requestors' right, under the Atomic Energy Act, to be made a party to ther proceeding;

2. The nature and extent of the requestor's property, financial or other interest in the proceeding; and

3. The possible effect, on the requestor's interest, of any order which may be entered in the proceeding.

The request must also set forth the requestors' areas of concern about the licensing activity that is the subject matter of the proceeding, and the circumstances establishing that the request for hearing is timely in accordance with 10 CFR 2.1205(c).

Dated at Rockville, Maryland, this 21st day of June 1994.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 94–16442 Filed 7–6–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335]

Northeast Nuclear Energy Company; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21, issued to the Northeast Nuclear Energy Company (NNECO/the Licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed amendment would revise the Technical Specifications (TS) to change the Administrative Controls section to require an individual who serves as the Operations Manager to either hold a Millstone Unit 2 senior reactor operator (SRO) license or have an SRO license at another pressurized water reactor (PWR). If the Operating Manager does not hold a Millstone Unit 2 SRO license, then an individual serving as the Assistant Operations Manager would be required to possess an SRO license at Millstone Unit 2.

The proposed change would permit Millstone Unit 2 to accelerate efforts to strengthen the Millstone Unit 2 Operations Department. Exigent action is justified in order to permit the licensee to proceed with their efforts to strengthen the Millstone Unit 2 Operations Department in a prompt and decisive manner.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards (SHC) consideration, which is presented below:

The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change affects an administrative control, which was based on the guidance of ANSI N18.1–1971. ANSI N18.1–1971 recommended that the Operations Manager hold an SRO license. The current guidance in Section 4.2.2 of ANSI/ANS–3.1–1987 recommends, as one option, that the Operations Manager have held a license for a similar unit and the Operations Middle Manager hold an SRO license. While the Operations Middle Manager position does not exist at Millstone Unit No. 2, we are proposing to create the position of Assistant Operations Manager (staffed by an individual with an SRO license at Millstone Unit No. 2). This individual will be required to meet the requirements for, and will have responsibilities as recommended in ANSI/ANS–3.1–1987 for the Operations Middle Manager position.

Therefore, the proposed change requests an exception to ANSI N18.1–1971 to allow use of ANSI/ANS–3.1–1987 in a limited circumstance. Specifically, the proposed revision to Technical Specification 6.3.1 would require the Operations Manager to either hold an SRO license at Millstone Unit No. 2 or have held an SRO at a PWR other than Millstone Unit No. 2.

If the Operations Manager does not hold an SRO license at Millstone Unit No. 2, the proposal will require the Assistant Operations Manager to hold, and continue to hold, an SRO license. The proposed change includes the requirement to have held a license for

a similar unit (a PWR) in accordance with Section 4.2.2 of ANSI/ANS–3.1–1987, if the Operations Manager does not hold an SRO license at Millstone Unit No. 2. For those areas of knowledge that require an SRO license, the Assistant Operations Manager will hold an SRO license and provide technical guidance normally required by the Operations Manager.

The proposed change does not alter the design of any system, structure, or component, nor does it change the way plant systems are operated. It does not reduce the knowledge, qualifications, or skills of licensed operators, and does not affect the way the Operations Department is managed by the Operations Manager. The Operations Manager will continue to maintain the effective performance of his personnel and ensure the plant is operated safely and in accordance with the requirements of the operating license. Additionally, the Control Room operators will continue to be supervised by the licensed Shift Supervisors.

The proposed change does not detract from the Operations Manager's ability to perform his primary responsibilities. In this case, by having previously held an SRO license for a similar unit, he has achieved the necessary training, skills, and experience to fully understand the operation of plant equipment and the watch requirements for operators.

In summary, the proposed change does not affect the ability of the Operations Manager to provide the plant oversight required of his position. Thus, it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change to Technical Specification 6.3.1 does not affect the design or function of any plant system, structure, or component, nor does it change the way plant systems are operated. It does not affect the performance of NRC licensed operators. Operation of the plant in conformance with technical specifications and other license requirements will continue to be supervised by personnel who hold an NRC SRO license. The proposed change to Technical Specification 6.3.1 ensures that the Operations Manager will be a knowledgeable and qualified individual by requiring the individual to have held an SRO license at a PWR. Based on the above, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change involves an administrative control which is not related to the margin of safety as defined in the technical specifications. The proposed change does not reduce the level of knowledge or experience required of an individual who fills the Operations Manager position, nor does it affect the conservative manner in which the plant is operated. The Control Room operators will continue to be supervised by personnel who hold an SRO license. Thus, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Service, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 8, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–4: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 24, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 29th day of June 1994.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16445 Filed 7–6–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–438; 50–439]

In the Matters of Tennessee Valley Authority (Bellefonte Nuclear Plant, Units 1 and 2)

Order

I

Tennessee Valley Authority (TVA or the applicant) is the current holder of Construction Permit Nos. CPPR–122 and CPPR–123, issued by the Atomic Energy Commission on December 12, 1974, for construction of the Bellefonte Nuclear Plant (BLN), Units 1 and 2. These facilities are currently under construction at the applicant's site on a peninsula at Tennessee River Mile (TRM) 392 on the west shore of Guntersville Reservoir, about 6 miles east-northeast of Scottsboro, Alabama.

On April 19, 1994, the TVA filed a request pursuant to 10 CFR 50.55(b) for extensions of the completion dates. The extensions were sought because construction activities had been deferred in 1988 due, in part, to a lower than expected load forecast. On March 23, 1993, TVA notified NRC that it planned to resume completion activities 120 days from the date of the letter. However, as a result of the delay from the inactivity during the construction deferral and a need to conduct an Integrated Resource Planning (IRP) process to consider the lowest-cost options for providing an adequate supply of electricity to TVA's customers pursuant to the provisions of the Energy Policy Act of 1992, TVA is unable to complete the construction of the two units before the expiration of CPPR–122 on July 1, 1994, and CPPR–123 on July 1, 1996, and construction permits extensions now need to be extended. As part of the planning process, TVA will evaluate the completion of the BLN units along with other generating options. The IRP process is presently scheduled for completion in November 1995. Additional delays associated with these efforts to ensure that BLN complies with regulatory requirements and licensing commitments make it necessary for TVA to request extensions of the expiration dates for Construction Permit Nos. CPPR–122 and CPPR–123.

II

The NRC staff has concluded that good cause has been shown for the delays, the extensions are sought for a reasonable period, and this action involves no significant hazards consideration, the basis for which are given in the staff's evaluation.

The NRC staff has prepared an Environmental Assessment and Finding of No Significant Impact which was

published in the Federal Register on May 26, 1994 (59 FR 27299).

Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion dates will have no significant impact on the environment.

The applicant's letter dated April 19, 1994, and the NRC staff's letter and safety evaluation of the request for extensions of the construction permits, dated June 27, 1994, are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555–0001 and at the Local Public Document Room, Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 37402.

III

It is hereby ordered that the latest construction completion date for Permit No. CPPR–122 is extended to October 1, 2001 and the latest construction completion date for Construction Permit No. CPPR–123 is extended to October 1, 2004.

Dated at Rockville, Maryland this 27th day of June 1994.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 94–16446 Filed 7–6–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26077; File No. S7–19–94]

Roundtable Discussion To Inaugurate Comprehensive Study of Regulation Under the Public Utility Holding Company Act of 1935

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of roundtable discussion.

SUMMARY: This is to give notice that the Commission will conduct a roundtable discussion on July 18 and July 19, 1994, at the Willard Hotel, Washington, DC, beginning at 8:30 a.m., to inaugurate a comprehensive study of regulation under the Public Utility Holding Company Act of 1935. The public is invited to attend.

FOR FURTHER INFORMATION CONTACT: William C. Weeden, Associate Director, (202) 942–0545, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission will conduct a roundtable discussion on July 18 and July 19, 1994, at the Willard Hotel, Washington, DC, beginning at 8:30 a.m., to inaugurate a comprehensive study of regulation under the Public Utility Holding Company Act of 1935 ("1935 Act").

The 1935 Act was New Deal legislation, enacted by Congress to eliminate abuses that had plagued the United States electric and gas utility industry and threatened the interests of investors and consumers. The statute is complex and far-reaching. Although there have been fundamental changes in the industry in the past sixty years, the 1935 Act has remained largely unchanged.

The Commission believes that it is time to undertake a thorough evaluation of the 1935 Act, to review the regulatory framework in light of developments in the industry, and to consider how federal regulation of utility holding companies can best serve the public interest and the interest of investors and consumers in the approaching century.

To that end, the Commission recently announced that it will undertake a comprehensive study of the 1935 Act.[1] The study will be inaugurated by a roundtable discussion in which representatives of the industry, state, local and other federal regulators, consumer groups, trade associations, an economist, investment banks, rating agencies and others will participate. The public is invited to attend. The agenda is set forth below:

Roundtable Agenda

Monday, July 18, 1994

Morning Session

8:30 am—Opening remarks of Chairman Arthur Levitt

8:45 am—Introductory remarks by staff of the Division of Investment Management

9:00 am—*The future of the industry*

There have been profound changes in the gas and electric industries over the past few years. The Energy Policy Act of 1992, in particular, has accelerated the development of a competitive electric industry, and freed United States companies to invest in utility operations around the world. The momentum in this area is not abating—retail wheeling is only the most recent issue. How will the profile of the industry change in coming years? What role, if any, is envisioned for a federal holding company statute in this evolving industry?

Afternoon Session

1:30 pm—*State and federal regulation*

A federal holding company statute should supplement, not supplant, the work of the Federal Energy Regulatory Commission and state and local regulators. What is the role of a federal holding company statute in the regulation of the gas and electric utility industry? Given the roles of the Federal Energy Regulatory Commission and state and local regulators, is a federal holding company statute necessary for effective regulation?

4:50 pm—Questions and comments

5:30 pm—Session ends

Tuesday, July 19, 1994

Morning Session

8:30 am—Opening remarks by Commissioner Richard Y. Roberts.

8:45 am—Brief remarks by staff of the Division of Investment Management

9:00 am—*Financings and intrasystem transactions*

What protections are provided by review of financing transactions under a federal holding company statute? Is this review still necessary in light of developments in other federal and state regulation? If so, how could this review be made more effective and efficient? Is federal oversight of intrasystem transactions needed to prevent affiliate abuses, or can the Federal Energy Regulatory Commission and the states effectively safeguard the interests of consumers?

10:50 am—*Integration and exemption*

The requirement of a single integrated public-utility system was intended to ensure economical and efficient utility operations. Are the interests of investors and consumers still served by this requirement? Has the requirement of geographic integration affected the development of creative solutions to the production and delivery of energy?

Should the law prohibit foreign ownership of United States public-utility companies? If so, why and under what conditions?

The law currently exempts certain types of holding companies. Do the theories underlying these exemptions remain valid? Should the exemptions be changed in light of recent developments? Are additional exemptions needed?

Afternoon Session

1:30 pm—*Diversification*

Has the requirement that nonutility interests be "functionally related" to a system's core utility operations demonstrably benefited investors and consumers of registered holding companies? What has been the experience of companies that were not similarly constrained?

Should there be limits on diversification by utility holding companies? How would increased diversification affect the ability of the Federal Energy Regulatory Commission and the states to protect the interests of consumers? When would the risks associated with diversification outweigh the potential benefits?

4:00 pm—Questions and comments

5:00 pm—Session ends

Based upon the roundtable discussions and its own review, the Commission will thereafter invite public comment generally on every aspect of the 1935 Act and specifically on certain

[1] *See* Testimony of the Honorable Richard Y. Roberts before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce (May 26, 1994).

issues. The comments will be incorporated in a report and recommendations at the conclusion of the study.

Dated: July 1, 1994.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16488 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34291; File No. SR–Amex–94–11]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Floor Official Zone System

June 30, 1994.

On April 18, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 22 ("Authority of Floor Officials") to delete references to the Floor Official zone system.

The proposed rule change was published for comment in Securities Exchange Act Release No. 33980 (April 28, 1994), 59 FR 23241 (May 5, 1994). No comments were received on the proposal. This order approves the proposed rule change.

The Exchange Floor currently is divided into zones comprised of designated trading posts. As set forth in Commentary .01 to Amex Rule 22, each Floor Official is assigned to a specific zone and may render rulings only in that zone. Among other things, Rule 22(c) authorizes a Floor Official to supervise openings and reopenings of securities; to halt or reopen trading in a security; to resolve market disputes submitted to him or her by members; and to regulate and supervise unusual situations which may arise in connection with the making of bids, offers or transactions. Finally, a majority of the available Floor Officials assigned to a zone may (1) restrict or ban trading by Registered Traders; (2) restrict or ban transactions pursuant to off-Floor orders in which members or member organizations have an interest; (3) prohibit specialists from accepting stop or stop limit orders; or (4) restrict or ban the use of hand signals.[3]

The Exchange proposes to amend Rule 22 to delete references to the zone system for purposes of establishing the authority of Floor Officials, and to permit a Floor Official to render rulings anywhere on the Floor. In addition, the Amex proposal will provide that those matters which currently require the approval of a majority of the Floor Officials in a zone[4] may be determined by a Floor Official with the concurrence of a Senior Floor Official.[5]

The Amex states that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[6] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

After careful review, the Commission agrees with the Amex that the Floor Official zone system may not be appropriate for today's market environment. According to the Amex, its system of assigning Floor Officials to specific zones was adopted in 1965, before the Exchange Floor was expanded and reconfigured. The Amex also notes that, since that time, new securities products and improved technologies have been developed, and trading (particularly for options and other derivatives) generally proceeds at a faster pace. Given these changes in market conditions, the Commission finds that requiring members to deal only with the assigned Floor Officials may be unduly time-consuming and burdensome.

Accordingly, the Commission believes that the proposed rule change should facilitate quicker resolution of trading questions. By eliminating the zone system for assignment of Floor Officials, the Amex proposal will enable members to seek guidance from any Floor Official. In the Commission's opinion, this flexibility should reduce unnecessary delays and encourage compliance with Exchange rules, the Act and the regulations thereunder. For those matters which previously required the approval of a majority of the Floor Officials in a zone,[7] the Commission believes that the Amex proposal contains sufficient safeguards to ensure accurate and consistent decisionmaking. Specifically, the Floor official who determines the matter will be required to consult with, and obtain the agreement of, a Senior Floor Official (*i.e.*, a Floor Governor or an Exchange Official who was previously a Floor Governor).[8] According to Amex staff, these individuals are among the most experienced and knowledgeable members of Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–Amex–94–11) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16420 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34284; File No. SR–BSE–93–19]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Boston Stock Exchange Inc., Relating to the Insider Trading and Securities Fraud Enforcement Act of 1988

June 30, 1994.

I. Introduction

On November 8, 1993, the Boston Stock Exchange Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a new BSE Rule—Chapter II, Section 37(a), ITSFEA Procedures—relating to the establishment, maintenance and enforcement of procedures designed to prevent the misuse of material, non-public information. On January 13, 1994, the BSE submitted to the Commission an

---

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] *See* Amex Rule 22(c).

[4] *See supra*, note 3 and accompanying text.

[5] Pursuant to Amex Rule 21(a), Senior Floor Officials include the Floor Governors and those Exchange Officials who were previously Floor Governors and continue to be active on the Floor.

[6] 15 U.S.C. 78f(b) (1988).

[7] *See supra*, note 3 and accompanying text.

[8] *See* Amex Rule 21(a).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR § 240.19b–4 (1991).

amendment to the proposed rule change.[3] Notice of the proposal appeared in the Federal Register on February 14, 1994. No comments were received on the proposal.

II. Description of the Proposal

A. Background

In November 1988, Congress enacted the Insider Trading and Securities Fraud Enforcement Act of 1988 ("ITSFEA"), designed primarily to prevent, deter, and prosecute insider trading.[4] ITSFEA created a new Section 15(f) of the Act[5] to require broker-dealers to maintain procedures designed to prevent the misuse of material, non-public information by such Broker-dealers or any person associated with such broker-dealers. ITSEFEA also granted the Commission broad rule-making authority concerning so-called "Chinese Wall" procedures developed by broker-dealers to deter and prevent insider trading.[6] Pursuant to this grant of rule-making authority, the Division undertook a comprehensive review of broker-dealer policies and procedures and, in March of 1990, issued a report of its findings, conclusions and recommendations.[7] In the Report, the Division stated that, among other things, it was concerned about the need for firms to "maintain documentation sufficient to recreate actions taken pursuant to Chinese Wall procedures."[8] Accordingly, the Division urged the self-regulatory organizations ("SRO") to develop standards of documentation for their member firms as well as effective examination programs.

B. The Proposal

The proposed rule change was designed to supplement Section 15(f) of the Act and ITSFEA, by requiring every member organization of the Exchange to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such member and any person associated with the member. The proposal establishes minimum standards for compliance with the record-keeping requirements of the Rule and the Act. It mandates that all members that are required to file SEC Form X–17A–5 ("FOCUS Reports") with the Exchange on an annual basis submit with their FOCUS Reports signed statements by such members that the procedures mandated by this rule have been established, enforced and maintained. The proposal requires members and associated persons to promptly notify the Exchange's Market Surveillance Department of any securities transaction that the firm reasonably believes may have involved the misuse of material, non-public information. Finally, the proposal provides that when BSE members adopt written supervisory procedures relating to ITSFEA in connection with requirements of another designated examining authority ("DEA"), that member organization shall not be subject to the ITSFEA requirements of this Rule.

The proposal adds four Supplementary Material provisions to Chapter II, ITSFEA Procedures, Section 37(a) of the BSE Rules. Supplementary Material .01 describes conduct that would constitute the misuse of material, non-public information. This conduct includes, but is not limited to: (a) Trading in any securities, or in any related securities issued by a corporation, in any related securities or related options on other derivative securities while knowingly in possession of material non-public information concerning that issuer; (b) trading in a security or related option or other derivative security while in possession of material, non-public information concerning imminent transactions in the security or related securities; or (c) disclosing to another person or entity any material, non-public information involving a corporation whose shares are publicly traded or an imminent transaction in an underlying security or related securities for the purpose of knowingly facilitating the possible misuse of material, non-public information.

The Exchange states that the scope of the aforementioned definition is intended to be consistent with the goals of Section 15(f) of the Act and ITSFEA to prevent the misuse of material, non-public information. The Exchange believes that this definition should be broad enough to encompass frontrunning, trading on the basis of material corporate inside information, tipping, and misappropriating material corporate inside information.

Supplementary Material .02 defines the terms "associated person" or "person associated with a member." These terms shall mean any partner, officer, director, or branch manager of a member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a member, or any employee of a member.

Supplementary Material .03 requires, at a minimum, that each member establish, maintain and enforce certain policies and procedures. This provision specifically requires, first, that members must advise all associated persons in writing of the prohibition against the misuse of material, non-public information. Second, each member organization and all persons associated with that member organization must sign statements affirming their awareness of and agreement to abide by the prohibitions of the ITSFEA Rule. These signed statements must be maintained for at least three years, the first two years in an easily accessible place. Third, each member organization must maintain copies of trade confirmations and monthly account statements for each account in which an associated person has a direct or indirect interest or makes investment decisions. These trade confirmations and monthly account statements must be maintained for at least three years, the first two years in an easily accessible place. In addition, such brokerage accounts must be reviewed at least quarterly by the member organization for the purpose of detecting the possible misuse of material, non-public information. Fourth, an associated person must disclose to the member organization whether he, or any person in whose account he has a direct or indirect financial interest, is an officer, director or 10% shareholder in a company whose shares are publicly traded. Any transaction in the stock (or option thereon) of such company shall be reviewed to determine whether the transaction may have involved a misuse of material, non-public information.

The Exchange states that the aforementioned policies and procedures

---

[3] See letter from Karen A. Aluise, assistant Vice President, Boston Stock Exchange, to Sandy Sciole, Branch Chief, Commission, dated January 13, 1994. The BSE letter made a similar change in nine places that clarifies member obligations with respect to "securities transactions which they reasonably believe may have involved the misuse of material, non-public information." Exhibit 4 of the proposal requires associated persons to submit a list of securities accounts in which they either have a direct or indirect financial interest or make investment decisions. Associated persons with the firm are under a continuous obligation to update the list. The BSE's letter deleted a sentence that resulted in confusion on this matter. The letter also added "trade confirmations" to Exhibit 4, paragraph 1a, so that associated persons must submit to the member organization duplicate trade confirmations and monthly account statements for each relevant account. Finally, the letter changed the date in the Exhibit 3, Sample Membership Bulletin, from March 31, 1994, to April 30, 1994.

[4] 4 Pub. L. No. 100–704.

[5] 15 U.S.C. 78o (f) (1988).

[6] "Chinese Walls" are broker-dealer policies and procedures designed as information barriers to segment the flow and prevent the misuse of material, non-public information.

[7] See Report on Broker-Dealer Policies and Procedures Designed to Segment the Flow and Prevent the Misuse of material Non-public Information ("Report"), Division of Market Regulation, Commission, March 1990.

[8] Id. at 26.

may not, in all cases, satisfy the requirements of this rule. The adequacy of each member's policies and procedures will depend upon the nature of such member's business.

Supplementary Material .04 and the Sample Membership Bulletin [9] (Exhibit 3 to the proposal) describe a set of forms, denominated as the "ITSFEA Compliance Procedures" (Exhibit 4 to the proposal), which may be used by certain eligible member organizations to facilitate their compliance with the recordkeeping and filing requirements of Chapter II, Section 37 (a) and (b). The Exchange states that the Sample ITSFEA Compliance Procedures are intended to constitute the minimum policies and procedures required by the Act and this rule. Their use, however, does not ensure compliance with the recordkeeping and filing requirements.

The Sample ITSFEA Compliance Procedures require identification of securities accounts as described in ITSFEA Form 1 ("Form 1"). Form 1 requires each associated person to submit a list of each securities accounts in which he/she either has a direct or indirect financial interest, or makes investment decisions. This list is to include not only the accounts of associated persons, but also the accounts of relatives of such persons to the extent that an associated person has an interest in such accounts or makes investment decisions with respect thereto. Form 1 further requires all associated persons to transmit to the member organization duplicate trade confirmations and monthly account statements for each account in which they have a direct or indirect financial interest, or for which they make investment decisions. These account statements must be maintained by the member organization for at least three years. In addition, Form 1 requires all associated persons to disclose to the member organization if they, or any persons in whose account they have a direct or indirect financial interest, or over whose account they make investment decisions, is an officer, director or 10% shareholder in the company whose shares are publicly traded. Any transaction in the stock of any company shall be reviewed to determine whether the transaction may have involved a misuse of material, non-public information.

The Sample ITSFEA Compliance Procedures requires a "Statement of Compliance by Associated Persons" as described in ITSFEA Form 2 ("Form 2").[10] Form 2 outlines a sample "Statement of Compliance" which should be read and signed by all associated persons at the time they join the member organization and at least annually thereafter.

The Sample ITSFEA Compliance Procedures also require a "Statement of Compliance by Senior Reporting Member" as described in ITSFEA Form 3 ("Form 3").[11] Form 3 provides that each member organization must designate a Senior Reporting Member to be responsible for implementing all necessary policies and procedures on behalf of the member organization.[12] This person shall sign a Statement of Compliance on behalf of the member organization and submit such certification to the Exchange at the time the firm files its year-end FOCUS Report (Form X–17A–5).

The Sample ITSFEA Compliance Procedures provide additional guidance regarding account review and review of proprietary or associated person trading. For example, under the Sample ITSFEA Compliance Procedures, a member organization shall review, at least quarterly, all account statements and/or trade confirmations for accounts in which associated persons have a direct or indirect financial interest or make investment decisions and a written record of such review shall be maintained for three years. The Sample ITSFEA Compliance Procedures also provide, *inter alia*, that when conducting a review of proprietary or associated person trading, the timing or unusual nature of a transaction shall be considered.

III. Discussion and Conclusion

The Commission believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5) of the Act, in particular,[13] in that it is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. The proposal will accomplish this by setting standards and bringing consistency to member practices to prevent the misuse of material, non-public information.

Broker-dealer Chinese Walls predate section 15(f) of the Act and have evolved to include policies and physical apparatus designed to prevent the improper or unintended dissemination of market sensitive information from one division of a multi-service firm to another. The Chinese Wall procedures also have developed trading reviews designed to prevent and detect illegal trading. Prior to the existence of section 15(f), however, the policies and procedures varied from one broker-dealer to the next, ranging from very tight, centralized control of information and review to little or no review or follow-up. The Division, in its Report, stated that broker-dealer oversight with regard to section 15(f) is an important issue and is best effectuated by SRO examinations and regulation subject to Commission oversight.[14] The Commission believes that the BSE's proposal adequately addresses the concerns raised in the Division's Report and that it should help to prevent the misuse of material, non-public information by brokers and dealers.

Specifically, the Commission believes that the policies and procedures set forth in Chapter II, Section 37(a) of the BSE Rules and the corresponding Supplementary Material provisions will serve to ensure that BSE members establish, maintain and enforce policies to prevent the misuse of material, non-public information, thereby helping to assure that BSE members are in compliance with section 15(f) of the Act. First, the requirement that all associated persons be advised in writing of the prohibition against the misuse of material, non-public information as defined in the Rule, and the requirement that member organizations and persons associated with them sign attestations affirming their awareness of, and agreement to abide by, the aforementioned prohibitions will serve to heighten awareness of associated persons of this prohibition. Second, the requirements that member organizations maintain copies of trade confirmations and monthly account statements for each account in which an associated person has a direct or indirect financial interest or makes investment decisions and that such brokerage accounts be reviewed by the member organization will assist Exchange and Commission review of those records and make any fraudulent acts easier to deter and detect. Third, the requirement that an associated person disclose to the member organization whether he, or any person in whose account he has a direct or indirect financial interest, or for which he makes investment decisions, is an officer, director or 10%

[9] A copy of the BSE's "Sample Membership Bulletin" and a "Summary of the ITSFEA Compliance Procedures" were filed with the proposed rule change.

[10] A copy of the BSE's "Statement of Compliance by Associated Persons" was filed with the proposed rule change.

[11] A copy of the BSE's "Statement of Compliance by Senior Reporting Members" was filed with the proposed rule change.

[12] This includes, *inter alia*, the filing of all appropriate information and the review of all employee accounts.

[13] 15 U.S.C. 78f(b)(5) (1988).

[14] See Report, *supra* note 8 at 23.

shareholder in a company whose shares are publicly traded, and the requirement that transactions in the stock (or option thereon) of such company be reviewed to determine whether the transaction may have involved a misuse of material, non-public information, will assist the Exchange and the Commission in the detection and deterrence of the misuse of material, non-public information.

The Commission believes that it is consistent with the Act for the BSE Rules to require that only members who file their FOCUS reports annually with the Exchange submit, along with their FOCUS Reports, an attestation of their compliance with the BSE Rule. In this regard, the Commission notes that members that file FOCUS Reports on a more frequent basis are subject to more frequent periodic audits by the Exchange. During these audits, the Exchange will review the procedures maintained by such members pursuant to the BSE's Rule. Members who file FOCUS Reports on an annual basis, however, are subject to audits on a more infrequent basis. Accordingly, the Commission believes that the requirement that these members file an annual attestation that they are in compliance with the BSE Rule will serve as a continuing reminder of the obligations of this rule. This should result in more internal compliance checks by members and, therefore, assist the Exchange in the administration of the BSE Rule without compromising the effectiveness of the rule or adherence to section 15(f) of the Act.

The Commission believes that Supplementary Material .02 of Chapter II, Section 37 of the BSE Rule, which defines "associated persons" or "person associated with a member" is consistent with the Act. Currently, the Exchange, in enforcing its rules, applies the definition of "person associated with a member" or "associated person of a member" contained in section 3(a)(21) of the Act. The proposal adopts this definition into the Exchange's rules.

Finally, the Commission believes that the designation of a senior reporting member to be responsible for implementing all necessary ITSFEA policies and procedures is appropriate to help ensure member firm compliance with the ITSFEA requirements of the Act.

For the reasons stated above, *it is therefore ordered,* pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–BSE–93–19) is hereby approved.

[15] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16419 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34289; File No. SR–CBOE–93–56]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Termination of Registered Representatives

June 30, 1994.

On December 14, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to amend CBOE Rule 9.3, "Registration and Termination of Registered Representatives," to require members to file with the CBOE's Department of Compliance a termination notice for any discharge or termination of employment of a registered person, and the reason therefor, within 30 days of the termination. In addition, the CBOE proposes to allow members to fulfill CBOE Rule 9.3's filing requirements by submitting their filings or submissions to the North American Securities Administrators Association ("NASAA")/National Association of Securities Dealers, Inc. ("NASD") Central Registration Depository ("CRD") within the time period allowed under CBOE Rule 9.3.

The proposed rule change was published in Securities Exchange Act Release No. 33826 (March 28, 1994), 59 FR 15467 (April 1, 1994). No comments were received on the proposed rule change.[3]

The CBOE states that the purpose of the proposal is to modify the manner in which CBOE members report "Termination for Cause" of employment or affiliation of any registered representative to the CBOE. Currently, under CBOE Rule 9.3, members must file with the CBOE's Department of Investigation a Uniform Termination Notice for Securities Industry Registration (Form U–5) immediately after the termination of employment "for cause" of a registered representative.[4] The proposal makes CBOE Rule 9.3 more encompassing by requiring members to file termination notices with the Exchange's Department of Compliance for any discharge or termination of employment of a registered person, not just "terminations for cause." In addition, the proposal clarifies when termination notices must be filed, *i.e.*, "immediately, but in no event later than thirty (30) days following termination," and requires members to file an amended Form U–5 if the member learns of facts or circumstances which cause any information provided in the notice to become inaccurate or incomplete. Members must file the amended Form U–5 within 30 days after learning of the facts or circumstances giving rise to the amendment. Finally, the proposal relieves CBOE member organizations of the obligation to file Form U–5 information in hard copy form and, instead, deems all CBOE Rule 9.3 filings and submissions as made for purposes of the rule if they are filed with the NASAA/NASD CRD within the time period set forth in CBOE Rule 9.3.

The CBOE believes that the proposal will reduce the costs to members of copying, handling and mailing termination materials. Further, the CBOE states that the proposal will bring the CBOE's "Termination for Cause" reporting requirements in line with similar rules of the NASD (NASD By-Law Article IV, Section 3) and the New York Stock Exchange, Inc. ("NYSE") (NYSE Rule 345).[5]

[16] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] On March 30, 1994, the CBOE submitted a letter explaining that the CBOE's Department of Compliance currently has an electronic mail box in the CRD that captures all filings submitted by CBOE member organizations in reference to terminations for cause. The staff of the CBOE's Department of Compliance reviews this electronic mail box on a daily basis and will continue to do so after the Commission approves the proposal. *See* Letter from Michael L. Meyer, Schiff Hardin & Waite, to Yvonne Fraticelli, Staff Attorney, Options Branch, Division of Market Regulation, Commission, Dated March 30, 1994 ("March 30 Letter").

[4] The Department of Investigation no longer exists at the CBOE, and a portion of the duties previously performed by the Department of Investigation, including the receipt of Form U–5 information, is now performed by the CBOE's Department of Compliance. The proposal reflects this change by requiring that Form U–5 filings be made with the Exchange's Department of Compliance.

[5] NASD By-Law Article IV, Section 3, "Notification by Member to Corporation and Associated Person of Termination; Amendments to Notification," requires NASD members to provide the NASD with written notice of the termination of a registered person within 30 calendar days of the termination. If a member learns of facts or circumstances which cause the information in the notice to become inaccurate or incomplete, the member must file a written amendment with the NASD no later than 30 calendar days after the member learns of the facts or circumstances giving rise to the amendment. NYSE Rule 345,

Continued

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to improve the CBOE's capacity to enforce compliance with the provisions of the Act and the CBOE's rules by enabling the Exchange to monitor more efficiently all discharges or terminations of employment of registered persons, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5)[6] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. Specifically, the Commission believes that the proposal to require CBOE members to file Form U–5 notices for any discharge or termination with the Exchange, rather than only for "terminations for cause," should facilitate the CBOE's oversight of members' personnel by providing a more complete and accurate record of the employment history of registered representatives.[7] The Commission also believes that the proposal should help the Exchange to fulfill its responsibility under Section 6(c) of the Act to deny membership to those who have engaged in acts or practices inconsistent with just and equitable principles of trade. In addition, the proposal should simplify the Exchange's procedures by eliminating the need for members to determine whether there has been a "termination for cause" and requiring, instead, that members file a Form U–5 notice for all discharges and terminations.

The Commission believes that the proposal is designed to help to ensure prompt compliance with CBOE Rule 9.3 by requiring members to file a Form U–5 immediately, but no later than 30 days after a termination. Moreover, by requiring members to file amendments to Form U–5 within 30 days after learning of facts or circumstances giving rise to the amendment, the proposal advises members of their continuing obligation to amend to Form U–5 to report relevant changes and should help to ensure the accuracy and reliability of the Exchange's records. Finally, the Commission believes that allowing members to submit the filings required under CBOE Rule 9.3 through the NASAA/NASD CRD will facilitate timely compliance with the requirements of CBOE Rule 9.3 and reduce the cost to members of complying with the rule. As noted above, the CBOE is under a continuing obligation to review the CRD submissions on a daily basis. This will ensure that the CBOE is aware of the U–5 filings from CBOE members in a timely manner.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–93–56) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16421 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

"Employees—Registration, Approval, Record." Supplementary Material .17, "General Information Regarding Employees," requires NYSE members to report to the NYSE on a Form U–5 the discharge or termination of employment of any registered person and the reason thereof within 30 days following the termination. In addition, NYSE Supplementary Material .17 requires members to provide a written amendment to Form U–5 if the member learns of facts or circumstances causing any information in the notice to become inaccurate or incomplete. The amendment must be filed with the NYSE no later than 30 days after the member learns of the facts or circumstances giving rise to the amendment.

[6] 15 U.S.C. 78f(b)(5) (1988).

[7] After the proposal is approved, the CBOE is expected to continue to review members' Form U–5 filings with the CRD on a daily basis. *See* May 30 Letter, *supra* note 3.

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–34280; File No. SR–NASD–93–10]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by National Association of Securities Dealers, Inc. Requiring Participation in the Intermarket Trading System by Third Market Makers

June 29, 1994.

The National Association of Securities Dealers, Inc. ("NASD") submitted to the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NASD–93–10) on March 1, 1993, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder.[2] The purpose of the proposed rule change is to require third market makers registered as Consolidated Quotation System ("CQS") market makers to register and participate in the Computer Assisted Execution System ("CAES") and the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") interface.[3]

Notice of the proposal appeared in the **Federal Register** on July 8, 1993.[4] The Commission received three comment letters opposing the proposal.[5] For the reasons discussed below, the Commission is approving the proposal.

I. Description

The third market is where off-exchange, or over-the-counter ("OTC"), transactions in listed securities take place. Third market makers, registered with the NASD as CQS market makers, disseminate quotations through the CQS and through NASDAQ pursuant to rules promulgated by the NASD.[6] CQS market makers, that are not registered as ITS/CAES market makers, account for approximately 17% of third market share volume in CQS securities. Currently, 33 registered CQS market makers are not registered as ITS/CAES market makers or as CAES market makers. Only CQS registered market makers make OTC markets in listed securities by disseminating quotations through CQS or NASDAQ. Thus, only CQS registered market makers are subject to the requirements of the proposal.

The proposed rule change amends Schedules D and G to the NASD By-Laws and the Rules of Practice and

[1] 15 U.S.C. 78s(b)(1).

[2] On June 10, 1993, the NASD amended the proposed rule change to clarify that only third market makers registered as Consolidated Quotation Service ("CQS") market makers must register as ITS/CAES market makers. Letter from Robert Aber, Vice President, General Counsel/Corporate Subsidiaries, NASD, to Elizabeth MacGregor, Branch Chief, National Market System Division of Market Regulation, Commission, (June 10, 1993).

[3] A CQS market marker is a dealer that, with respect to a reported security, holds itself out as being willing to buy and sell the security for its own account on a regular and continuous basis otherwise than on a national securities exchange in amounts less than block size and is registered as such. NASD Rules, Schedule D, Part I. CAES enables NASD member firms to direct agency orders in both exchange-listed and NASDAQ/NMS securities to market makers for automatic execution. ITS/CAES enables market makers in Rule 19c–3 securities to direct agency and principal orders to, and receive orders from, the floors of the participating ITS exchanges.

[4] Securities Exchange Act Release No. 32573 (July 1, 1993), 58 FR 36726.

[5] Letters from James E. Buck, Senior Vice President and Secretary, New York Stock Exchange, Inc. ("NYSE"), to Jonathan G. Katz, Secretary, Commission, (September 24, 1993); George W. Mann, Jr., Senior Vice President and General Counsel, Boston Stock Exchange, Inc. ("BSE"), to Jonathan G. Katz, Secretary, Commission, (September 20, 1993); and James F. Duffy, Senior Vice President and General Counsel, Legal & Regulatory Policy Division, American Stock Exchange, Inc. ("Amex"), to Jonathan G. Katz, Secretary, Commission, (October 22, 1993).

[6] *See* NASD Rules, Schedule D. Market makers displaying quotations in both CQS and in NASDAQ must maintain identical quotations in CQS and in NASDAQ. *See* NASD Rules, Schedule D, Part VI, Section 2.

Procedure for the ITS/CAES Automated Interface ("ITS/CAES Rules"). The proposal requires registered CQS market makers to: (1) register and participate in ITS/CAES and CAES; (2) quote minimum sizes of 200 or 500 shares (depending on trading characteristics of the securities);[7] and (3) abide by excess spread parameters established for NASDAQ securities.[8] The proposal also will enable market makers to execute principal transactions through CAES for those specific securities in which the market maker is registered.

The NASD developed CAES to provide a more efficient mechanism for OTC trading in listed securities. The ITS/CAES interface commenced operation on May 17, 1982.[9] ITS is a communications network designed to facilitate intermarket trading in exchange-listed securities by linking the eight national securities exchanges and the NASDAQ market.[10] ITS enables a broker or dealer who is physically present in one market center to execute principal or agency orders in an ITS security on another market center.

The ITS/CAES interface permits members of participant markets to execute transactions in Rule 19c–3 securities between the exchanges and the OTC market.[11] The proposal will require registered NASD market makers that trade Rule 19c–3 securities to register and participate in ITS/CAES. For non-Rule 19c–3 securities, which are not eligible for trading through the ITS/CAES interface, registered market makers will be required to register and participate in CAES. Currently, participation in ITS/CAES and CAES by CQS market makers is voluntary.

The proposal will require ITS/CAES and CAES market makers to quote minimum sizes of 200 or 500 shares (depending on trading characteristics of the securities) and to abide by excess spread parameters established for NASDAQ securities. ITS/CAES market makers currently are not required to include minimum sizes in their quotations or to comply with the excess spread parameters established for NASDAQ securities. The excess spread parameters for NASDAQ and CQS securities limit a dealer's spread in a security to 125% of the average of the narrowest three dealer spreads in that security.[12]

ITS/CAES enables market makers in Rule 19c–3 securities to direct agency and principal orders to, and receive orders from, the floors of ITS participant exchanges. Currently, transactions in CAES are limited to agency orders. The proposal will enable market makers to execute principal transactions through CAES for listed securities in which the market maker is registered.

II. Discussion

The Commission believes that the proposed rule change is consistent with the requirements of the Act, and in particular, with Sections 15A(b)(6), 15A(b)(9), 15A(b)(11), 11A(a)(1)(C), and 11A(a)(1)(D) of the Act. Section 15A(b)(6) of the Act requires that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to an facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system. Section 15A(b)(9) requires that the NASD's rules not impose any burden on competition not necessary or appropriate in furtherance of the Act.[13] Section 15A(b)(11) authorizes the NASD to adopt rules concerning the form and content of quotations of securities sold in the OTC market.[14] Section 11A grants the Commission the authority to facilitate the establishment of a National Market System ("NMS") for securities to implement certain specified Congressional goals and objectives. Sections 11A(1) (C) and (D) set forth the Congressional finding that the linking of all markets for qualified securities through communication and data processing facilities would foster efficiency; enhance competition; increase the information available to brokers, dealers, and investors; facilitate the offsetting of investors' orders; and contribute to best execution of such orders.

The Commission believes that the proposal will facilitate the further development of the NMS by integrating all registered market makers with intermarket trading in listed securities. This will facilitate the ability of third market orders to interact with orders of other market participants. Other ITS participant markets currently cannot execute, through ITS, transactions with registered third market makers that are not registered as ITS/CAES market makers, even when a better published quotation may exist in the third market.[15] Thus, despite the ITS/CAES linkage, not all third market orders are exposed to other ITS participants. This inhibits a broker's ability to ensure best execution of customer orders and impedes fair competition between and among different types of trading markets and market professionals.

The proposal will facilitate the development of a more efficient market linkage for concurrent exchange and OTC trading of listed securities. The ITS/CAES interface is designed to permit the execution of orders routed to exchange floors in the OTC market when more favorable prices are offered by OTC market makers. The ITS/CAES interface likewise provides OTC market makers access to rapid execution of their orders on exchange floors when exchange markets are quoting better prices. The proposal will facilitate interaction of orders in Rule 19c–3 securities in all market centers, and thus, will increase competition between the markets for order flow in Rule 19c–3 securities. For non-Rule 19c–3 securities, CAES provides an efficient mechanism for OTC trading of listed securities.

By extending application of ITS Plan provisions to all registered third market makers, the proposal also will provide consistent trading rules for multiple

[7] NASD By-Laws, Schedule D, Part VI. *See also* Securities Exchange Act Release No. 31678 (January 8, 1993), 58 FR 3314.

[8] NASD By-Laws, Schedule D, Part VI. *See also* Securities Exchange Act Release No. 32419 (June 4, 1993), 58 FR 32971.

[9] In 1981, the Commission issued an order which required implementation of an automated interface between the ITS and CAES. Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856. On May 6, 1982, the Commission adopted final amendments to the ITS Plan to provide for the inclusion of the NASD in ITS. Securities Exchange Act Release No. 18713 (May 6, 1982), 47 FR 20413.

[10] Participants to the ITS Plan include the Amex, the BSE, the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the NASD, the NYSE, the Pacific Stock Exchange, Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("PHLX").

[11] The ITS Plan limits securities eligible for trading through the ITS/CAES interface to Rule 19c–3 securities. Rule 19c–3 precludes off-board trading restrictions from applying, with certain exceptions, to any reported security: (1) which was not traded on an exchange prior to April 26, 1979, or (2) which was traded on an exchange on April 26, 1979 but which ceased to be traded on an exchange for any period of time thereafter. Rule 19c–3, 17 CFR 240.19c–3.

[12] *See supra* note 8.

[13] The Commission believes that any burden on competition that may result from the proposal, if any, is necessary and appropriate in furtherance of the purposes of the Act.

[14] The Act requires these rules to be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations. Section 15A(b)(11).

[15] The quotations of all third market makers are consolidated into a composite third market quote and disseminated through CQS to the exchange floors and to quotation vendors. Therefore, while third market quotations are visible to other markets, they may not be accessible through the ITS/CAES interface.

trading of listed securities. The ITS Plan provides uniform rules governing: (1) Trade-throughs, to provide price protection for customer orders;[16] (2) block trades, to enable other markets to derive the benefit of a block without breaking it up;[17] (3) pre-openings, to enable other markets to participate in the primary market's opening of a security;[18] and (4) dispute resolution, to enable efficient resolution of disputes between market centers.[19]

The amendments regarding size of displayed quotations and excess spread parameters will improve the quality of the third market, and thus, will facilitate efficient OTC trading of listed securities. The proposal will require CQS market makers to quote a minimum size of 200 or 500 shares, depending on price, volume, and number of market makers in the security; and will impose excess spread parameters comparable to those in the NASDAQ market.

The proposal also allows principal market maker transactions in listed securities through CAES for securities in which the market maker is registered and active. The Commission does not perceive any basis for limiting CAES to agency orders. The proposal will not affect the provisions of the ITS Plan, which apply to both principal and agency transactions. The proposal will allow market makers to obtain electronic access to the quotations of other market makers through CAES and thus, will reduce reliance on telephone contact.

The Amex, BSE, and NYSE submitted comment letters on the proposal.[20] These exchanges commented that the proposal does not apply to all third market makers, but applies only to third market makers currently registered as CQS market makers with the NASD.[21] The NYSE also commented that third market and exchange transaction reporting in listed securities are not consistent.[22]

The Commission acknowledges that brokerage firms that execute transactions in listed securities in the OTC market are not required, by Commission or NASD Rules, to register with the NASD as market makers. Brokerage firms not registered with the NASD as market makers cannot disseminate quotations in CQS or NASDAQ for listed securities.[23]

The commentators' arguments against the current proposal, however, appear to based on the assumption that requiring all CQS market markets to register and participate in ITS will increase the extent of internalization in Rule 19c–3 securities. In its study of the U.S. equity market, the Division of Market Regulation ("Division") considered concerns regarding internalization of transactions in Rule 19c–3 securities.[24] After examining data on off-board trading for 100 most active NYSE issues during 1992,[25] the division determined that the extent of internalization of transactions in Rule 19c–3 securities was not significant.[26] In addition, in their letters in response to the Division's study,[27] the Amex and the regional exchanges urged that all third market makers be required to become part of the ITS/CAES linkage and subjected to the ITS trade through rules.[28]

The NASD's proposal will increase the interaction and exposure of third market making activity to other markets by requiring all registered CQS market makers to participate in ITS/CAES. Thus, the proposal will increase the universe of third market trading subject to the ITS price protection rules. On balance, the proposal will benefit the market, advance the development of an NMS, and meet statutory goals. Thus, the Commission believes that the NASD's proposal represents a significant step in the interaction and exposure of securities in the NMS.

The NYSE also commented that transaction reporting by third market makers is not comparable to transaction reporting by exchanges. Because the NASD's rules require the price reported by third market makers be "reasonably related to the prevailing market," the NYSE believes that third market makers may report a transaction price different from the execution price confirmed to customers.

In 1980, the NASD amended its rules to require third market makers to report transactions on a "gross" basis, excluding any mark-up, mark-down, or service charge.[29] The NASD's reporting requirements effectively eliminated any

[16] A trade-through occurs when an ITS participant initiates a purchase of an ITS security at a price that is higher than the price at which the security is being offered at another ITS participating market; or initiates the sale of an ITS security at a price that is lower than the price at which the security is being bid at another ITS participant.

[17] A block trade is a trade that:

(1) involves 10,000 or more shares of a common stock traded through ITS or a quantity of any such security having a market value of $200,000 or more ("block size");

(2) is effected at a price outside the bid or offer displayed from another ITS participating market center; and

(3) involves either:

(i) a cross of block size (where the member represents all of one side of the transaction and all or a portion of the other side), or

(ii) any other transaction of block size (i.e., in which the member represents an order of block size on one side of the transaction only) that is not the result of an execution at the current bid or offer on the exchange.

[18] The ITS pre-opening application enables an ITS participant who wishes to open his or her market in an ITS security to solicit any pre-opening interest in that security of other market makers registered in that security in other participant markets. This allows other ITS market makers to participate as either principal or as agent in the opening transaction, which may ameliorate disparities between pre-opening orders.

[19] The ITS Plan provides for procedures by which participants can obtain a non-binding opinion on a dispute between ITS participants on the application or interpretation of the ITS Plan and model rules.

[20] *Supra* note 5.

[21] The NYSE commented that these firms may "internalize" customer orders by executing third market transactions "in-house" without exposing the orders to other market participants. The NYSE stated that NASD member firms may internalize customer orders by trading against such orders, or by holding themselves out, often through proprietary automatic execution systems, as willing to buy and sell listed securities. The NYSE believes that allowing brokerage firms to trade listed securities, without registering as CQS market makers or disseminating any quotations, allows trading of listed securities outside the provisions of ITS price protection rules. *Id.*

[22] The NYSE believed that transaction reporting in the OTC market is not comparable to transaction reporting on exchanges because the NASD's rules require the price reported by market makers to be "reasonably related to the prevailing market." *See* NASD Rules, Schedule G, Section 2.

[23] As discussed above, only CQS market makers may disseminate quotations through CQS or Nasdaq.

[24] Division of Market Regulation, Securities and Exchange Commission, *Market 2000, An Examination of Current Equity Market Developments*, (January 1994), ("*Market 2000*"), Study III at 8–10.

[25] Of these stocks, 20 stocks were Rule 19c–3 stocks that are not subject to off-board trading restrictions and 80 were covered by off-board trading restrictions, NYSE Rule 390.

[26] The Division's analysis revealed that the exchange markets have remained the primary marketplace for securities that are not subject to off-board trading restrictions. In addition, the mean proportion of reported share volume executed OTC for the 20 Rule 19c–3 stocks was 8% versus 5.2% for the 80 stocks subject to off-board trading restrictions. Even if the 2.8% difference between the figures is wholly attributable to internalization by NYSE firms, it is not a large figure. It is less than the volume in these stocks sent by NYSE members to affiliated specialists at regional exchanges. *Market 2000*, Study III at 10.

[27] The Division requested comments regarding its equity market study in Securities Exchange Act Release No. 30920 (July 14, 1992), 57 FR 32587.

[28] *See letters to Jonathan G. Katz, Secretary, Commission, from James R. Jones, Chairman, Amex, (December 8, 1992); and from William G. Morton, Jr., BSE, John L. Fletcher, CHX, Leopold Korins, PSE, and Nicholas A. Giordano, PHLX, (December 11, 1992).*

The Commission believes that the ITS trade-through policy should apply to all third market trading. *See Market 2000*, Study III, at 13, 14.

[29] *See* Securities Exchange Act Release No. 16960 (July 7, 1980), 45 FR 47291. To ensure adherence to the rule, the NASD also requires the price reported to be reasonably related to the prevailing market. Generally, the mark-up is the difference between the price the customer paid for the stock and the prevailing market price. Thus, the price third market makers report to the consolidated tape should, at all times, be the "gross" price excluding any dealer mark-up or mark-down.

disparity in transaction reporting between the exchange and the third market.[30] These rules are still in effect. In addition, Rule 10b–10 under the Act requires broker-dealers to report on confirmations the trade price and mark-up in principal transactions. Because Rule 10b–10 requires that the trade price broker-dealers disclose on a customer confirmation be the same as that disseminated for transaction reporting, the rule prevents broker-dealers from reporting a transaction price different from that confirmed to customers.[31] The Commission continues to believe that transaction reporting by the third market is sufficiently comparable to transaction reporting by the exchange market.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), 15A(b)(11), 11A(a)(1)(C), and 11A(a)(D) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change described above be, and hereby is, approved.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16370 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34279; File No. SR–NASD–93–58]

Self Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers Relating to Handling of Customer Limit Orders

June 29, 1994.

On October 13, 1993, the National Association of Securities Dealers ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] a proposed rule change consisting of an Interpretation to the NASD's Rules of Fair Practice relating to the handling of customer limit orders. The proposed rule change was published for comment in the Federal Register.[2] Two comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Background

Over the past several years, limit order practices involving NASDAQ stocks have become the subject of investor complaints and Commission scrutiny. Current NASDAQ limit order handling practice often results in a market maker's delaying execution of the customer's sell (or buy) order until the highest bid (offer) from among competing market makers equals the customer's limit price. Moreover, firms that accept limit orders often trade for their own accounts at prices better than the customer's limit order price without executing the customer's order.

The priority accorded a customer limit order today is different depending on the structure of the marketplace of execution, a distinction customers do not always understand. The rules of national securities exchanges require specialists to yield to a customer's limit order; the specialist cannot trade for its own account at prices better than the limit order until the limit order is executed.

In 1988, the Commission expressed its views on the issue of limit order protection in the NASDAQ market when it ruled that broker-dealers owe a fiduciary duty to their limit order customers not to trade ahead of these orders unless the customer is first informed of the firm's limit order policy.[3] As a result of the Manning decision, the NASD filed a proposed rule change with the Commission that states that a member firm will be deemed not to have violated NASD Rules of Fair Practice if it provides to customers a statement setting forth the circumstances in which the firm accepts limit orders and the policies and procedures that the firm follows in handling these orders.[4]

In July of 1993, the NASD Board of Governors reviewed the handling of limit orders in NASDAQ securities and concluded that "the continuation of the disclosure exception appeared inappropriate."[5] The NASD solicited member comment on eliminating the disclosure safe harbor for members trading ahead of customer limit orders and the effect a rule prohibiting trading ahead might have on integrated broker-dealers, on limit orders received from other firms ("member-to-member" trades) and on market liquidity.[6]

After full consideration of the concerns articulated in the comment process, the NASD withdrew the rule filing containing the disclosure approach,[7] and submitted this proposed Interpretation to its Rules of Fair Practice, prohibiting member firms from trading ahead of their customers' limit orders in their market making capacity.

II. Description

The NASD is proposing to adopt an Interpretation to its Rules of Fair Practice that would prohibit member firms that hold their own customer limit orders from trading ahead of those orders, regardless of whether the practice has been disclosed, and would make trading in disregard of the prohibition a violation of just and equitable principles of trade. The Interpretation establishes that a member holding its customers' limit order may not continue to trade for its own position without executing that limit order under the specific terms and conditions that the customer understands and accepts. If the member does trade ahead of its customer, it will be deemed a violation of Article III, Section 1 of the Rules of Fair Practice regarding just and equitable principles of trade.[8]

The Interpretation also states that a member that "controls or is controlled by"[9] another member will be considered affiliated in a single entity for purposes of determining the application of the rule. Thus, if a member firm accepts a customer's limit order and forwards that limit order for execution to a market making unit that

---

[30] In 1981, the PSE raised concerns regarding third market transaction reporting, similar to those of the NYSE, to oppose the implementation of the ITS/CAES interface. Because the NASD requires transaction reporting on a gross basis, the Commission stated that the PSE's concerns were not warranted. Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23865.

[31] Securities Exchange Act Release No. 22397 (March 17, 1985), 50 FR 37648.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 33697 (March 1, 1994), 59 FR 45 (March 8, 1994).

[3] *See In re E.F. Hutton & Co.* (the "Manning" decision), Securities Exchange Act Release No. 25887 (July 6, 1988), 41 SEC Doc. 473, *appeal filed, Hutton & Co. Inc.* v. *SEC*, Dec. No. 88–1649 (D.C. Cir. Sept. 2, 1988), (Stipulation of Dismissal Filed, Jan. 11, 1989).

[4] Securities Exchange Act Release No. 26824 (May 15, 1989), 54 FR 22046 (May 22, 1989). The proposal included model disclosure language to be used by firms whose policy is not to grant priority to customer limit orders over the member's own proprietary trading.

[5] *See* File No. SR–NASD–93–58, p. 6.

[6] *See* Notice to Members 93–49 (July 23, 1993).

[7] *See* Letter from Robert E. Aber, Vice President and General Counsel, National Association of Securities Dealers, to Selwyn Notelovitz, Branch Chief, Division of Market Regulation, SEC (Oct. 13, 1993).

[8] The Interpretation does not distinguish between the limit order protection provided retail and institutional customers.

[9] Amendment No. 1 to File No. SR–NASD–93–58. *See* Letter from T. Grant Callery, Vice President and General Counsel, to Mark Barracca, Branch Chief, Division, Commission (June 14, 1994).

it controls, the firms will be considered affiliated and the prohibition against trading ahead of the customer's limit order will apply to the firm as a whole.

The Interpretation will not apply to limit orders accepted by market makers from unaffiliated members. For example, a firm's customer limit orders that are sent to an unrelated market making firm for execution would not be covered by the Interpretation. The NASD has decided to defer temporarily application of the Interpretation to these trades so that a task force may complete its examination of the potential consequences of a broader application of the rule. The Interpretation emphasizes that all members accepting customer limit orders owe those customers duties of "best execution" regardless of whether the orders are executed through the member's market making capacity or sent to another member for execution.[10]

III. Summary of Comments

As noted above, the Commission received two comment letters on the proposal.[11] Merrill Lynch, a registered broker dealer, supports the proposal, noting that it will increase investor confidence in the NASDAQ market by improving the quality of executions they receive. The other commenter, STANY, supports the principle that the limit order of a commission-paying customer is entitled to priority over the order of the customer's broker-dealer. Both Merrill Lynch and STANY believe that the proposed interpretation should not apply to member-to-member transactions. Merrill Lynch believes that requiring leaders to provide limit order protection to other broker-dealers might have a serious deleterious effect on dealers' willingness and ability to make markets in these stocks. STANY offers three reasons why dealers that receive the limit orders of other firms' customers should not be subject to the restriction: (1) Agency dealers could be acting for their own customers, for themselves or for other dealers, thereby creating the possibility that some dealers could make markets within the spread without a capital commitment; (2) it would force a dealer to assume a fiduciary responsibility to customers of another firm with whom the dealer has no preexisting relationship; and (3) it may require dealers to execute certain limit orders at prices which do not provide an opportunity for any profit.

IV. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9) and 11A(a)(1)(C) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect he mechanism of a free and open market and a national market systems and in general to protect investors and the public interest. Section 15A(b)(9) requires that the rules of the association not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Section 11A(a)(1)(C) (i) and (iv) set forth the objectives of assuring economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market.[12]

The NASD's proposal seeks to address the practice of NASDAQ market makers trading ahead of their customers' limit orders. That practice, its origins and implications for investors was recently discussed in the Division of Market Regulation's Market 2000 Report.[13] That study concluded that the adverse effects of trading ahead exist whether the customer's limit order is handled by the customer's firm or by another market maker. The study recommended that the NASD revise its proposal to prohibit broker-dealers from trading ahead of all customer limit orders for NASDAQ National Market securities.

The Commission believes that the rule change will enhance investor confidence by improving the quality of executions for customers. By giving a customer's limit order priority over the market maker's proprietary trading, more trade volume will be available to be matched with the customer's order, resulting in quicker and more frequent executions for customers.

The NASD's proposal will also improve the price discovery process in NASDAQ securities. Limit orders aid price discovery by adding liquidity to the market and by tightening the spread between the bid and ask price of a security. In the past, customers may have refrained from placing limit orders because of the uncertainty of and difficulty in obtaining an execution at a price between the spread. The new rule will encourage dealers to execute customer limit orders in a timely fashion so that they may resume their proprietary trading activities. The practice of delaying executions until the inside price reaches the customer's limit order also impedes price discovery by shielding those orders from the rest of the investing public. More expeditious handling of customer limit orders under the proposed Interpretation will provide investors with a more accurate indication of the buy and sell interest at a given moment.

The NASD proposal seeks to prevent a market maker from trading ahead of its own customer's limit order, but will not prevent the same market maker from trading ahead of the limit orders of other firms' customers that are sent to the market maker for handling.[14] The NASD has determined to defer temporarily application of the Interpretation to member-to-member orders in order to avoid any unintended consequences from a broader application of the rule and to permit a special NASD task force to complete its examination of the ramifications of extending limit order protection to these limit orders. The Market 2000 study concluded that the adverse effects of trading ahead of a customer exist whether the customer's limit order is handled by a customer's firm or by another market maker. The Commission, at this time, strongly believes that the ban on trading ahead should be applied to these member-to-member trades. The NASD has requested the opportunity to examine and report the potential impact of the ban on market liquidity and market

[10] The best execution Interpretation requires members to use reasonable diligence to ascertain the best inter-dealer market for the security and buy or sell in such a market so that the price to the customer is as favorable as possible under prevailing market conditions. NASD Rules of Fair Practice, Art. III, Section 1, NASD Manual (CCH) ¶2151.03

[11] Letter from Frank Masi, President, Security Traders Association of New York ("STANY"), to Jonathan G. Katz, Secretary, Commission (March 29, 1994). Letter from Hugh Quigley, Managing Director, Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch") to Jonathan G. Katz, Secretary, Commission (April 20, 1994).

[12] Although the proposed rule change is adopted pursuant to Section 15A of the Act, the Commission believes the goals of Section 11A are equally served by this proposed rule change.

[13] Division of Market Regulation, SEC, *Market 2000: An Examination of Current Equity Market Developemnts* V–5 (1993).

[14] The Commission would consider any order swapping arrangements between firms for the purpose of evading the Interpretation to constitute a violation of NASD rules. The NASD has stated that, while it is not aware of any instances of this practice, it would likewise consider it to be a violation of Article III, Section 1 of the NASD's Rules of Fair Practice. *See* Letter from Richard Ketchum, Executive Vice President and Chief Operating Officer, NASD, to Katherine England, Assistant Director, Division, Commission (June 29, 1994).

maker capital commitment. While such a report could be helpful to a future determination of the issue if it offers specific data regarding the potential consequences for market liquidity and market maker capital commitment rather than the anecdotal observations of NASD members, the Commission continues to believe that member-to-member trades raise significant concerns that should be addressed, and if necessary, the Commission would consider instituting its own rulemaking proceeding for that purpose. The Commission has expressed to the NASD its view that expanded limit order protection is desirable and will be expecting their response soon after the approval of this rule filing.

As reflected in the Market 2000 study, the Commission agrees that institutional orders may qualify for special treatment. Because most market makers cannot typically fill institution-size orders out of inventory, institutions generally only hold market makers to a "best efforts" standard in return for the willingness of the market maker to put up substantial capital to provide liquidity for large orders. In order to permit a member firm to employ the necessary trading strategy without being subjected to the requirements of the proposed ban, the Interpretation allows the parties to set the specific "terms and conditions" for acceptance of institutional orders.

Finally, the Commission believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because the rule will apply to all NASD members, individual brokers and dealers will not be disparately affected by the rule change.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9) and 11A(a)(1)(C) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NASD–93–58) be and hereby is approved, effective July 7, 1994.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16369 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34277; File No. SR–NASD–92–12]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Temporary Approval and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 8 of Proposed Rule Change Creating a Short Sale Bid-Test for Nasdaq National Market Securities

June 29, 1994.

I. Introduction

On July 22, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The rule change creates, on a temporary basis for eighteen months, a short sale rule or "bid-test" for Nasdaq Stock Market ("Nasdaq") National Market Securities[3] that will prohibit short sales at or below the current inside bid as shown on the Nasdaq screen when that bid is lower than the previous inside bid. The rule provides certain exemptions, including an exemption for qualified Nasdaq market makers, options market makers, and warrant market makers. The rule also provides exemptions similar to those provided under the Commission's short sale rule, Rule 10a–1.[4] Further, the NASD has submitted three interpretations regarding "bona fide" market making activity, the prices at which "legal" short sales may be effected, and examples of conduct that will be deemed to be in violation of the rule; these interpretations are part of the proposed rule change.

Notice of the proposed rule change and subsequent amendments appeared in the Federal Register.[5] The Commission received 397 comments in response to the release, 122 in support and 275 in opposition.[6] In addition to amending the proposal several times, the NASD responded to issues raised by the commenters in a letter dated June 24, 1993.[7] For the reasons discussed below, the Commission is approving the proposal, effective September 6, 1994, on a temporary basis through March 5, 1996.

II. Description of the Rule

A. Background

The opportunity for short selling can add to market liquidity and pricing efficiency, while at the same time can raise general anti-manipulation concerns. Currently, neither the Commission nor the NASD imposes any general restriction on short selling of OTC securities. This contrasts with short sale restrictions on exchange-listed securities that have been in place since 1938. In general, the Commission's short sale rule, Rule 10a–1, provides that short sales of securities may be effected only at a price above the price at which the immediately preceding sale was effected ("plus-tick") or at a price equal to the last sale if the last preceding transaction at a different price was at a lower price ("zero-plus-tick").

The NASD proposes to add two sections to Article III of the Rules of Fai Practice establishing a short sale rule based on a "bid-test" for Nasdaq National Market securities.[8] The first section will prohibit members from effecting short sales at or below the bid for themselves or their customers when the current inside or best bid is below the previous bid, unless one of the exemptions applies. The second section provides a definition of "primary

---

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] Nasdaq includes both Nasdaq SmallCap Market and Nasdaq National Market securities. In July 1993, the NASD began referring to Nasdaq National Market System or Nasdaq NMS securities as Nasdaq National Market securities.

[4] 17 CFR 240.10a–1.

[5] The NASD amended the proposed rule change eight times since it was originally filed with the Commission on April 9, 1992. The first two amendments were included in the Commission's original notice. Securities Exchange Act Release No. 31003 (Aug. 6, 1992), 57 FR 36421 (Aug. 13, 1992). The NASD submitted Amendment No. 3 on December 23, 1992, Securities Exchange Act Release No. 31729 (Jan. 13, 1993), 58 FR 5791 (Jan. 22, 1993), Amendment No. 4 on November 19, 1993, Securities Exchange Act Release No. 33289 (Dec. 3, 1993), 58 FR 64994 (Dec. 10, 1993). Amendment No. 5 on January 14, 1994, Amendment No. 6 on March 8, 1994, Securities Exchange Act Release No. 33758 (Mar. 11, 1994), 59 FR 13016 (Mar. 18, 1994) (Amendment No. 6 replaced Amendment No. 5, which was not published for comment), and Amendment No. 7 on May 16, 1994, Securities Exchange Act Release No. 34092 (May 20, 1994), 59 FR 27634 (May 27, 1994). On June 29, 1994, the NASD submitted Amendment No. 8 requesting approval of the rule on a temporary basis for eighteen months beyond the effective date of the rule and amending Interpretation C to clarify that moving a bid up or down and then moving it back to the original bid simply to create an up bid or down bid to facilitate or preclude short selling will be considered a manipulative act and a violation of the rule.

[6] A list of comment letters received in connection with the publication of the rule change is available for inspection in the Commission's Public Reference Room.

[7] Letter from Richard Ketchum, Executive Vice President and Chief Operating Officer, NASD, to Jonathan G. Katz, Security, SEC (June 24, 1993).

[8] The rule will be in effect during normal, domestic market hours (9:30 a.m. to 4 p.m. Eastern Time).

Nasdaq market maker" which, beginning one year after the effective date of the rule, sets forth the criteria a market maker must satisfy to be exempt from the rule. In addition, the NASD submitted three interpretations setting forth: (a) what will constitute "bona fide market making activity;" (b) the prices at which "legal" short sales may be effected; and (c) situations that will be deemed to be indirect violations of the rule.

The proposed rule also contains a limited exemption from the short sale prohibition for market makers. In addition, in response to concerns raised by commenters, the NASD submitted a number of amendments providing limited exemptions for options market makers and warrant market makers satisfying certain requirements, and clarifying that bona fide market making includes, under certain conditions, risk arbitrage activity. The exemptions are designed to allow short selling where necessary to conduct efficient and effective market making activities without allowing unrestricted short selling. During the eighteen-month period of effectiveness of the rule, the NASD will study the impact of the rule and its exemptions and, prior to the rule's expiration, the NASD will evaluate whether the rule and its exemptions should be extended, modified, approved on a permanent basis, or terminated. If the NASD decides to extend, modify or approve on a permanent basis any part or all of the rule, it must obtain Commission approval pursuant to Section 19(b) of the Act.[9]

B. The General Rule and Exemptions

The NASD's bid-test rule will prohibit NASD members from effecting a short sale in a security at or below the current inside bid when this bid is below the preceding best bid.[10] This prohibition applies equally to trades for customers and to trades for the member's own account.[11] The rule, however, sets forth ten exemptions. Seven of these exemption mirror the exceptions provided under the Commission's short sale rule.[12] The three additional exemptions provide an exemption for bona fide market making activity by qualified market makers, hedge transactions by options market makers registered as qualified options market makers, and hedge transactions resulting in fully hedged positions by warrant market makers registered as market makers for the warrant.

1. The Qualified Market Maker Exemption

The NASD received substantial comment from its members that application of a short sale rule to market makers would dramatically reduce their ability to adjust inventory positions quickly, thereby lessening liquidity throughout the marketplace. Thus, the NASD provided an exemption for qualified market makers satisfying certain criteria. To be exempt from the provisions of the rule, a market maker must be conducting bona fide market making activity[13] and satisfy the criteria for a qualified market maker. The rule sets forth certain criteria for becoming a qualified market maker, which criteria change after the first year of the effectiveness of the rule. Under both the criteria applicable to the first year and those applicable to the last six months of the rule, general qualifications standards apply. The rule then sets forth separate criteria for becoming a qualified market maker for securities subject to a secondary offering,[14] an initial public offering, or a merger or acquisition.

During the first year of the eighteen-month pilot period, a qualified market maker is defined as a market maker that has maintained quotations in the subject security continuously for the preceding 20 business days.[15] During the last six

---

[9] 15 U.S.C. § 78s (b)(1).

[10] As set forth in Interpretation B, the NASD has determined that in order to effect a "legal" short sale when the current best bid is lower than the preceding best bid the short sale must be executed at a price of at least 1/16th point above the current inside bid. The last sale report of such a trade would, therefore, be above the inside bid by at least 1/16th point. Moreover, the NASD believes that requiring short sales to be a minimum increment of 1/16th point above the bid ensures that transactions are not effected at prices inconsistent with the underlying purpose of the rule.

[11] In Interpretation C, the NASD provides examples of circumstances under which a member would be deemed to be in violation of the rule. For example, if a market maker moves its bid up or down and then moves it back to the original bid simply to create an up bid or down bid to facilitate or preclude short selling, the NASD would consider this a manipulative act and a violation of the rule. In addition, if a market maker agrees to an arrangement proposed by a member or a customer where the market maker raises its bid in the Nasdaq system in order to effect a short sale for the other party and is protected against any loss on the trade or on any other executions effected at its new bid price, the market maker would be deemed to be in violation of the rule. Similarly, a market maker would be deemed in violation of the rule if it entered into an arrangement with a member or a customer whereby it used its exemption from the rule to sale short at the bid at successively lower prices, accumulating a short position, and subsequently offsetting those sales through a transaction at a prearranged price, for the purpose of avoiding compliance with the rule, and with the understanding that the market maker would be guaranteed by the member or customer against losses on the trades. The NASD believes that members' activities to circumvent the rule through indirect actions such as executions with other members or through facilitation of customer orders while being protected from loss are antithetical to the purposes of the rule. Accordingly, the NASD will consider any such activity as a violation of this section.

[12] In particular, the NASD's exceptions found in XX(c)(2), (3), (4), (5), (6), (7) and (8) parallel 17 CFR 240.10a–1(e)(1), (2), (3), (4), (7), (8) and (10), respectively. The NASD's proposal does not include the Commission's exemptions found in 17 CFR 240.10a–1(e)(5), (6), (11), (12) and (13); 17 CFR 240.10a–1(e)(9) is reserved for future use.

[13] A market maker executing a transaction on an agency basis would not be exempt from the rule with respect to that transaction.

As indicated above, the NASD submitted three interpretations of the short sale rule. Interpretation A states, among other things, the factors the NASD will consider when determining whether certain market making actlvity may not be deemed bona fide market making activity and, therefore, ineligible for the qualified market maker exemption.

First, the interpretation reiterates the express exclusion from the exemption for activity unrelated to market making functions, such as index arbitrage and risk arbitrage that is independent from a member's market making functions. The interpretation does, however, allow short sales of a security of a company involved in a merger or acquisition of the sale is made to hedge the purchase or prospective purchase (based on communicated indications of interest) of other security of a company involved in the merger or acquisition, which purchase was made, or is to be made, in the course of bona fide market making activity. Short sales made to hedge any such purchases or prospective purchases must be reasonably consistent with the exchange ratio (or exchange ratio formula) specified by the terms of the merger or acquisition.

Similarly, the interpretation provides that bona fide market making activity would exclude speculative selling strategies that are disproportionate to the usual market making patterns of the member in that security. Furthermore, the interpretation indicates that the NASD does not anticipate that a firm could properly take advantage of its market maker exemption to effectuate such speculative or investment short selling decisions. Disproportionate short selling in a market making account to effectuate such strategies will be viewed by the NASD as inappropriate activity that does not represent bona fide market making and would therefore be in violation of the rule.

[14] For secondary offerings, the NASD concluded that the time period after the announcement of the offering is so sensitive to short selling pressure that it established special time frames and eligibility criteria for primary market makers. In these situations, the stock of the issuer is currently being traded and the "overhang" on the market of the new stock coming into the market from the offering makes the security particularly susceptible to short selling abuse. Such short selling can adversely affect the capitalization of the issuer, particularly of smaller issuers, whose securitles often have less liquid secondary markets. The NASD believes that the heightened requlrements should address the concerns about short selling by newly registered market makers in secondary offerings.

[15] During the first year of the effectiveness of the rule, the separate criteria for becoming a qualified market maker for securities subject to a secondary offering, an initial public offering, or a merger or acquisition are:

(i) For secondary offerings, the offering has become effective and the market maker has been registered in and maintained quotations without interruption in the subject security for 40 calendar days (between January 1, 1994 and May 31, 1994, the average time between filing and effective dates for secondary offerings reviewed by the NASD's Corporate Financing department was 34 business (48 calendar) days);

months of the eighteen-month pilot period, a qualified market maker is defined as a market maker satisfying the criteria for a primary Nasdaq market maker. To qualify as a primary Nasdaq market maker, market makers must satisfy at least two of the following three standards: (1) The market maker must be at the best bid or best offer as shown in the Nasdaq system no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; or (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading.[16] Alternatively, recognizing that overall volume is also indicative of quality market making, the NASD has proposed a supplemental criterion for becoming a primary market maker. Under the supplemental criterion, a market maker must satisfy one of the three criteria set forth above and account for 1½ times its proportionate share[17] of volume in the stock.[18]

Compliance with the criteria will be tracked through the Nasdaq system, which will enable market makers to review their status in each criterion in each stock, and will also provide members with notice of their compliance with the standards at set intervals.[19] The NASD will monitor market makers for compliance with the primary market maker standards on a monthly review period. A market maker failing to satisfy the qualification criteria remains a market maker in the security,[20] but is subject to the short sale limitations. The NASD will establish review procedures for market makers seeking reconsideration of their failure to satisfy the primary market maker standards. Because the primary market maker standards are objective, however, the NASD will limit requests for reconsideration to consideration of system failures, excused withdrawals, or related activity in derivative or convertible securities or derivative pricing mechanisms, as seen with foreign securities or ADRs, that may affect a market maker's compliance with the criteria.

2. The Options Market Maker Exemption

The rule also provides an exemption for certain transactions by options market makers registered as qualified options market makers in stock options or qualified stock index options. With certain restrictions, the exemption permits members to execute short sales for the account of qualified options market makers that would otherwise be prohibited by the rule. To be eligible for the exemptions, the short sale must satisfy the criteria for an "exempt hedge transaction" and the market maker must be designated a qualified options market maker.

The rule provides separate definitions of "exempt hedge transaction" for market making in stock options and stock index options. For stock options, the term means a short sale of an underlying security to hedge an existing offsetting options position or an offsetting options position that was created "contemporaneous with the short sale."[21] For stock index options, an exempt hedge transaction means a short sale to hedge an existing offsetting stock index options position or an offsetting stock index options position that was created contemporaneously with the short sale, provided that: (a) The security sold short must be a component security of the index underlying such index option; (b) the index underlying such offsetting index options position must be a "qualified stock index";[22] and (c) the dollar value of all exempt short sales effected to hedge the offsetting stock index options position does not exceed the aggregate current index value of the offsetting options position.

To be designated a qualified options market maker, the market maker must have received an appointment as such pursuant to the rules of a "qualified options exchange."[23] In addition, when establishing the short position, the options market maker must receive, or be eligible to receive, good-faith margin pursuant to Section 220.12 of Regulation T under the Act.

As discussed more fully below, options market maker short sale transactions unrelated to normal options market making activity (*e.g.*, index

(ii) For initial public offerings, the market maker may register in the offering and immediately become a qualified market maker; and

(iii) After a merger or acquisition has been publicly announced, a qualified market maker in one of the two affected securities may immediately register as a qualified market maker in the other merger or acquisition security.

[16] During the last six months of the eighteen-month exemption period, the separate criteria for becoming a qualified market maker for securities subject to a secondary offering, an initial public offering, or a merger or acquisition are:

(a) For secondary offerings:

(i) the secondary offering has become effective and the market maker has satisfied the qualification criteria in the time period between registering in the security and the offering becoming effective; or

(ii) the market maker has satisfied the qualification criteria for 40 calendar days.

(b) For initial public offerings:

(i) the market maker may register in the offering and immediately become a primary Nasdaq market maker if it is a primary Nasdaq market maker in 80% of the securities in which it has registered; provided however, that if, at the end of the first review period, the primary Nasdaq market maker has withdrawn on an unexcused basis from the security or has not satisfied the qualification criteria, it shall not be afforded a primary Nasdaq market maker designation on any subsequent initial public offerings for the next 10 business days; or

(ii) the market maker registers in the stock as a regular Nasdaq market maker and satisfies the qualification criteria for the next review period.

(c) After a merger or acquisition has been publicly announced, a primary Nasdaq market maker in one of the two affected securities may immediately register as a primary Nasdaq market maker in the other merger or acquisition security.

[17] The rule provides that the NASD may change from time to time the proportionate volume necessary for a market maker to satisfy this test. If the NASD elects to change this criterion, the Act requires it to file a proposed rule change with the Commission.

[18] For example, if there are 10 market makers in a stock, each has a proportionate share of 10 percent. Thus, a market maker seeking to qualify as a primary market maker under the alternative criteria must, in addition to satisfying one of the three criteria under the standard approach, account for at least 15 percent of the overall volume. For example, if a market maker maintains its bid or offer at the inside quote at least 35 percent of the time, but maintains a 1 point spread in the stock when the other dealers averaged a ¾ point spread and changed its quote three times on average for every trade, then the market maker would have to meet the proportionate volume test to qualify as a primary market maker.

[19] A market maker satisfying the criteria will be designated as a primary market maker in the Nasdaq system, with "primary" or "P" designation displayed on the Nasdaq Workstation screen. In addition, to assist market participants' compliance with the proposed rule, indication of a market maker's primary market maker designation will be available through vendor services.

[20] The requirements for registration as a Nasdaq market maker are set forth in the *NASD Manual*. *NASD Manual*, Schedules to the By-Laws, Schedule D, Part V, Sec. 1, (CCH) ¶ 1818. These requirements are not affected by the NASD's bid-test proposal.

[21] "Contemporaneous with the short sale" includes transactions occurring simultaneously as well as transactions occurring within the same brief period of time. Thus, the short sale can precede, as well as follow, the option transaction.

[22] The rule defines a "qualified stock index" as a stock index that includes one or more Nasdaq National Market securities, provided that more than 10% of the weight of the index is accounted for by Nasdaq National Market securities. The rule further provides that a qualified stock index shall be reviewed by the NASD as of the end of each calendar quarter, and the index shall cease to qualify if the value of the index represented by one or more Nasdaq National Market securities is less than 8% at the end of any subsequent calendar quarter.

[23] A "qualified options exchange" is a national securities exchange with Commission approved rules and procedures governing: (1) The designation of options market makers as qualified options market makers; (2) the surveillance of its market makers' utilization of the exemption; and (3) authorization of the NASD to limit the designation of a qualified options market maker where the options exchange finds substantial, willful, or continuing violations of the rule. *See e.g.*, File Nos. SR–CBOE–94–10, SR-Phlx-94–9, SR-Amex-94–21 and SR–PSE–94–16 filed with the Commission on March 31, 1994, June 1, 1994, June 13, 1994 and June 16, 1994, respectively. The NYSE has informed the Commission that it sent its filing on June 27, 1994 under the file number SR–NYSE–94–22.

arbitrage and risk arbitrage) are not exempt. Nonetheless, the rule provides that a member would not violate the short sale rule if it executed an order for the account of an options market maker with the good-faith belief that the order was in full compliance with the rule, even though a subsequent determination was made that the order was either not entitled to the exemption or was incorrectly marked "long."

3. The Warrant Market Maker Exemption

The rule also extends an exemption to registered warrant market makers, with restrictions similar to those imposed on qualified options market makers. To be eligible for this exemption, the warrant market maker must be registered as a market maker in the warrant and the short sale must be an "exempt hedge transaction" that results in a fully hedged position. The rule defines the term "exempt hedge transaction" as a short sale to hedge an existing offsetting warrant position or an offsetting warrant position that was created contemporaneous with the short sale.[24]

Short sales unrelated to normal warrant market making activity (*e.g.*, index arbitrage and risk arbitrage) would not be exempt. As with short sales executed on behalf of options market makers, a member who executes a short sale on behalf of a warrant market maker will not be deemed to violate the short sale rule if it executed the order with the good-faith belief that the order was in full compliance with the rule, even though a subsequent determination was made that the order was either not entitled to the exemption or was incorrectly marked "long."

4. The Exemptions Mirroring Rule 10a–1

The rule also incorporates the exemptions in the Commission's short sale rule that are relevant to trading in Nasdaq.[25] In addition, the Commission recently proposed an amendment to Rule 10a–1 to codify an interpretation with respect to liquidating index arbitrage positions.[26] The NASD has requested that if approved by the Commission, it intends to conform its rule to the Commission's rule and will file the proposed rule change with the Commission.[27]

III. Comments

As indicated above, the Commission received a total of 397 comment letters on the NASD's proposed short sale bid-test, with 275 opposing approval of the rule change and 122 supporting approval.[28] In addition to amending the proposal several times, the NASD responded to issues raised by the commenters in a letter dated June 24, 1993.[29]

Commenters in support of the proposed short sale bid-test are mostly issuers whose securities trade on Nasdaq.[30] Many of these issuers report that they have experienced short selling "abuse" and several commenters provide what they believe are specific examples of "piling-on" and manipulation. These commenters make four principal arguments in favor of the proposal: (1) The short sale rule is necessary to reduce intra-day volatility on Nasdaq; (2) the proposal will reduce market manipulation that threatens the integrity of the Nasdaq market; (3) short selling abuse undervalues stock prices; and (4) the proposed rule will provide more equal regulation of short selling between the exchange and Nasdaq markets.

Commenters opposing the rule change make three principal arguments that remain relevant after consideration of the NASD's amendments: (1) The NASD has failed to provide sufficient evidence of the need for a short sale rule or demonstrate the appropriateness of a bid-test; (2) the "primary" market maker qualification standards will have negative effects on both market makers and the Nasdaq market; and (3) the proposed rule is inconsistent with the requirements of the Act.

A. The Need for a Short Sale Bid-Test

Commenters argue that the NASD has failed to provide sufficient evidence demonstrating the need for short sale regulation in the form of a bid-test. Indeed, many argue that there is no need for additional short sale restrictions. They argue that instead of adding another layer of regulation to the OTC market, the NASD should enforce existing anti-fraud rules more stringently and increase surveillance over market participants. Commenters further believe that the NASD proposed the rule with the primary purpose of eliminating a competitive disadvantage viś-à-viś the exchanges. They argue that the NASD is simply responding to issuer misconception of the effect of the Commission's short sale rule, which applies only to exchange-listed securities. They believe that issuers incorrectly conclude that manipulative short selling is substantially diminished because of the restrictions on short selling on exchanges. Finally, these commenters believe the NASD has not adequately balanced the benefits of short selling, such as increased liquidity and more accurate pricing of securities, against the costs that its rule will impose.

Commenters also argued against the NASD's proposal on the basis that there are less restrictive alternatives. For example, the NASD could limit short selling in a given security only when the security has experienced a certain percentage decrease during the trading day. Many of these commenters further argued that the NASD's proposal would create long periods of short sale prohibition in some of the less liquid Nasdaq National Market securities. Commenters also opposed the rule due to concerns that it could encourage Market makers to manipulate bids to guard against short selling. Finally,

[24] The phrase contained in the proposed rule "contemporaneous with the short sale" is meant to include transactions occurring simultaneously as well as transactions occurring within the same brief period of time.

[25] Specifically, the rule exempts: (1) A broker-dealer from a sale that is for an account in which it has no interest and that is marked long; (2) Any sale by a market maker to offset odd-lot orders of customers; (3) Any sale by a market maker to liquidate a long position, which is less than a round lot, provided the sale does not change the dealer's position by more than one unit of trading (100 shares); (4) Certain short same arbitrage transactions, in special arbitrage accounts, by a person who owns another security or presently will be entitled to acquire an equivalent number of securities of the sale class as the securities sold (provided the sale, or purchase which the sale offsets, is made for the bona fide purpose of profiting from a current price difference between the security sold and the security owned) and that the right of acquisition was originally attached to the security or was issued to all holders of any class of securities of the issuer; (5) Transactions made as part of an international arbitrage opportunity, whereby the seller must have a bona fide purpose to profit from the price difference between a security on an international market outside the jurisdiction of the U.S. and a security listed as a Nasdaq National Market security (for the purposes of this section, a depository receipt (*e.g.*, ADR) for a security shall be deemed the same as the security represented by the receipt); (6) Short sales by an underwriter or any member of the distribution syndicate in connection with the over-allotment of securities, or any lay-off sale by a person with a distribution of securities pursuant to a rights offering (17 CFR 240.10b–8) or a standby underwriting commitment; and (7) Liquidations of blocks acquired by a market maker acting in the capacity of a block positioner even if the block positioner does not have a net long position in the security if and to the extent that its net short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

[26] Securities Exchange Act Release No. 30772 (June 3, 1992), 57 FR 26891 (June 16, 1992).

[27] Securities Exchange Act Release No. 31003 (Aug. 6, 1992), 57 FR 36421 (Aug. 13, 1992) (publication of the Commission's original notice of SR–NASD–92–12).

[28] A list of comment letters received in connection with the publication of the rule change is available for inspection in the Commission's Public Reference Room.

[29] Letter from Richard Ketchum, Executive Vice President and Chief Operating Officer, NASD, to Jonathan G. Katz, Secretary, SEC (June 24, 1993).

[30] The Commission received approximately 120 letters from issuers and issuer trade groups.

several commenters cited economic studies such as that of Irving M. Pollack to support their arguments that short selling restrictions in the form of a bid-test are unnecessary.[31]

In response to the commenters' belief that a short sale rule for the Nasdaq market is unnecessary, the NASD stated that notwithstanding the implementation of the Pollack Report recommendations, it remains concerned about short-term volatility and inaccurate pricing of Nasdaq securities often associated with short selling. In addition, the NASD cited to over one hundred comment letters submitted by issuers claiming that they have experienced short selling problems, some recounting specific instances alleging that participants sold short on the basis of rumors or inaccurate reports. The NASD, therefore, indicated its belief that its proposal is a reasonable approach to solving these problems and is consistent with the Act.

B. Effect of Primary Market Maker Qualification Standards on Nasdaq Market Makers and the Market

Many commenters indicated their believe that most short selling is done by market makers and, therefore, if the NASD does impose a bid-test restriction on short selling, there should be no exemptions. Many market-making firms and others criticized the NASD's primary market maker qualification standards, which goes into effect one year after the effective date of the rule. They argued that the criteria will unfairly discriminate among market makers and create two tiers of market makes and, thus, will fragment the market making community and restrict the ability of non-primary market makers to use short sales as a risk management technique.

Some commenters also believe that requiring market makers to maintain the inside bid or offer will result in dealers following the lead of other dealers in the issue, thus creating additional volatility. Additionally, commenters stated that the requirements that no more than 50% of a market maker's quotation updates occur without being accompanied by an execution appears to be in direct conflict with a market maker reflecting a customer's order in its quote. In addition, some commenters believed that this requirement would prevent market makers from updating quotes in response to significant external events and amounts to a penalty on efficient pricing policies.

Some commenters also strongly opposed the interim, first year 20-day qualification criteria, stating that it is overly restrictive and disadvantageous to market makers that want to add new stocks. They believed that the inability to short a stock at the bid price will seriously impede market makers' capital commitment to these issues and recommended that the 20-day test be a stand-by provision, to be implemented only when abuses of the market maker exemption have been uncovered. On the other hand, at least one commenter believed that immediate implementation of the permanent qualification standards may have the effect of improving the quality of the market and, thus, is preferable to the 20-day registration standard.

In response to these comments, the NASD stated that the qualification standards are designed to limit the exemption to those market participants that add depth and liquidity to the market. This approach, according to the NASD, will ensure that the exemption is available only to those market makers that consistently add value to the market.

Responding to the concern that the primary market maker criteria may have negative effects on market makers and the Nasdaq market, the NASD indicated that it believes that the specific qualification criteria can be met successfully by both small and large market makers. The NASD further noted that market making firms have direct control over whether they meet the primary market maker qualification standards. In particular, they have control over the amount of time at which they are at the inside bid or offer, their spread in comparison to the average spread, quotation updates accompanied by reported transactions and accounting for 1½ times of proportionate share of overall volume.

C. Consistency With the Requirements of the Act

Many commenters on the proposed rule change believed that it is inconsistent with the requirements of the Act. In particular, commenters believed that the rule proposal is at odds with the Act's requirements that the NASD's rules: (a) Promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest; [32] and (b) not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[33]

Beyond the commenters' concern that the rule will unfairly discriminate among market makers (discussed in the previous section), commenters argued that the bid-test will create inequitable principles of trade by disadvantaging non-exempt market participants. Further, they believed that the bid-test adds an unnecessary and poorly designed impediment to an otherwise free and open market by restricting the ability of participants to determine the natural market price of securities. Finally, commenters asserted that the proposal will not protect investors or the public interest because, as drafted, the rule fails to restrict manipulative short selling, while at the same time it exempts market makers which are the most active class of short sellers.

Notwithstanding the NASD's assertion that the proposal furthers Congress' goal of fair competition among brokers and dealers and among markets, commenters argued that the proposal is inconsistent with Section 11A(a)(1)(C).[34] These commenters asserted that the bid-test is anti-competitive in that it creates unfair advantages for certain market participants at the expense of other market participants. Specifically, they argued that the rule provides unfair advantages to qualified market makers

[31] In 1986, the NASD retained former Commissioner Irving M. Pollack to conduct a study of short selling in the OTC market. Irving M. Pollack, Short-Sale Regulation of Nasdaq Securities (July 1986) ("Pollack Report").

In general, the Pollack Report recommended against a formal short sale rule for Nasdaq and found that the preponderance of short selling is done for legitimate purposes by market professionals. The report also found that short positions in Nasdaq stocks generally are smaller overall in relation to average daily volume and share outstanding than is true of exchange-listed securities, and that Nasdaq stocks have lower average short-interest percentages. *Pollack Report* at 65. The same finding was made by the NASD based on later data. NASD, *Reports of the special Committee of the Regulatory Review Task Force on the Quality of Markets* 32 (1988). *See also* J. Randall Woolridge and Amy Dickinson, *Short Selling and Common Stock Prices*, Fin. Analysts J. 20 (Jan.-Feb. 1994) (analysis of overall market data and selected individual securities traded on exchanges and in the OTC market indicating that there is an insignificant relationship between changes in short positions and stock prices).

The Pollack Report also concluded that, unless accompanied by a violation of delivery and settlement requirements or by fraudulent or manipulative conduct, short selling is not improper or abusive. Since the study found that there was no current evidence of problems that would support consideration of tick-test type restrictions, the study did not explore the varieties of tick-tests and their feasibility for the market. The study identified, however, the build-up of short to clearing (*i.e.*, naked short) positions as having the potential to create serious problems in a lengthy bear market or in times of market stress. *Pollack Report* at 63–64.

[32] 15 U.S.C. § 78*o*–3(b)(6).

[33] 15 U.S.C. § 78*o*–(b)(9).

[34] Section 11A(a)(1)(C) sets forth, among other things, Congress' finding that it is in the public interest to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets. 15 U.S.C. 78k(a)(1)(C).

at the expense of non-exempt market participants. Further, commenters stated that the purpose of the rule is to enhance the NASD's competitive status at the expense of other markets and that this goal is directly at odds with the requirements of the Act.

The NASD argued that its proposal complies with Section 15A(b)(6) because, similar to Rule 10a–1, it is designed to prevent fraudulent and manipulative acts. In addition, the NASD argued, because the immediate beneficiaries of short sale regulation are the shareholders who own stock, the NASD believes the proposal ensures an environment designed to protect investors and the public interest. The NASD also asserted that the rule is consistent with Section 15A(b)(9) because, although the proposal does impose burdens on members and their customers, these burdens are appropriate for maintaining the integrity of the market for shareholders.

The NASD responded to the commenters' unequal regulation argument by asserting that, for the purposes of Section 3(a)(36) of the Act, NASD members and non-members are not within the same "class." Thus, granting members of the NASD an exemption to the rule while not granting investors or non-members an equivalent exemption cannot be deemed unequal regulation. The NASD further pointed out that Congress did not ban all forms of discrimination between members of the same class. The Act only bans *unfair* discrimination and the NASD asserts that to grant an exemption to those member firms that add liquidity and otherwise improve the market is not unfair.

The NASD also addressed the unequal regulation argument by asserting that the exemption for certain Nasdaq market makers is appropriate even though exchange specialists do not have a similar exemption under Rule 10a–1 because of the inherent differences between the competitive dealer market and the auction markets. In particular, the NASD pointed out that: (a) Exchange specialists have a monopoly over the securities in which they trade; (b) dealers generally do not have an informational advantage over other dealers; and (c) dealers do not have the ability to close their markets because of sudden volatility or an order imbalance.

IV. Discussion

Under Section 19(b) of the Act, the Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.[35] In evaluating a given proposal, the Commission must examine the record before it and all relevant factors and necessary information.[36] Section 15A of the Act addresses with some specificity requirements applicable to NASD rules, and those standards are particularly significant in the Commission's determination of whether the NASD's proposal is consistent with the Act.[37]

The Commission has determined to approve the NASD's proposal. The Commission believes that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Sections 15A(b)(6), 15A(b)(9) and 15A(b)(11) of the Act.[38] Section 15A(b)(6) requires, among other things, that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.[39] Sections 15A(b)(9) and (11) require that the NASD's rule be designed not to impose any burden on competition not necessary or appropriate in furtherance of the Act[40] and to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing and publishing quotations.[41] In addition, the Commission believes that the rule change will further the goals of Section 11A in that it will promote efficient and effective market operations and economically efficient execution of investor orders in the best market and assure fair competition between the exchange markets and the OTC market and among brokers and dealers.[42]

[35] 15 U.S.C. 78s(b).

[36] In the Securities Acts Amendments of 1975, Congress directed the Commission to use its authority under the Act, including its authority to approve SRO rule changes, to foster the establishment of a national market system and promote the goals of economically efficient securities transactions, fair competition, and best execution. Congress granted the Commission "broad, discretionary powers" and "maximum flexibility" to develop a national market system and to carry out these objectives. Furthermore, Congress gave the Commission "the power to classify markets, firms, and securities in any manner it deems necessary or appropriate in the public interest or for the protection of investors and to facilitate the development of subsystems within the national market system." S. Rep. No. 75, 94th Cong., 1st. Sess., at 7 (1975).

[37] *See* 15 U.S.C. § 78o–3.

[38] *Id* 78o–3(b)(6), (9) and (11).

[39] *Id* 78o–3(b)(6).

[40] *Id* 78o–3(b)(9).

[41] *Id* 78o–3(b)(11).

[42] *Id* 78k–1(a)(1)(C).

A. Background of Short Sale Regulation

The Commission believes that the disparate regulation of short selling in Nasdaq and exchange markets may no longer be warranted or justified by valid regulatory purposes. Short selling of exchange-listed securities has been the subject of Commission regulation since 1938.[43] On a number of occasions, the Commission has sought comment on and considered whether to extend short sale regulation similar to Rule 10a–1 to securities traded solely in the OTC market. In the process of designating certain OTC securities as National Market securities, the Commission discussed issues related to the eventual inclusion of qualified OTC securities in additional national market system facilities.[44] In response, the NASD stated that "short selling regulations prior to and during a distribution of [National Market] Securities would be appropriate but that it is not necessary, at this time, to impose across-the-board short sales regulations on transactions in [National Market] Securities."[45] In 1985, the Commission again sought comment on whether short sales in Nasdaq National Market securities should be regulated, and if so, how such regulation should occur.[46] Commenters generally opposed the adoption of a tick-test for Nasdaq National Market securities. The Commission did not act on these requests for comments.[47]

[43] 17 CFR 240.10a–1. Congress granted the Commission plenary power to regulate short sales in listed securities to "purge the markets of the abuses connected with these practices." *See* Stock Exchange Practices, Report of the Senate Comm. on Banking and Currency, S. Rep. No. 1455, 73d Cong., 2d Sess. 55 (1934). *See* also H.R. Rep. No. 1383, 73d Cong., 2d Sess. 11 (1934). Following a Commission inquiry into the effects of concentrated short selling in the 1937 market break, the Commission in 1938 adopted Rule 10a–1. This rule prohibited all short sales in securities listed on a national securities exchange below the last sale price, or at the last sale price if the last preceding trade at a different price was at a higher price, subject to certain exceptions. *See* Securities Exchange Act Release No. 1548 (Jan. 24, 1938), 3 FR 213. In that release, the Commission also adopted Rule 3b–3. For a detailed discussion of the development of Rule 10a–1, see 7 Louis Loss & Joel Seligman, *Securities Regulation* 3198–3221 (1991).

[44] Securities Exchange Act Release No. 18590 (Mar. 24, 1982), 47 FR 13617 (Mar. 31, 1982). The primary effect of designating OTC securities as National Market securities is that transactions in these securities must be reported in a real-time system in accordance with the Commission's last sale reporting rule, and quotations for these securities must be firm as to the quoted price and size. 17 CFR 240.11Aa3–1 and 17 CFR 240.11Ac1–1.

[45] Letter from William Broka, Secretary, NASD, to George A. Fitzsimmons, Secretary, SEC (July 31, 1981).

[46] Securities Exchange Act Release No. 22127 (June 21, 1985), 50 FR 26584 (June 27, 1985).

[47] The Commission did, however, adopt Rule 10b–21 to address the concern expressed by the

In 1986, the Pollack Report made a number of recommendations regarding short selling in Nasdaq stocks, but recommended against a formal short selling rule for Nasdaq.[48] Since 1986 the NASD has adopted a number of the recommendations for short sale regulation contained in the Pollack Report. The NASD now requires each member to mark all sale transactions either "long" or "short;"[49] requires each member, prior to accepting a short sale from a customer, to make an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on the customer's behalf;[50] requires each member, with certain exceptions, to make an affirmative determination that it can borrow the security before effecting a short sale for its own account;[51] imposes mandatory buy-in requirements for cash or guaranteed delivery for Nasdaq securities where the buyer is a customer other than another NASD member, upon failure of a clearing corporation to effect delivery pursuant to a buy-in notice;[52] requires each member to report to the NASD, as of the 15th of each month, aggregate short positions in all customer and proprietary accounts in Nasdaq securities;[53] and requires a short seller's broker to close-out securities for cash or guaranteed delivery when delivery has not occurred within 10 business days after normal settlement date.[54]

The NASD also encouraged adoption of Rule 10b–21,[55] which prohibits a person who effects a short sale of an equity security between the filing of a registration statement and the time at which sales of such equity security may be commenced from covering the short sale with offered securities purchased from an underwriter or other broker or dealer participating in the offering.[56]

B. The NASD's Initiative

1. The Need for a Short Sale Rule for the OTC Market

The Commission is reluctant to approve regulations that are likely to hinder efficient price discovery. The Commission's experience with Rule 10a–1 demonstrates that limited short sale rule restrictions have not interfered with the efficient operation of the exchange markets, while reducing the potential for abusive short selling practices. In addition, investors derive a certain measure of confidence from short selling limitations.

Over the past twenty years, the enhancements to, and growth of, the OTC market have led to increased expectations by investors, issuers and broker-dealers of Nasdaq securities generally, and Nasdaq National Market securities, in particular. Today, these participants expect safeguards in Nasdaq comparable to the exchange markets. The NASD believes that implementation of the principal Pollack Report recommendations have not adequately provided these safeguards.

The NASD and commenters have presented evidence, albeit anecdotal, of continuing problems of short selling in the OTC market. In addition, the Commission recognizes that without a short sale rule for Nasdaq, the NASD is competitively disadvantaged. The exchange markets can and do attract issuers and investors with claims that their markets protect against potential short selling abuse. In 1975, Congress specifically found that the interests of the public, the protection of investors and the maintenance of fair and orderly markets are furthered by fair competition between the exchange markets and the OTC market.[57] Thus, recognizing the potential for problems associated with short selling, the changing expectations of Nasdaq market participants and the competitive disparity between the exchange markets and the OTC market, the Commission believes that regulation of short selling of Nasdaq National Market securities is consistent with the Act.

2. The Design of the Proposed Restrictions

Having determined that some regulation of short selling of Nasdaq National Market securities is consistent with the Act, the Commission must determine whether the proposed design of that regulation is consistent with the Act. The Commission's tick-test restricts short selling based on the most recent sale price in the particular security. This is a logical approach in the auction market environment where, generally, transactions in a given security are executed at one location and, consequently, are typically reported sequentially.

Notwithstanding the advances over the past fifteen years in trade reporting of Nasdaq securities, the NASD is not convinced that a tick-test would be appropriate for Nasdaq short sale regulation. In Nasdaq, the average security has more than ten market makers. With many trades occurring over the telephone and transaction reporting occurring up to ninety seconds after execution, the sequence in which trades are reported may not always reflect the sequence in which the trades occurred. Thus, the NASD believes that differences between trade reporting in the auction markets and the competing dealer market warrant consideration of a different, although analogous, approach to short sale regulation.

The NASD's rule also differs from the Commission's short sale rule by providing, under certain circumstances, a market maker exemption; under the Commission's rule, which generally applies only to the auction markets, specialists do not enjoy an exemption. The NASD believes that a market maker exemption is justified, considering the inherent differences between its competing dealer market and the auction markets. In particular, unlike

---

NASD and other commenters about the practice of short selling immediately prior to a public offering of securities with the covering purchases being made from the securities in the offering. 17 CFR 240.10b–21. In particular, Rule 10b–21 prohibits a person who effects short sales of an equity security between the filing of a registration statement and the time at which sales of such equity security may be commenced, from covering those short sales with offered securities purchased from an underwriter or other broker or dealer participating in the offering. The Commission originally adopted Rule 10b–21 on a temporary basis (Rule 10b–21(T)). Securities Exchange Act Release No. 26028 (Aug. 25, 1988), 53 FR 33455 (Aug. 31, 1988). The Commission subsequently adopted the rule on a permanent basis. Securities Exchange Act Release No. 33702 (Mar. 2, 1994) 59 FR 10984 (Mar. 9, 1994).

[48] *See supra* note 31 and accompanying text.

[49] *NASD Manual*, Rules of Fair Practice, Art. 3, Sec. 21(b)(i), (CCH) ¶ 2171. Securities Exchange Act Release No. 23572 (Aug. 28, 1986), 51 FR 31865 (Sept. 5, 1986) (approval of File No. SR–NASD–86–17).

[50] *NASD Manual*, Rules of Fair Practice, Art. 3, Sec. 1, Prompt Receipt and Delivery Interpretation (b)(2)(A), (CCH) ¶ 2151.04. Securities Exchange Act Release No. 23572 (Aug. 28, 1986), 51 FR 31865 (Sept. 5, 1986) (approval of File No. SR–NASD–86–17). On May 26, 1994, the NASD filed a proposed rule change to amend the definition of "affirmative determination" to require a member to maintain a written record identifying, among other things, the location and deliverability of the securities or the identity of the individual and firm who offered assurance that the securities will be delivered or available for borrowing by the settlement date. *See* File No. SR–NASD–94–31.

[51] *NASD Manual*, Rules of Fair Practice, Art. 3, Sec. 1, Prompt Receipt and Delivery Interpretation (b)(2)(B), (CCH) ¶ 2151.04. Securities Exchange Act Release No. 28186 (July 5, 1990), 55 FR 28703 (July 12, 1990) (approval of File No. SR–NASD–89–5). *See also supra* note 50 concerning NASD proposal to amend the definition of "affirmative determination."

[52] *NASD Manual*, Uniform Practice Code, Sec. 59(j), (CCH) ¶ 3559. Securities Exchange Act Release No. 26694 (Apr. 4, 1989) 54 FR 14404 (Apr. 11, 1989) (approval of File No. SR–NASD–87–10).

[53] *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 41 (CCH) ¶ 2200A. Securities Exchange Act Release No. 23855 (Dec. 1, 1986), 51 FR 44170 (Dec. 8, 1986) (approval of File No. SR–NASD–86–30).

[54] *NASD Manual*, Uniform Practice Code, Sec. 71, (CCH) ¶ 3571. Securities Exchange Act Release No. 32632 (July 14, 1993), 58 FR 39072 (July 21, 1993) (File No. SR–NASD–90–30).

[55] *See supra* note 47.

[56] 17 CFR 240.10b–21.

[57] 15 U.S.C. 78k–1(a)(1)(C)(ii).

competing market makers, specialists have a monopoly over the securities in which they trade and are able to call trading halts in response to excessive volatility or order imbalances.

The Commission believes that the NASD's short sale bid-test, including the market maker exemptions, is a reasonable approach to short sale regulation of Nasdaq National Market securities and reflects the realities of its market structure. The Commission believes, however, that experience with the NASD's bid-test may raise issues that require reconsideration of some or all elements of the proposal. The Commission is sensitive to commenters' concerns about efficiency and liquidity in the market. The Commission acknowledges, based in large part on the arguments raised by commenters, that there will be opportunities for market makers to control short selling by moving their bids.[58] The Commission is also concerned that the bid-test may restrict non-abusive short-selling for lengthy periods of time when the bid is stable after a down-bid.[59]

In addition, questions remain about whether market maker exemptions from these restrictions are necessary on an ongoing basis. It is worth noting that specialists and other market makers do not enjoy similar exemptions from the Commission's short sale rule for listed securities under Rule 10a–1. With respect to the market maker exemption, commenters have raised concerns about one of the conditions of the proposed exemption, which requires that at least 50% of a market maker's quote updates be accompanied by an execution. The Commission acknowledges that this requirement may decrease pricing efficiency by discouraging market makers from updating their quotes in response to external events. Moreover, the Commission is concerned that this requirement could discourage market makers from exposing customer orders in their quotes. The Commission has long encouraged the display of customer orders with prices better than the interdealer quotes,[60] and will scrutinize the effects of this requirement on transparency for customer orders.

During the eighteen-month temporary approval period for the proposal, the Commission and the NASD will have an opportunity to study the effects of the bid-test and market marker exemptions, and to determine whether the bid-test and exemptions are practicable and necessary on an ongoing basis.[61] The Commission expects the NASD to monitor the effects of its short sale rule on a continuing basis during the first 12 months of effectiveness, and expects a full report as soon as practicable thereafter. In particular, the NASD's study should address the following issues:

- *Effectis on Amount of Short-Selling:* As noted, the bid-test will lead to prohibitions of short selling for longer time intervals than would a transaction price tick-test. The study should provide data on the length of these intervals. In addition, the study should evaluate the amount of non-market maker short selling permitted under the rule, the extent of short selling by market makers exempt from the rule, and any incidents of perceived "abusive short selling."
- *Spreads and Volatility:* The NASD has asserted that "abusive short selling" has increased volatility and spreads in Nasdaq stocks. The study should evaluate the effects of the rule on spreads and volatility.
- *Potential Bid Monipulation:* As noted, the rule provides market makers with the opportunity to control short selling by moving their bids. The study should evaluate whether the behavior of bid prices has been significantly altered by the rule. Specifically, the study should compare the average time that short sales are prohibited after the rule is in place relative to the average time short sales would have been prohibited in the period prior to effectiveness, had the rule been in place.
- *Minimum Increment for Allowable Sales Above the Bid:* The study should review the effects of permitting short selling based on a minimum bid increment of 1/16.[62]

V. Conclusion

For the reasons discussed above, the Commission has determined that the NASD's proposed short sale rule is designed to prevent manipulative acts and practices and protect investors and the public interest, and that these goals, on balance, outweigh any negative effects the rule may have on the market for Nasdaq National Market securities.

Accordingly, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD and, in particular, Sections 15A(b)(6), 15A(b)(9), and 15A(b)(11). In addition, the Commission finds that the rule change is consistent with the Congressional objectives for the equity markets, set out in Section 11A, of achieving more efficient and effective market operations, fair competition among brokers and dealers, and the economically efficient execution of investor orders in the best market.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the instant rule change SR–NASD–92–12 be, and hereby is, approved, effective September 6, 1994, on a temporary eighteen-month basis through March 5, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16372 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34- 34276; File No. SR–PSE–94–8]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Its Listing Fee Schedule for Listed Companies

June 29, 1994.

On March 8, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19 8b–4 thereunder,[2] a proposed rule change to amend its original listing fee, processing and fee and annual maintenance fee.

The proposed rule change was notified in Securities Exchange Act Release No. 33928 (April 19, 1994), 59 FR 21793 (April 26, 1994). No comments were received on the proposal.

---

[58] We note, however, that the rule includes a provision (conditioning market maker exemption on at least 50% of quote updates being accompanied by executions) that could discourage market makers from lowering their bids to limit short selling.

[59] The Commission notes that facilities for exposure of customer limit orders in Nasdaq would alleviate the restrictiveness of the rule by increasing opportunities for customers to trade between the quotes. Increased transparency would also limit the ability of market makers to restrict short selling by lowering their bids. In this regard, the Commission's Division of Market Regulation recently recommended that the NASD encourage the display of limit orders in Nasdaq stocks that are better than the best Nasdaq quote. *See* Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* at IV–6 (January 1994) ("*Market 2000 Report*").

[60] *See e.g., Market 2000 Report,* at IV–6 (the NASD should "consider encouraging the display of limit orders in Nasdaq stocks that are better than the best Nasdaq quote * * *").

[61] This 18-month pilot period also enables the Commission and the NASD to consider other alternatives to the rule. *See e g. supra* Comment section of this order.

[62] In this regard, the Commission notes that various proprietary trading systems may allow for finer pricing intervals.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–2 (1994).

The PSE is amending its fees for listed companies. Specifically, the Exchange is increasing its original listing fee for the common stock of exclusively listed companies from $10,000 to $20,000. In addition, the Exchange is increasing its initial processing fee, applicable to all original listing applications, from $250 to $500. Finally, the Exchange is increasing its annual maintenance fee for exclusively listed companies from $1,000 to $2,000. Dually listed equity securities would continue to be charged $10,000 for original listings, and $1,000 for the annual maintenance fee (for one issue).[3]

The Exchange states that the fee increases are designed to offset rising costs associated with maintaining listing services and related overhead expenses.[4]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act.[5] More specifically, the Commission believes that the proposed rule change is consistent with Section 6(b)(4) of the Act which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities. The Commission notes that an increase in the PSE's listing fees was last approved in 1991.[6] Moreover, the current increases do not place an excessive allocation of Exchange fees on its issuers as opposed to members and other persons using its facilities. Accordingly, the Commission believes that it is appropriate to approve the proposed rule change.

The Commission believes that it is appropriate for the Exchange to charge greater original listing fees for exclusive listings as opposed to dual listings due to the additional costs incident to maintaining exclusive listings. For example, with respect to exclusively listed companies, the Exchange may incur additional costs for, among other things, monitoring the company for corporate developments.

The Commission further finds that the fees are reasonable because the Exchange has proposed the increases to offset rising costs associated with maintaining listing services and related overhead expenses. Accordingly, the Commission believes that it is appropriate to approve the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PSE–94–8) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–16373 Filed 7–6–94; 8:45 am]

BILLING CODE 8010–01–M

[3] The Exchange stated that for the purposes of this amendment, an equity security is dually listed if it is listed on both the PSE and either the New York Stock Exchange, Inc. ("NYSE") or the American Stock Exchange, Inc. ("Amex"). An equity security is exclusively listed for purposes of this amendment if it is listed on the PSE and not on either the NYSE or the Amex.

[4] The Complete schedule of fee changes is contained in Exhibit A to File No. SR–PSE–94–8.

[5] 15 U.S.C. 78f (1988).

[6] *See* Securities Exchange Act Release No. 29882 (October 29, 1991), 56 FR 57028 (October 29, 1991) (order approving File No. SR–PSE–91–29).

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: 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 August 8, 1994. 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: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: SBA Counseling Evaluation.

Form No. SBA Form 1419.

Frequency: Annually.

Description of Respondents: Small business clients.

Annual Responses: 31,208.

Annual Burden: 20,402.

Dated: July 1, 1994.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 94–16450 Filed 7–6–94; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000127]

Pacific Northwest Partners SBIC, L.P; Filing of An Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Pacific Northwest Partners SBIC, L.P., Suite 800, Koll Center Bellevue, 500—108th Avenue N.E., Bellevue, MA 98004, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et seq.), and the Rules and Regulations promulgated thereunder.

The initial investors and their percent of ownership of the Applicant are as follows:

Name	Percentage of ownership
General Partner:	
Kertesz/Wight Partnership, 500—108th Avenue NE., Bellevue, WA 98004	1.0
Limited Partners	99.0

No single Limited Partner owns a 10% or larger partnership interest.

Pacific Northwest Partners SBIC, L.P. will be managed by PNP Management, Inc. The offices and directors of PNP Management, Inc. are:

Name	Relationship to manager	Percentage ownership of manager
Theodore M. Wight, 5302—143rd Avenue SE, Bellevue, WA 98006.	President ..	50
Louis R. Kertesz, 5606 Lakeview Drive NE, Apartment D, Kirkland, WA 98003.	Vice-President.	50

The applicant will begin operations with capitalization of approximately $10.6 million and will be a source of debt and equity financings for qualified small business concerns. The applicant will invest primarily in the Pacific Northwest.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Seattle, Washington.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: June 28, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–16452 Filed 7–6–94; 8:45 am]

BILLING CODE 8025–01–M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: 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 August 8, 1994. 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 3d Street, SW., 5th floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Quarterly Guaranty Loan Status Report.

Form No.: SBA 1175.

Frequency: Quarterly.

Description of Respondents: SBA Guaranty Lenders.

Annual Responses: 430,528.

Annual Burden: 19,804.

Dated: June 8, 1994.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 94–16451 Filed 7–6–94; 8:45 am]

BILLING CODE 8025–01–M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: 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 August 8, 1994. 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: Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

Title: Survey of Regulatory Cost Burdens

Form No.: N/A

Frequency: One-Time

Description of Respondents: Small business owners

Annual Responses: 360

Annual Burden: 120

Dated: June 10, 1994.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 94–16356 Filed 7–6–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 21–29B; Detecting and Reporting Suspected Unapproved Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of proposed Advisory Circular (AC) 21–29B, Detecting and Reporting Suspected Unapproved Parts. The proposed AC 21–29B updates the information and guidance to the aviation community for detecting and reporting suspected unapproved aircraft parts, and includes procedures for referral of such reports to the appropriate Federal Aviation Administration Office. The proposed AC provides revised definitions of approved, acceptable, and unapproved parts when used in conjunction with this AC.

DATES: Comments submitted must identify the proposed AC 21–29B File Number, PO–220–0444, and be received August 8, 1994.

ADDRESSES: Copies of the proposed AC 21–29B can be obtained from and comments sent to the following: Federal Aviation Administration, Production Certification Branch, AIR–220, Aircraft Manufacturing Division, Aircraft Certification Service, 800 Independence Avenue SW., Washington, DC 20591 (202) 267–8361.

SUPPLEMENTARY INFORMATION: This proposed AC provides information and

guidance to the aviation community for detecting and reporting suspected unapproved aircraft parts, and includes procedures for referral of such reports to the appropriate Federal Aviation Administration (FAA) office. This AC also includes a revised FAA Form 8120–11, Suspected Unapproved Part Notification, which provides a standardized method of reporting suspected unapproved parts to the FAA. The guidance is relevant to any member of the aviation community concerned with installation of parts, including repair stations and manufacturers of aeronautical products.

Comments Invited

Interested persons are invited to comment on proposed AC 21–29B listed in this notice by submitting such written data, views, and arguments as they desire to the aforementioned address. All communications received on or before the closing date for comments will be considered by the Director, Aircraft Certification Service, before issuing the final AC.

Comments received on the proposed AC 21–29B may be examined before and after the comment closing date in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC on June 30, 1994.

Frank P. Paskiewicz,

Manager, Airworthiness Certification Branch.

[FR Doc. 94–16414 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, room 258, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Mosena, Commissioner of the City of Chicago Department of Aviation at the following address: O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, room 248, Des Plaines, IL 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 13, 1994, the FAA determined that the application to use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 10, 1994.

The following is a brief overview of the application:

Level of the PFC: $3.00

Actual charge effective date: September 1, 1993

Proposed charge expiration date: February 1, 2000

Total approved net PFC revenue: $500,418,285.00

Proposed additional collection: $28,765.492.00

Brief description of proposed projects: Airport Rescue & Fire Fighting Facility; Scenic Hold Pad; Radio Alarm Call Box System; Overlay Lower Level Roadway; and Install Permanent Noise Monitoring

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on June 27, 1994.

Benito DeLeon,

Manager, Planning/Programming Branch, Great Lakes Region.

[FR Doc. 94–16416 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use The Revenue From a Passenger Facility Charge (PFC) at Greater Peoria Regional Airport, Peoria, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Greater Peoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Planes, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. W. Ron Burling, Director of the Greater Peoria Airport Authority at the following address: 6100 W. Everett M. Dirksen Pkwy, Peoria, IL 61607.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Peoria Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager Chicago Airports District Office, 2300 East Devon Avenue, room 258, Des Plaines, IL, 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public

comment on the application to impose and use the revenue from a PFC at Greater Peoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 8, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by Greater Peoria Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 8, 1994.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00
Proposed charge effective date: November 1, 1994
Proposed charge expiration date: May 31, 2001
Total estimated PFC revenue: $4,104,719.00
Brief description of proposed project(s):
Access Control and Security System
Sprinkler and Fire Control Suppression & Monitoring
Runway 4/22 Extension
Power line Relocation
Land Acquisition
Security Fence
Airfield Signage
St. John's Church Soundproofing
1500 Gallon Fire Truck
Snow Sweeper/Broom
Passenger Lift Device.
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Greater Peoria Airport Authority.

Issued in Des Plaines, Illinois on June 27, 1994.

Benito DeLeon,

Manager, Planning/Programming Branch; Great Lakes Region.

[FR Doc. 94–16415 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Falls International Airport, International Falls, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Falls International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Myrna Ahlgren, Secretary of the International Falls-Koochiching County Airport Commission at the following address: P.O. Box 392, International Falls, Minnesota 56649.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the International Falls-Koochiching County Airport Commission under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Franklin D. Benson, Manager, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450, (612) 725–4221. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Falls International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 1589 of the Federal Aviation Regulations (14 CFR part 158).

On June 16, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by International Falls-Koochiching County Airport Commission was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 24, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.
Proposed charge effective date: December 1, 1994.
Proposed charge expiration date: December 1, 1998.
Total estimate PFC revenue: $245,280.
Brief description of proposed project(s): Pavement Crack Repair; Airfield Guidance Signs; PFC Administration; Pavement Rehabilitation; Master Plan Update; Lift for Mobility-Impaired Passengers.
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the International Falls-Koochiching County Airport Commission.

Issued in Des Plaines, Illinois on June 27, 1994.

Benito DeLeon,

Manager, Planning/Programming Branch, Great Lakes Region.

[FR Doc. 94–16417 Filed 7–6–94; 8:45 am]

BILLING CODE 4910–13–M

UNITED STATES INFORMATION AGENCY

Cultural Property Advisory Committee; Meetings

AGENCY: United States Information Agency.

ACTION: Notice of Meeting of the Cultural Property Advisory Committee.

SUMMARY: The Cultural Property Advisory Committee will meet on Tuesday, July 19, 1994, from 9 AM to approximately 3:30 PM, USIA headquarters, 301 4th Street SW., room 840 and room 849 (afternoon session), Washington, DC.

The meeting's agenda will include deliberation of whether to extend an emergency import restriction (imposed under the Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et al*) on archaeological material from the Peten Region, Guatemala. Since discussion of this matter will involve information the premature disclosure of which would likely frustrate implementation of proposed actions and policies, this portion of the meeting will be closed pursuant to 5 U.S.C 552b(c)(9)(B) and 19 U.S.C. 2605(h).

The Committee's agenda will also include a discussion of whether there is

a need for special ethical criteria for the Committee. This portion of the meeting will be open to the public and will take place beginning approximately 1:30 PM. Due to security requirements and limited space, persons wishing to attend should telephone (202) 619–6612 by 5 PM on Friday, July 15, 1994. A list of public attendees will be posted at the security desk of USIA in order to facilitate access to the meeting room.

Dated: June 30, 1994.

Penn Kemble,

Deputy Director, United States Information Agency.

Determination To Close the Meeting of the Cultural Property Advisory Committee

July 19, 1994.

In accordance with 5 U.S.C. 552b(c)(9)(B), and 19 U.S.C. 2605(h), I hereby determine that the portion of the Cultural Property Advisory Committee meeting on July 19, 1994, devoted to deliberations about possible extension of the emergency import restriction on archaeological material from the Peten region of Guatemala, may be closed to the public.

Dated: June 30, 1994.

Penn Kemble,

Deputy Director, United States Information Agency.

[FR Doc. 94–16392 Filed 7–6–94; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 129
Thursday, July 7, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ASSASSINATION RECORDS REVIEW BOARD

TIME AND DATE: 10:00 a.m., July 12, 1994

PLACE: National Archives and Records Administration, Archivists Reception Room, Room 105, 7th and Pennsylvania Avenue, N.W., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

(1) Personnel actions including consideration of appointment of staff members.

(2) Extension of term of Review Board members pursuant to section 7(o)(1) of the President John F. Kennedy Assassination Records Collection Act of 1992.

(3) Other matters carried over from the previous meeting of the Board.

CONTACT PERSON FOR MORE INFORMATION: Mr. John R. Tunheim, Chair of the Board, telephone number 612/296–2351.

Dated: July 1, 1994.

John R. Tunheim,

Chair.

[FR Doc. 94–16530 Filed 7–5–94; 10:46 am]

BILLING CODE 3195–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 12, 1994 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, July 14, 1994 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Advisory Opinion 1994–4: Judith K. Richmond on behalf of the U.S. Chamber of Commerce (continued from meeting of June 23, 1994)

Advisory Opinion 1994–17: Katherine S. Feichtner Ruffolo on behalf of Peter Barca for U.S. Senate

Advisory Opinion 1994–20: Albert M. Edwards, Jr. on behalf of the Committee for Congressman Charlie Rose

MCFL Rulemaking: Summary of Comments and Draft Final Rules

Job Recommendations from Political Office Holders

Letter to Party Committees Regarding $25,000 Annual Contribution Limit on Individuals

Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 94–16596 Filed 7–5–94; 2:36 pm]

BILLING CODE 6715–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 28, 1994, 59 FR 33327.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: June 29, 1994, 10:00 a.m.

CHANGE IN THE MEETING: The following Project Nos. have been added to Item CAE–5 on the Agenda scheduled for June 29, 1994:

Item No., Docket No. and Company

CAE–5—P–432–009, Carolina Power and Light Company; P–2748–002, North Carolina Electric Membership

Lois D. Cashell,

Secretary.

[FR Doc. 94–16514 Filed 7–5–94, 9:24 am]

BILLING CODE 6717–01–M

Corrections

Federal Register
Vol. 59, No. 129
Thursday, July 7, 1994

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

Rural Electrification Administration

7 CFR Part 1755

REA Specification for Terminating Cables

Correction

In rule document 94-14338 beginning on page 30505, in the issue of Tuesday, June 14, 1994, make the following corrections:

§ 1755.870 [Corrected]

On page 30507, in the third column, in § 1755.870, in the second column of the table, in the first line, "D22" should read "22".

§ 1755.870 [Corrected]

On page 30511, in the third column, in § 1755.870 (h)(3)(i), in the seventh line, after "1" insert "±".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 950542-4142; I.D. 050394B]

Interim Exemption for Commercial Fisheries

Correction

In rule document 94-14248 beginning on page 31165 in the issue of Friday, June 17, 1994, make the following correction:

On page 31165, in the third column, in amendatory instruction 3., after the first line insert the following:

PART 229— INTERIM EXEMPTION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 5-021 Montana]

Montana Power Company and Confederated Salish and Kootenai Tribes; Notice of Intent To Prepare An Environmental Impact Statement and To Conduct A Scoping Meeting

Correction

In notice document 94-14750 appearing on page 31228, in the issue of Friday, June 17, 1994, make the following corrections:

On page 31228, in the second column, in the first line, "Federal Agency Regulatory Commission" should be removed.

On the same page, in the same column, the project number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1319–000]

Delmarva Power & Light Co.; Notice of Filing

Correction

In notice document 93-14651 beginning on page 30928 in the issue of Thursday, June 16, 1994, the docket number is corrected to read as above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7055

[NV-930-4210-06; N-52465]

Withdrawal of Public Land for High Rock Canyon Area of Critical Environmental Concern; Nevada

Correction

In rule document 94-13175 beginning on page 28013, in the issue of Tuesday, May 31, 1994, make the following correction:

On page 28014, in the first column, under the heading Mount Diablo Meridian, in the land description, in T. 40 N., R. 23 E., "Sec. 17, lots 1 and 2, W½NE¼SE¼, NE¼, W½, and SE¼;" should read "Sec. 17, lots 1 and 2, W½NE¼, SE¼NE¼, W½, and SE¼;".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-168-AD; Amendment 39-8947; AD 94-13-07]

Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes

Correction

In rule document 94-15013 beginning on page 32327, in the issue of Thursday, June 23, 1994, make the following correction:

§ 39.13 [Corrected]

On page 32329, in the first column, in § 39.13 (g), in the second line, "July 8, 1993" should read "July 8, 1994".

BILLING CODE 1505-01-D

federal register

Thursday
July 7, 1994

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 100

Fair Housing; Fair Housing Act; Discriminatory Conduct; Housing for Older Persons; Significant Facilities and Services Definition; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 100

[Docket No. R–94–1706; FR–3502–P–01]

RIN 2529–AA66

Housing for Older Persons; Defining Significant Facilities and Services; Proposed Amendments

AGENCY: Office of the Secretary and Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Proposed Rule and Notice of Public Meeting.

SUMMARY: This proposed rule would implement the rulemaking required by section 919 of the Housing and Community Development Act of 1992. Section 919 requires the Secretary of HUD to issue "rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older persons' in such section." This rule would amend existing regulations governing "housing for older persons", to provide the definitions required by section 919.

DATES: Comments due date: October 5, 1994.

ADDRESSES: Interested persons are invited to submit comments on the proposed rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Kaplan, Office of Program Training and Technical Assistance, Office of Fair Housing and Equal Opportunity, room 5242, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone (202) 708–1145 (not a toll-free number). The toll-free TDD number is: 1–800–877–8339.

Notice of Public Meeting

The customary 60-day public comment period will be extended to a 90-day public comment period to ensure broad public input into the rulemaking process. Additionally, the Assistant Secretary for Fair Housing and Equal Opportunity will schedule a public meeting to hear from all those affected by this proposed rule.

Attendance will be open to the interested public, but necessarily limited to the space available. Presentation of oral statements will be welcomed. However, groups that wish to make an oral presentation at the meeting must request an opportunity to do so in writing. Oral presentations will also be limited to a prescribed time and to the groups that submit written comments. Written comments may be submitted at any time during the 90 day comment period following publication of the proposed rule in the **Federal Register.**

Specific details as to the date, time and location of the meeting will be provided by notification in the **Federal Register** within 20 days from the date of this publication. The Notice of meeting will also contain all procedures governing the conduct of the meeting.

For further information concerning the public meeting contact Peter Kaplan, Director, Office of Program Training and Technical Assistance, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–1145, not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Housing Act (Title VIII of the Civil Right Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601–19) exempts "housing for older persons" from the prohibitions against discrimination because of familial status. The purpose of the prohibition against discrimination on the basis of familial status and the "housing for older persons" exemption is to protect families with children from discrimination in housing without unfairly limiting housing choices for elderly persons (see 134 Cong. Rec. S 19722 (Aug. 1, 1988) statement of Senator Karnes).

On January 23, 1989 (54 FR 3232), HUD published a final rule implementing the Fair Housing Act. This rule included regulations governing housing for older persons. The "housing for older persons" regulations implement, among other things, section 807(b)(2)(C) of the Fair Housing Act, which exempts housing intended and operated for occupancy by at least one person 55 years of age or older per unit that satisfies certain criteria. These regulations are codified in 24 CFR part 100, subpart E. In drafting the housing for older persons regulations, HUD took into consideration the public comments that addressed the issue of what constitutes "significant facilities and services specifically designed to meet the physical or social needs of older persons."

Congress mandated that, in determining whether housing qualifies as housing for persons 55 years of age or older, the Secretary develop regulations which require at least the following factors:

(1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(2) That at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

II. Overview of Proposed Rule

Section 919 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992 (the 1992 Act)), requires the Secretary of HUD to issue rules further defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons." [1] This proposed rule would implement the rulemaking required by section 919 of the 1992 Act. Specifically, this proposed rule would revise the "55 or over" housing regulation, codified at 24 CFR 100.304.

This proposed rule would expound upon the significant facilities and services requirements governing "55 or over housing" currently set forth in § 100.304(b)(1). A new § 100.305 would be added and would address the requirements for "facilities and services specifically designed to meet the

[1] The language of section 919 contains the word "especially": "* * * rules defining what are 'significant facilities and services *expecially* designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older person' in such section." (emphasis added) This proposed rule uses the word "specifically" rather than the word "especially" to comply with congressional intent and reflect the actual language of section 807(b)(2) of the Fair Housing Act.

physical or social needs of older persons." A new § 100.306 would be added and would address the requirement that such facilities and services be "significant." In addition to adding these two new sections, the substance of existing § 100.304(b)(2) would be located in the new § 100.310. Existing subsections §§ 100.304(c)(1) and 100.304(d) and 100.304(e) would provide the substance of new § 100.315, and existing § 100.304(c)(2) would be redesignated as new § 100.316.

In developing this proposed regulation, the Department desires to provide as much certainty as possible regarding the determination that housing qualifies as housing for older persons. It has sought to structure the regulation to allow both housing providers and protected classes alike to ascertain with confidence whether a community qualifies under the Fair Housing Act.

However, it is the Department's view that a single, precise, mathematical-like standard that fully implements the Act is not possible, nor may it be equitable.

As a result, the Department has concluded that a flexible standard is necessary in order to reflect regional variations in services and facilities that distinguish housing for older persons from other similar housing, as well variations determined by the geography of the site or by the differences in the nature or cost of the housing in question. To do otherwise could unnecessarily restrict housing opportunities for older persons by holding all housing to a single arbitrary standard that was not intended by the framers of the Act.

Services common to older persons in one region of the country are often not commonly provided or expected in another where weather, for example, or terrain make them unnecessary or undesirable. Similarly, facilities expected as the norm at large, single family older community developments may not be expected at small, mobile home parks with limited acreage, or at large, multi-story, multi-family condominium complexes. And services or facilities common or needed in urban communities near transportation may differ substantially from those appropriate to rural locations.

In addition, the Department recognizes that housing for older persons is not limited to the affluent. Therefore, the Department is concerned lest a single standard that offers certainty would not be sufficiently flexible to accommodate housing for low and moderate income older persons.

In structuring the proposed rule which follows, the Department has sought to identify as many as possible of the factors and considerations which are germane to capture the differences required by housing for older persons, thus making it possible for wide varieties of communities to qualify who meet the statutory requirements of the Act. In addition, through the publication of the appendix and the illustrative examples it contains, the Department has sought to provide further guidance to assist in the application of the regulation.

However, the Department specifically requests detailed comment on how the proposed standards can be modified to provide greater certainty and precision while still providing the flexibility necessary to accommodate the other factors essential to carry out the Act. To allow for this, the Department has extended the comment period to 90 days and will provide for a public hearing process, described elsewhere in the preamble, to receive public comments.

As is the case with other exemptions to civil rights statutes and other exemptions under the Fair Housing Act (the Act), the exemption to the Act's requirements provided by the "housing for older persons" exemption will be interpreted narrowly. A narrow construction of this exemption is intended to give full force and effect to the protection against familial status discrimination afforded by the Act.

The burden of demonstrating that the "older persons" exemption applies rests on the party asserting the exemption. Part of that party's burden in establishing qualification for the exemption requires affirmatively demonstrating through credible and objective evidence that the requirements for the exemption exist as of the date of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status.

The Department believes that the Fair Housing Act imposes a strict burden upon a person claiming the exemption to provide credible and objective evidence showing that the facilities and services offered by the housing provider were designed, constructed or adapted to meet the particularized needs of older persons. In order to be considered as sufficient to qualify a housing facility for the exemption, the evidence must show that the housing in question is clearly distinguished from the bulk of other housing (except for other older persons' housing) in a particular area, by the existence of those facilities and services which set the housing facility apart as housing intended for and operated as housing for older persons. Absent such evidence, the familial status prohibitions of the Act will apply.

There is no indication in the Act or in its legislative history that Congress intended that only the most expensive housing with the most expansive and expensive facilities and services, should qualify for the exemption. Housing in all affordable categories may offer the types of facilities and services for older persons which make that housing unique for the class of persons who can afford that housing. This determination is made by contrasting the housing being offered as housing for older persons to comparable housing not claiming the exemption and evaluating the significance of the facilities and services being offered to meet the requirements of the exemption (See § 100.306(c)(l); Comparable housing is of similar type, size and cost of lease or purchase.)

Proposed Amendments

New § 100.305—Specifically Designed Facilities and Services

New § 100.305 proposes to set forth the criteria by which a facility or service will be determined to be "specifically designed to meet the physical or social needs of older persons."

New § 100.306—Significant Facilities and Services.

New § 100.306 proposes to set forth the criteria by which facilities or services that meet the requirements of § 100.305 (i.e., specifically designed facilities and services) will be determined to be "significant." The factors listed in new § 100.306 are intended to measure the relative importance of the facilities and services so that their significance can be determined. New § 100.306 would approach the "significance" determination as an aggregate one—that is, a determination with respect to all facilities and services as a whole, rather than a determination with respect to each facility and service individually.

New § 100.310—Impracticability

Existing § 100.304(b)(2), which would be redesignated as new § 100.310, would be revised by adding the following language as the introductory text to the current provisions contained in paragraph (b)(2):

The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55

years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or 100.310, 100.315 and 100.316. Housing satisfies the requirements of section 100.310 if * * *

New § 100.315—80% Occupancy

Existing §§ 100.304(c)(1), 100.304(d) and 100.304(e) would be combined as new § 100.315, and the following language would be added to the new § 100.315:

The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or 100.310, 100.315 and 100.316. Housing satisfies the requirements of this section 100.315 if * * *

New § 100.316 —Intent To Provide Housing for Older Persons

Existing § 100.304(c)(2), which would be redesignated as new § 100.316, would be revised by adding the following language as the introductory text to new § 100.316:

The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or 100.310, 100.315 and 100.316. Housing satisfies the requirements of section 100.316 if * * *

III. Appendix

HUD is also proposing to publish an Appendix to the proposed rule. This Appendix is intended to provide members of the public with detailed guidance interpreting the provisions of the Fair Housing Act that pertain to the exemption for "housing for older persons" (55 or over housing). The Department believes that supplementing the regulatory language with interpretive guidance in the Appendix is the best way to comply with the Congressional mandate to further define the term "significant facilities and services specifically designed to meet the physical or social needs of older persons."

The Department intends for the Appendix to serve as guidance for housing providers and others in determining whether housing qualifies for the "housing for older persons" exemption (55 or over housing). The Appendix illustrates the application of the factors that the Department will consider in making its determination. The Department will refer to the interpretive guidance in the Appendix when considering whether there is reasonable cause to believe that a discriminatory practice has occurred or is about to occur. It should be clearly understood, however, that the illustrative examples provided in this Appendix are not dispositive of any actual case; i.e., a bare claim by a housing provider that the operation of a particular housing development duplicates the fact pattern of any example presented in this Appendix will not preclude the Department from conducting an investigation under the Fair Housing Act of an alleged discriminatory housing practice directed against an aggrieved person with familial status; nor will it preclude the Secretary from issuing a determination based upon the evidence obtained through such an investigation.

The Department will apply the criteria for "specifically designed" and "significant" facilities and services on a case-by-case basis, and a determination will be based upon the totality of the factual circumstances examined.

The Department may revise or supplement the Appendix from time to time in order to incorporate additional guidance, fact patterns, and relevant Administrative Law Judge (ALJ) and court decisions that reflect future developments in administrative and case law. This will be accomplished through the publication of formal notices in the Federal Register.

IV. Other Matters

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, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Executive Order 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in this rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and, by approving it, certifies that the proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule would implement section 919 of the Housing and Community Development Act of 1992, which requires the Secretary of HUD to further define the term "significant facilities and services specifically designed to meet the physical or social needs of older persons." The Department anticipates that the proposed rule will have an impact on some small housing providers. However, the number of small housing providers affected is not considered to be so great as to constitute a significant economic impact on a substantial number of small entities.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this proposed rule would not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government. The Fair Housing Act, and section 919 of the Housing and Community Development Act of 1992 direct HUD to provide further guidance on the meaning significant facilities and services so that States, local governments, and housing providers will have a better understanding of what housing is exempt from the Fair Housing Act's prohibition against discrimination on the basis of familial status.

Regulatory Agenda

This proposed rule was listed as sequence 1662 in the Department's Semiannual Regulatory Agenda, published on April 25, 1994 (59 FR 20424, 20464) under Executive Order

12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 100

Aged, Fair housing, Individuals with disabilities, Mortgages, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 100 would be amended as follows:

PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT

1. The authority citation for part 100 would be revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 3600–3620.

2. In subpart E, § 100.304 would be revised, new §§ 100.305, 100.306, 100.310, 100.315 and 100.316 would be added, and an appendix to subpart E would be added to read as follows:

Subpart E—Housing for Older Persons

§ 100.304 55 or over housing.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that, at the time of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status, the housing satisfies the requirements of:

(1) §§ 100.305, 100.306, 100.315 and 100.316; or

(2) §§ 100.310, 100.315 and 100.316.

(b) With reference to complaints filed pursuant to the Act, this means that the person or entity claiming the exemption must affirmatively demonstrate through credible and objective evidence as of the date of the alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status that the housing meets the requirements of paragraph (a) of this section.

(c) For purposes of §§ 100.305, 100.306, 100.310, 100.315 and 100.316 of this subpart, "older persons" means persons 55 years of age or older. For purposes of §§ 100.305 and 100.306, "housing provider" means:

(1) The owner or manager of a housing facility; or

(2) The owner or manager of the common and public use areas of a housing facility, where the dwelling units are individually owned.

§ 100.305 Specifically designed facilities and services.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that the housing has facilities and services specifically designed to meet the physical or social needs of older persons. In order to satisfy this paragraph, there must be more than one facility and more than one service specifically designed to meet the physical or social needs of older persons. Both facilities and services specifically designed to meet the physical or social needs of older persons must exist as of the date of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status.

(b)(1) In determining that a facility or service is "specifically designed to meet the physical or social needs of older persons," the Department will first consider whether the facility or service is readily accessible to and usable by older persons with mobility, visual and hearing impairments.

(i) If the housing is a covered multifamily dwelling as defined in 24 CFR 100.201 constructed for first occupancy and use after March 13, 1991, in order for a facility to satisfy § 100.305(b)(1) it must meet the requirements of § 100.205. In order for a service to satisfy § 100.305(b)(1), the Department will consider whether older persons with mobility, visual and hearing impairments occupying units can readily access and use the service and the extent to which the service is designed to meet the mobility, visual and hearing impairments of an aging population.

(ii) If the housing is not a covered multifamily dwelling as defined in 24 CFR 100.201 constructed for first occupancy after March 13, 1991, in order for a facility or service to satisfy § 100.305(b)(1), the Department will consider whether older persons with mobility, visual and hearing impairments occupying units can readily access and use the facility or service, and the extent to which the facility or service is designed to meet the mobility, visual and hearing impairments of an aging population. However, if the facility meets the Fair Housing Accessibility Guidelines for new construction (24 CFR Ch. 1, Subch. A, App. II), the facility will satisfy the requirements of this paragraph (b).

(2) If the requirements of paragraph (b)(1) of this section are met, the Department will consider such factors as the following as relevant in determining whether a facility or service is "specifically designed to meet the physical or social needs of older persons":

(i) The extent to which the facility or service benefits the current and future health, safety or leisure needs of an aging population.

(ii) Whether a housing provider has published and adhered to policies and procedures which demonstrate an intent by the housing provider not only to comply with all requirements of law governing discrimination against persons with disabilities, but, even in circumstances not otherwise required by law, to make, at the housing provider's expense, reasonable alterations, modifications and accommodations to facilities and services to make them accessible to persons with disabilities who become or who are residents. The policies and procedures must ensure that as the needs of older persons currently residing in the housing change and as new residents move into the housing, the housing provider will respond to those changing needs. A statement of these policies and procedures shall be provided to residents and applicants for housing.

(iii) The extent to which the housing provider has taken meaningful steps to make available an off-site facility or service which would otherwise be unavailable to older persons who are residents of the housing facility.

(iv) The extent to which a service, or services, specifically designed to meet the physical or social needs of older persons is provided in connection with the facility.

(3) The types of facilities and services provided in the section 202 "Supportive Housing for the Elderly" Program (see 24 CFR part 889) are the types of facilities and services that would meet the physical or social needs of older persons in general. However, these do not constitute the exclusive set of facilities and services that the Department will consider in determining whether a facility or service is "specifically designed" to meet the physical or social needs of older persons.

§ 100.306 Significant facilities and services.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55

years of age or older per unit, provided that the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that the facilities and services specifically designed to meet the physical or social needs of older persons are "significant".

(b) In determining whether the facilities and services offered as specifically designed to meet the physical or social needs of older persons are significant, the Department will consider, in the aggregate, all facilities and services that meet the requirements of § 100.305.

(c) The Department will evaluate each facility or service that meets the requirements of § 100.305 by the following criteria to determine whether the facilities in the aggregate and the services in the aggregate are "significant":

(1) The extent to which a facility or service offered by a housing provider to residents is not customarily offered to residents of comparable housing (other than housing for older persons) in the relevant geographic area.

(2) The extent to which a facility or service can accommodate the older population of the housing facility. The capacity of each facility or service specifically designed to meet the physical or social needs of older persons depends upon, but is not limited to, such factors as:

(i) The size of the facility or scope of the service offered;

(ii) The length of time during which the facility is made available or the service is offered;

(iii) The frequency with which the facility is made available or the service is offered; and

(iv) Whether the facility or service is offered only at one location or there are a number of locations at which the facility is made available or at which the service is offered.

(3) The extent to which the facility or service is of benefit to older persons, given the climate and physical setting of the housing facility.

(4) The extent to which a facility or service is actually used by older persons who are residents.

(5) The extent to which the facility or service is provided by the housing provider rather than by others.

(6) Whether a facility or service is not one that is required to be provided by a law related to housing for the elderly or housing for older persons.

§ 100.310 Impracticability.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of this section § 100.310 if it is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons.

(b) In order to satisfy the requirements of § 100.310 the owner or manager must affirmatively demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of § 100.310.

(1) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.

(2) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(3) The income range of the residents of the housing facility.

(4) The demand for housing for older persons in the relevant geographic area.

(5) The range of housing choices for older persons within the relevant geographic area.

(6) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of § 100.310 .

(7) The vacancy rate of the housing facility.

§ 100.315 80 percent occupancy.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.315 if at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989 need not comply with § 100.315 until 25 percent of the units in the facility are occupied.

(b) Housing satisfies the requirements of this section even though:

(1) On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

(2) There are unoccupied units, provided that at least 80 percent of such units are reserved for occupancy by at least one person 55 years of age or over.

(3) There are units occupied by employees of the housing (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(c) The application of this section may be illustrated by the following examples:

Example 1: A. John and Mary apply for housing at the Valley Heights apartment complex which is a 100 unit housing complex that is operated for persons 55 years of age or older in accordance with all the requirements of this section. John is 56 years of age. Mary is 50 years of age. Eighty (80) units are occupied by at least one person who is 55 years of age or older. Eighteen (18) units are occupied exclusively by persons who are under 55. Among the units occupied by new occupants after September 13, 1988 were 18 units occupied exclusively by persons who are under 55. Two (2) units are vacant. At the time John and Mary apply for housing, Valley Heights qualifies for the "55 or over" exemption because 82% of the occupied units (80/98) at Valley Heights are occupied by at least one person 55 years old or older. If John and Mary are accepted for occupancy, then 81 out of the 99 occupied units (82%) will be occupied by at least one person who is 55 years of age or older and Valley Heights will continue to qualify for the "55 or over" exemption.

B. If only 78 out of the 98 occupied units had been occupied by at least one person 55 years of age or older, Valley Heights would still qualify for the exemption, but could not rent to John or Mary if they were both under 55 without losing the exemption.

Example 2: Green Meadow is a 1,000 unit retirement community that provides significant facilities and services specifically

designed to meet the physical or social needs of older persons. On September 13, 1988, Green Meadow published and thereafter adhered to policies and procedures demonstrating an intent to provide housing for persons 55 years of age or older. On September 13, 1988, 100 units were vacant and 300 units were occupied only by people who were under 55 years old. Consequently, on September 13, 1988 67% of the Green Meadow's occupied units (600 out of 900) were occupied by at least one person 55 years of age or older. Under paragraph (b)(1) of this section, Green Meadow qualifies for the "55 or over" exemption even though, on September 13, 1988, under 80% of the occupied units in the housing facility were occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that were occupied after September 13, 1988 are occupied by at least one person 55 years of age or older. Under paragraph (b) of this section, Green Meadow qualifies for the "55 or over" exemption, even though it has unoccupied units, provided that at least 80% of its unoccupied units are reserved for occupancy by at least one person 55 years of age or over.

Example 3: Waterfront Gardens is a 200 unit housing facility to be constructed after March 12, 1989. The owner and manager of Waterfront Gardens intends to operate the new facility in accordance with the requirements of this section. Waterfront Gardens need not comply with the requirement in paragraph (a) of this section that at least 80% of the occupied units be occupied by at least one person 55 years of age or older per unit until 50 units (25%) are occupied. When the 50th unit is occupied, then 80% of the 50 occupied units (i.e., 40 units) must be occupied by at least one person who is 55 years of age or older for Waterfront Gardens to qualify for the "55 or over" exemption.

§ 100.316 Intent to provide housing for older persons.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.316 if the owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(b) The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of § 100.316:

(1) The manner in which the housing facility is described to prospective residents.

(2) The nature of any advertising designed to attract prospective residents.

(3) Age verification procedures.

(4) Lease provisions.

(5) Written rules and regulations.

(6) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

Appendix A to Subpart E—Guidance on Defining Significant Facilities and Services

The guidance set out in this Appendix represents the Department's interpretation of the principles and requirements of the Fair Housing Act that require, in order for housing to qualify as housing for persons 55 years of age or older, that there must exist "significant facilities and services specifically designed to meet the physical or social needs of older persons."

The Department intends for the Appendix to serve as a resource document for housing providers and others in determining whether housing qualifies for the "housing for older persons" exemption. The Appendix illustrates the application of the factors that the Department will consider in making its determination. The Department will refer to the interpretive guidance in the Appendix when considering whether there is reasonable cause to believe that a discriminatory practice has occurred or is about to occur.

It should be clearly understood, however, that the examples provided in this Appendix are illustrative and presented in summary form. The examples are *not* intended to predetermine the Department's disposition on any actual case since more detailed facts and circumstances would have to be considered. Therefore, a claim from a housing provider that the operation of a particular housing development is an exact replica of one of the examples presented in this Appendix will not preclude the Department from commencing an investigation under the Fair Housing Act of an alleged discriminatory housing practice directed against an aggrieved person with familial status; nor will it preclude the Secretary from issuing a determination based upon the evidence obtained through such an investigation.

The Department may, from time-to-time, publish in the **Federal Register** additional or revised interpretive guidance which will be included in this Appendix.

BILLING CODE 4210-28-P

REGULATION	INTERPRETIVE GUIDANCE
100.304 55 or over housing. (a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, *provided that, at the time of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status*, the housing satisfies the requirements of: (1) §§100.305, 100.306, 100.315 and 100.316; or (2) §§100.310, 100.315 and 100.316.	**100.304 55 or over housing.** This interpretive guidance applies to <u>all</u> of the requirements necessary to qualify for this exemption contained in §§100.305, 100.306, 100.310, 100.315 and 100.316. Qualification for the exemption requires providing credible and objective evidence that the facilities and services exist as of the date of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status. To qualify as housing for persons 55 years of age or older, the housing must satisfy the requirement: o that it has facilities and services which are specifically designed to meet the physical or social needs of older persons (§100.305) that are significant (§100.306); or o that it is not practicable to provide significant facilities and services specifically designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons (§100.310).

REGULATION	INTERPRETIVE GUIDANCE
100.304 (cont'd)	100.304 (cont'd) In addition, at least 80 percent of the units in the housing facility must be occupied by at least one person 55 years of age or older (§100.315); and, the housing owner or manager must publish and adhere to policies and procedures which demonstrate an intent to provide housing for persons 55 years of age or older (§100.316). Sections 100.305 and 100.306 provide a two-pronged test to determine whether a housing development provides significant facilities and services specifically designed to meet the physical or social needs of older persons: o First, each facility and each service must be *"specifically designed"* to meet the physical or social needs of older persons (§100.305). This is the first prong of the test. If a facility or service is not "specifically designed," it is not further considered. o Second, each facility or service that meets the requirements of the first prong is evaluated using factors aimed at measuring the extent to which it is *"significant"*. All these facilities are then judged in the aggregate and all these services are judged in the aggregate to determine if they are significant(§100.306). This is the second prong of the test.

REGULATION	INTERPRETIVE GUIDANCE
100.304 (cont'd) (b) With reference to complaints filed pursuant to the Act, this means that the person or entity claiming the exemption must affirmatively demonstrate through credible and objective evidence as of the date of the alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status, that the housing meets the requirements of paragraph (a). (c) For purposes of §§100.305, 100.306, 100.310, 100.315 and 100.316 of this subpart, *"older persons"* means persons 55 years of age or older.	100.304 (cont'd) The burden of demonstrating that the "older persons" exemption applies rests on the party asserting the exemption. As is the case with other exemptions to civil rights statutes, and other exemptions under the Fair Housing Act (the Act), this exemption will be interpreted narrowly. A narrow construction of this exemption is intended to give full force and effect to the protection against familial status discrimination afforded by the Act.

REGULATION	INTERPRETIVE GUIDANCE
100.304(c), (cont'd) For purposes of §§100.305 and 100.306, *"housing provider"* means: (1) the owner or manager of a housing facility; or (2) the owner or manager of the common and public use areas of a housing facility, where the dwelling units are individually owned.	100.304(c), (cont'd) EXAMPLE 1 Vista Valley is a 250-unit apartment complex, owned by Vista Valley, Inc. and managed by Valley Management, Ltd. The housing providers, for purposes of §§100.305 and 100.306, are Vista Valley, Inc. and Valley Management Ltd. EXAMPLE 2 Mountain View Terrace is a 300-unit condominium complex consisting of one-and two-bedroom condominium units which are individually owned (by persons who reside in the units or rent the units to tenants). The Mountain View Terrace Condominium Association owns and manages the common and public use areas of Mountain View Terrace. The housing provider, for purposes of §§100.305 and 100.306, is the Mountain View Terrace Condominium Association.

REGULATION	INTERPRETIVE GUIDANCE
100.304(c), (cont'd)	100.304(c), (cont'd) EXAMPLE 3 Meadow Lakes is a planned community consisting of 390 single family detached houses which are individually owned (by persons who reside in the houses or rent the houses to tenants). The public and common use areas in Meadow Lakes are owned and managed by the Meadow Lakes Homeowners Association. The housing provider, for purposes of §§100.305 and 100.306, is the Meadow Lakes Homeowners Association. EXAMPLE 4 Chelsea Village is a 200-unit cooperative, owned by Chelsea Village Cooperative, Inc. and managed by the Chelsea Village Cooperative Board. The housing providers, for purposes of §§100.305 and 100.306 are Chelsea Village Cooperative, Inc. and the Chelsea Village Cooperative Board.

REGULATION	INTERPRETIVE GUIDANCE
100.305 Specifically designed facilities and services. 100.305(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that the housing has facilities and services specifically designed to meet the physical or social needs of older persons. In order to satisfy this paragraph, there must be more than one facility and more than one service specifically designed to meet the physical or social needs of older persons. Both facilities and services specifically designed to meet the physical or social needs of older persons must exist as of the date of an alleged violation of the Act or at any time that the exemption is asserted as a basis for allowing a practice that would otherwise be prohibited as discriminatory on the basis of familial status.	**100.305 Specifically designed facilities and services.** 100.305(a) The Department believes the Fair Housing Act imposes a strict burden upon a person claiming the exemption to provide credible and objective evidence showing that the structures and amenities offered by the housing provider were designed, constructed or adapted to meet the particularized needs of older persons. In order to be considered as sufficient to qualify a housing facility for the exemption, the evidence must show the housing in question is clearly distinguished from the bulk of other housing in a particular area by the existence of those facilities and services which set the housing facility apart as housing intended and operated as housing for older persons. Absent such evidence, the familial status prohibitions of the Act will apply. (Also see discussion in guidance at §100.304(b)). The housing provider must have *facilities* that are specifically designed to meet the physical or social needs of older persons *and services* specifically designed to meet such needs, using the factors that are listed in §100.305. Because the language of the Act requires the existence of "*facilities and services* (in the plural, emphasis added) specifically designed to meet the physical or social needs of older persons", the Department will require *more than one* specifically designed facility and *more than one* specifically designed service.

REGULATION	INTERPRETIVE GUIDANCE
100.305(a), (cont'd)	100.305(a), (cont'd) EXAMPLE 1 Mobile Village is owned and managed by Mobile Properties, Inc., which transports residents twice a week to a local shopping center by use of a van. Mobile Village also provides health services on-site. The health services are located in a large trailer that visits Mobile Village on Mondays and Thursdays (on other days it is located at other developments owned by Mobile Properties). Both the transportation service provided by the van and the health care services provided in the mobile clinic would be considered services. The trailer in which the clinic operates would also be considered a facility. See interpretive guidance for §100.305(b)(3) for other examples of what constitutes a facility and what constitutes a service. Each facility and each service claimed must have been operable at the time an alleged discriminatory practice occurred. EXAMPLE 2 The Mountain Bluff Housing Authority has excluded persons on the basis of familial status since August 1, 1993, the date of the alleged violation of the Act. Mountain Bluff claims to have been exempt housing for older persons age 55 or older as of that date. In support of this claim, Mountain Bluff Housing provides records showing the following facilities and services:

REGULATION	INTERPRETIVE GUIDANCE
100.305(a), (cont'd)	100.305(a), (cont'd) EXAMPLE 2, (cont'd) 1. pool - completed in 1987 2. club house - completed in 1988 3. congregate dining facility - completed July 1993 4. transportation service-organized August 15, 1993 5. medical lectures-organized September 9, 1993 The Department would consider facilities 1-3 but not services 4-5 in connection with Mountain Bluff's claim of qualification for the exemption, since the transportation service and medical lectures were not operable at the time the alleged discriminatory practice occurred.
100.305(b)(1) In determining that a facility or service is "*specifically designed to meet the physical or social needs of older persons*", the Department will first consider whether the facility or service is readily accessible to and usable by older persons with mobility, visual and hearing impairments.	100.305(b)(1) Congress recognized that older persons are likely to experience mobility, visual and hearing impairments--especially as they age--and will require certain features to meet those needs. The Committee stated, "While residents may be of generally good health when they enter a development, they are likely to experience a diminution of physical capacity as the years pass. This requires an environment which can accommodate the changing needs of such residents, and would typically include handrails along steps and interior hallways to reduce risk of falls, grab bars in bathrooms, routes that allow use of wheelchairs, canes and walkers, lever type doorknobs and single lever faucets." H.R. Rep. No. 711, 100th Cong., 2nd Sess., Pages 31-32 (1988) reprinted in 1988 U.S.C.C.A.N. 2173 [hereinafter House Judiciary Report].

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1), (cont'd)	100.305(b)(1), (cont'd) Therefore, in order for a facility or service to be "specifically designed" for older persons, the Department requires exempt housing to be designed to meet the accessibility needs of the *current* older persons who are residents *and* expects the housing provider, to some extent, to meet the needs that an aging population will have (even where those needs are *not* currently present). To do otherwise, especially with respect to the needs of an aging population, could result in communities that are not currently accessible and usable to older persons with such impairments, thus discouraging them from seeking housing there. As a result, the Department has established accessibility as a threshold requirement which must be met in order for the Department to determine whether a facility or service is specifically designed for older persons, using factors set forth in 100.305(b)(2).

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(i) If the housing is a covered multifamily dwelling as defined in 24 CFR § 100.201 constructed for first occupancy and use after March 13, 1991, in order for a *facility* to satisfy §100.305(b)(1) it must meet the requirements of §100.205 of this part.	100.305(b)(1)(i) With respect to facilities: covered multifamily dwellings for first occupancy after March 13, 1991, are already required by the Fair Housing Act to meet accessibility requirements (42 U.S.C. §3604(f)(3)(C); 24 C.F.R. §100.205) which cover dwelling units as well as public and common use areas. Other housing is not required by the Fair Housing Act to meet the accessibility requirements, but may be subject to accessibility requirements of laws such as Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, or state and local laws. The Department requires exempt housing to meet the accessibility requirements of the Fair Housing Act where the housing consists of covered multifamily dwellings for first occupancy after March 13, 1991 in order for the facility to meet the accessibility requirements of this paragraph. EXAMPLE 1 Golden Times Apartments, a multifamily elevator high rise apartment development, subject to the Fair Housing Act accessibility requirements, claims to be "housing for older persons." None of the residents of Golden Times have a mobility, visual or hearing impairment that prevents him or her from using any of the facilities and services in the development. The development supports its claim for exemption by the fact that the ground floor contains a room with a swimming pool and sauna. This room is separated from the lobby entrance by a stairway of six steps and a small landing, with a doorway that opens out.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(i), (cont'd)	100.305(b)(1)(i), (cont'd) EXAMPLE 1, (cont'd) The Department will not consider the swimming pool to be a facility that is specifically designed to meet the physical or social needs of older persons because it fails to meet the accessibility requirements of the Act. EXAMPLE 2 Silver Times Apartments, a multifamily elevator high rise apartment development subject to the Fair Housing Act accessibility requirements, claims to be "housing for older persons." None of the residents of Silver Times have any mobility, visual or hearing impairment that prevents him or her from using any of the facilities and services in the development. The development supports its claim for exemption by the fact that the ground floor contains a room with a swimming pool and sauna that meet the accessibility requirements of the Act. However, while the rental office meets the requirements of the Act, it does not meet certain requirements of Title III of the Americans with Disabilities Act (ADA), which apply to it. In determining whether the facility is "specifically designed to meet the physical or social needs of older persons, " the Department will consider only ~~the fact that the rental office meets~~ the accessibility requirements of the Act. However, where the Department is aware of violations of the ADA it will notify the Department of Justice.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(i), (cont'd) In order for a *service* to satisfy §100.305(b)(1) the Department will consider whether older persons with mobility, visual and hearing impairments occupying units can readily access and use the service and the extent to which the service is designed to meet the mobility, visual and hearing impairments of an aging population.	100.305(b)(1)(i), (cont'd) Since the accessibility requirements of §100.205 address structural features only, a multifamily dwelling that meets those requirements will satisfy the accessibility requirements of 100.305(b)(1) *only with respect to the facilities.* The requirements for a service are set forth in the remaining language of this paragraph. Even where the facilities of a development meet the Fair Housing Act Accessibility requirements, the services would be subject to a determination of whether current residents can access and use them and the extent to which they are designed to meet the mobility, visual and hearing needs of an aging population. The application of this standard is discussed in the analysis of §100.305(b)(1)(ii), below.
100.305(b)(1)(ii) If the housing is *not* a covered multifamily dwelling as defined in 24 CFR § 100.201 constructed for first occupancy after March 13, 1991, in order for a facility or service to satisfy §100.305(b)(1) the Department will consider *whether older persons with mobility, visual and hearing impairments occupying units can readily access and use the facility or service*, and the extent to which the facility or service is designed to meet the mobility, visual and hearing impairments of an aging population.	100.305(b)(1)(ii) The first part of this factor (see italics) addresses the needs of current older persons who are residents. If the housing does not consist of covered multifamily dwellings for first occupancy after March 13, 1991, it must meet the accessibility needs of the current older residents *and* must provide for changing needs of residents who may develop mobility, visual or hearing impairments and new applicants with mobility, visual or hearing impairments who move into the housing.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) The Department believes that unless this level of accessibility is provided, older residents will not be able to benefit fully from the housing and older persons with mobility, visual or hearing impairments will be deterred from seeking the housing. EXAMPLE 1 Sylvan Park is a mobile home community established in 1975, claiming an exemption as "housing for older persons." Sylvan Park has rejected the application of a family with children to live in the community. None of the residents of the community have any mobility, visual or hearing impairments that prevent them from using any of the facilities and services in the community. The Park asserts that a club house in which the residents can hold group activities is a facility specifically designed to meet the physical or social needs of older persons. The club house cannot readily be accessed or used by a person with a mobility impairment. The Park has no contingency plan to build a ramp or otherwise make the club house accessible to persons with mobility impairments.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(l)(ii), (cont'd)	100.305(b)(l)(ii), (cont'd) EXAMPLE 1, (cont'd) While this facility meets the requirements of the first part of this factor because current residents have no mobility, visual or hearing impairments, it would not be considered to be specifically designed to meet the physical or social needs of older persons. Because the facility is not designed to meet the mobility, hearing and visual impairments characteristic of an aging population, it would not meet the requirements of the second part of §100.305(b)(1)(ii) (see Example 5, below). EXAMPLE 2 Project Ancienne is a multifamily housing development formerly opened to families with children now claiming to be housing for older persons. Among its facilities is a club house. The club house does not meet the Fair Housing Accessibility Guidelines for new construction, does not meet the design and construction requirements of the Fair Housing Act, and is not subject to them. Management has widened the doorways of some club house entrances to allow passage by persons in wheelchairs and has provided grab bars in some bathrooms.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) EXAMPLE 2, (cont'd) Since these changes, management can demonstrate that older residents with mobility, visual and hearing impairments make regular use of the leisure activities at the club house. The housing provider has also arranged with the local television station to provide closed captioning for the daily news and special programming. At bi-monthly educational seminars conducted in the club house, management has arranged with the Office of Vocational Rehabilitation for an interpreter to sign for the hearing impaired. Materials are reproduced in the large print or on audio tape. Residents may use tape players provided by management. These facilities and services would meet the requirements of §100.305(b)(1)(ii) due to the level of use by the current residents with mobility, visual and hearing impairments. (Note, in addition, management has taken steps to meet the future needs of older persons with mobility, visual and hearing impairments and ensured that the needs of current residents are met on a continuous basis.)

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) EXAMPLE 3 Deer Hill does not meet and is not required to meet the Act's design and construction requirements. However, management conducts periodic surveys regarding tenant requests for accommodations to their disabilities. They also take written and telephone requests from tenants for accessibility features they need to accommodate their changing needs. In response to a request from a new resident, Deer Hill, at its expense, installed a ramp at the front door to the club house. In response to a request from a tenant whose vision has deteriorated over time, management also distributes community notices in large print and provides a staff member to read notices and other community information to residents who request such a service. As a result, older residents with mobility, visual and hearing impairments are afforded ready access and extensive use of the facilities and services. Deer Hill would meet the requirements of §100.305(b)(1)(ii) because it meets the current needs of older persons who are residents and to a considerable extent it addresses the mobility, visual and hearing needs of older persons in general.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) EXAMPLE 4 Deepwood Delta has facilities which do not meet and are not required to meet the Fair Housing Act's design and construction requirements. Management does not respond to the changing mobility, visual and hearing needs of its residents. It discourages older persons from making their needs known and ignores or stalls in responding to residents' requests for alterations to make facilities and services accessible and usable to them. As a result, older residents with mobility, hearing and visual impairments are denied access to and use of the facilities and services of Deepwood. Deepwood would not meet the requirements of §100.305(b)(1)(ii). Deepwood could also be in violation of the Act's requirements in several respects.
If the housing is *not* a covered multifamily dwelling constructed for first occupancy after March 13, 1991, in order for a facility or service to satisfy §100.305(b)(1) the Department will consider whether older persons with mobility, visual and hearing impairments occupying units can readily access and use the facility or service, *and the extent to which the facility or service is designed to meet the mobility, visual and hearing impairments of an aging population.*	The second part of this factor (see italics) addresses the mobility, visual and hearing impairments of an aging population.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) EXAMPLE 5 Harbor House is a 100-unit single family housing development with common area facilities provided by a management company. Built in 1974, it is not covered by the design and construction requirements of the Fair Housing Act. Among the facilities available to residents are a club house and community rooms. Most entrances to the club house have been widened but do not meet the dimensions of the Fair Housing Act guidelines. Grab bars have been placed in many bathrooms, hand rails and ramps installed in some locations. Some public telephones are accessible and have volume controls and touch dials with large numbers. Management has also ensured that most common area facilities are accessible by providing curb cuts, accessible parking spaces, and walkways that are firm and slip-resistant. Management provides copies of periodicals and magazines in the large print for residents who ask for them. Staff is also available to read or write for older residents (presently, residents do not need this service). There is a large screen television in the club house where special programming and the news is provided on closed caption. Currently, there are no residents who are wheelchair-users. Recently, however, management has seen a steady increase in the number of residents with canes and walkers and others with visual impairments using the club house daily. The Department would determine that the facilities and services at Harbor House met the mobility, visual and hearing impairments of the aging residents (see second part of §100.305(b)(1)(ii)).

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) EXAMPLE 5, (cont'd) The club house and community rooms have been made accessible for use by all residents including those using canes and walkers. The widening of entrances, addition of grab bars in bathrooms, installation of hand rails and ramps are beneficial to aging residents. These accessible features are needed as residents age and mobility becomes more restrictive; the features will continue to be useful. Telephones with volume controls, reading materials available in large print, closed caption television and staff to read and/or write for older residents are efforts by management to meet the visual and hearing needs that exist in older persons as they age. Although the services of staff to read and/or write for older residents is not being used now, it will meet the future needs of older residents.
However, if the facility meets the Fair Housing Accessibility Guidelines for new construction, (24 CFR Ch.1, Subch. A, App. II), the facility will satisfy the requirements of this paragraph.	A facility that meets the Fair Housing Accessibility Guidelines for new construction (24 CFR Ch.1, Subch.A, App. II pp 942-43) will be considered by the Department to be accessible to and usable by older persons with mobility, visual and hearing impairments. This will be so whether or not the facility is covered under the design and construction standards of the Act.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(1)(ii), (cont'd)	100.305(b)(1)(ii), (cont'd) The Department's use of the Fair Housing Accessibility Guidelines as a "safe harbor" for this purpose does not relieve a housing provider from complying with otherwise applicable accessibility requirements of any federal, state, or local law. EXAMPLE 6 A health clinic constructed in 1993 and located within Sunshine City, a community of single family detached homes, is available for use both by the public and the residents of this housing development. The design and construction requirements of §804(f)(3)(C) of the Fair Housing Act do not apply to this community because the development consists of detached dwelling units. The housing provider has chosen to comply with those accessibility standards in the design of the clinic in order to support a claim that it is a facility specifically designed to meet the physical needs of older persons. However, the design and construction of the clinic does not meet certain accessibility requirements of Title III of the Americans with Disabilities Act, which apply to this facility. In determining whether the facility is "specifically designed to meet the physical or social needs of older persons," the Department will consider only the fact that the clinic meets the accessibility requirements of the Act. However, where the Department is aware of violations of the Americans with Disabilities Act (ADA) it will notify the Department of Justice.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2) If the requirements of paragraph (1) of this section are met, the Department will consider such factors as the following as relevant in determining whether a facility or service is "*specifically designed to meet the physical or social needs of older persons*":	100.305(b)(2) The ability to access and use a facility or service is a threshold requirement which must be met in order for the Department to determine whether a facility or service is "specifically designed" for older persons, using factors set forth in §100.305(b)(2). For example, a recreational facility may be fully accessible under the accessibility guidelines of the Act, and may be usable for activities that are *not* specifically designed for older persons. Likewise, a service may be fully accessible under the accessibility guidelines of the Act, but may not be specifically designed to meet the physical or social needs of older persons: (for example, child day care and teen counseling services). Therefore, the regulation sets forth additional factors that, among others, will be used to determine whether facilities and services that are accessible to and usable by older persons are "specifically designed" for them. Each situation will be considered on its merits to determine if, after applying the requirements of §100.305, the facilities or the services have been "specifically designed" to meet the physical or social needs of older persons. The Department expects that further experience under the Act will allow the promulgation of additional guidance to help in determining whether the intent of the regulatory requirements has been met.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i) The extent to which the facility or service benefits the *current* and *future* health, safety or leisure needs of an aging population.	100.305(b)(2)(i) The House Judiciary Committee recognized the physical or social needs of older persons. The Committee also recognized that those needs may change over time, as the older person population ages. The Committee described the needs of an older population as follows: "As the President's Commission on Housing recently stated, the frailties of old age need not result in institutionalization if accessible housing and adequate services are available (citation omitted). Earlier, the President's Task Force on Aging noted the period of independence of older persons may be extended and the quality of their lives enhanced through the provision of limited supportive services in apartments and villages designed especially for their use". (House Judiciary Report, Pages 31-32). This factor focuses upon the extent to which a facility or a service addresses the health, safety or leisure needs of an existing population which will age, with increasing needs of this kind. A facility or service designed to meet *both* current and increasing needs is more likely to be recognized as one that is "specifically designed" for older persons.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i), (cont'd)	100.305(b)(2)(i), (cont'd) The housing provider may utilize any credible and objective evidence (e.g. recent correspondence to residents indicating the availability of a facility or service, minutes of tenant association or housing development board meetings, or other objective evidence) to support its claim that the facilities and services that existed at the time of the alleged discrimination meet the needs of older persons who are residents. In any case, the Department will consider any other evidence it deems appropriate to its determination. The Department believes that surveys are only of limited value in demonstrating whether the needs of older persons were met at the time of the alleged violation and that reliance on surveys would bring with it a potential for abuse. Residents may face increased assessments, rents, or other charges to support facilities or services designed to meet their needs. Therefore, the fact that the residents of a housing facility have indicated, through surveys, that they do not need or want facilities or services specifically designed to meet the physical or social needs of older persons does not change or lessen the necessity that the requirements of Sections 100.305 and 100.306 be met. When determining whether to consider a resident survey, the factors the Department will apply include: o The manner in which a survey is conducted (the number of older residents who participated in the survey; how long residents had to respond, how responses were collected); o How recent is the survey; o Was there more than one survey and, if so, the frequency of the surveys; and o Whether the housing provider, as a result of the survey(s), added or modified facilities or services to respond to residents' needs.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i), (cont'd)	100.305(b)(2)(i), (cont'd) EXAMPLE 1 John and Mary purchased their unit when their children were ages two and six. They lived in a 150-unit multifamily complex. Over time, all of the children left this development and the housing provider took actions to accommodate an older population. o Congregate dining services were provided and therapeutic aerobics classes were scheduled daily. o Tennis courts were adapted and outfitted with rest areas, benches with trees for shade, and water fountains. o Care giver groups and alzheimer's support groups were provided by management. o Safety precautions were added, which included brighter lighting for the hallways and laundry room. Most of the residents are active and healthy adults. Only a few of the current residents have a need for specialized medical care and relatively few use the convenience of the congregate dining room. The Department would determine that management's actions to provide for current and future tenants' needs meet the requirements of this factor: o Congregate dining services and aerobics exercise classes would be given substantial weight as they benefit both the current and future health and leisure needs of older persons. o Although caregiver and alzheimer's services are needed by only a small number of residents, the housing provider assured that this service was available to meet their needs, as well as the future needs of the aging residents of this housing.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i), (cont'd)	100.305(b)(2)(i), (cont'd) EXAMPLE 1, (cont'd) o Adapting the tennis courts to insure that older residents were able to comfortably enjoy playing tennis would be given substantial weight in this case; and o Assuring that walkways are properly lighted would be viewed favorably as a factor in meeting the needs of older persons in general. EXAMPLE 2 Nautylus Apartments offers a swimming pool which has no shady area in or around the pool, does not provide chairs around the pool for the use of residents (residents must carry their own chairs to the pool), does not have an accessible route into the pool area or into the pool, and is not proximate to a water fountain. The pool is only open 11:00 a.m. -8:00 p.m. on Saturday, Sunday, and holidays, and after regular working hours on Monday through Friday (5:00 p.m. - 8:00 p.m.). Pysces Apartments, on the other hand, offers a swimming pool that is accessible to persons with mobility impairments, has chairs and tables with umbrellas around it where residents socialize and play mahjongg, and has a functioning water fountain. The pool is open during the day both during the week and on the weekend. In addition, a water aerobics course is given that is primarily designed for senior citizens. The Nautylus Apartments pool is a facility that would not meet this factor. In contrast, the Pysces Apartments pool would.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i), (cont'd)	100.305(b)(2)(i), (cont'd) EXAMPLE 3 The Tranquil Acres housing development is located in a warm climate (in the southern or southwestern part of the United States). The provider has identified a swimming pool and recreational center as two facilities that qualify as specifically designed to meet the physical or social needs of older persons. The pool is equipped with a whirlpool, and there are specific physical therapy exercises for "tennis elbow" and "arthritic elbow". Arts and crafts classes, dancing, and counseling for bereaved spouses are just some of the activities that are held in the recreation center. Classes are held both in the mornings and evenings. The classes in the morning are geared to older persons. The housing provider has also made available a 24-hour, seven days a week attendant service to respond to general medical emergencies of residents. The housing provider prints and distributes a monthly newsletter that lists various types of activities/services that are of interest to an older population.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(i), (cont'd)	100.305(b)(2)(i), (cont'd) EXAMPLE 3, (cont'd) Even though the pool is used by all persons, there are services offered in conjunction with this facility that would benefit both older persons (arthritic elbow) and persons generally (tennis elbow). The whirlpool has hot air jets which relieve pain and soreness in muscles and joints. This is a medical aid to older persons and a source of recreation and enjoyment for all. The recreation center also has activities that are beneficial to older and younger persons. In addition, the housing provider has focused on the need to schedule activities at times that are conducive to the respective audiences. During the day, older persons are generally more available and have more leisure time. Therefore, the Department would consider these facilities and services to meet the requirements of this factor because they meet the current and future needs of an aging population.
100.305(b)(2)(ii) Whether a housing provider has published and adhered to policies and procedures which demonstrate an intent by the housing provider not only to comply with all requirements of law governing discrimination against persons with disabilities, but, even in circumstances not otherwise required by law, to make, at the housing provider's expense, reasonable alterations, modifications and accommodations to facilities and services to make them accessible to persons with disabilities who become or who are residents.	100.305(b)(2)(ii) EXAMPLE 1 The Concourse Creek is a 150 unit housing development. Management of Concourse Creek provides regular transportation service to a local medical clinic, once a day delivery of nutritious meals, and homemaker service, as requested. None of the residents of Concourse Creek is disabled. This provision is intended to assure (1) that future applicants who are older persons who apply to a development with facilities and services that do not presently meet the accessibility requirements of the applicant are not dissuaded from seeking residence and (2) that the provider meets its obligation to provide those needs except where it would be unreasonable to do so.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(ii), (cont'd) The policies and procedures must ensure that as the needs of older persons currently residing in the housing change and as new residents move into the housing, the housing provider will respond to those changing needs. A statement of these policies and procedures shall be provided to residents and applicants for housing.	100.305(b)(2)(ii), (cont'd) EXAMPLE 1, (cont'd) One person was particularly attracted to Concourse Creek due to its advertisement which stated: You can consider Concourse Creek the place to live--Today and Tomorrow. We will make any reasonable accommodation to assure that individuals with disabilities can fully enjoy their home and to provide all facilities and services on the same basis to disabled individuals as non-disabled persons. Contact Jane Lawson to learn about the wide range of adaptable features that are available to all of our clients. A similar commitment is provided as part of all applications and lease agreements. In this instance actions taken by the housing provider would meet this factor. The advertisement clearly reflects the intent of the housing provider to modify the housing based upon the needs of both residents and applicants.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iii) The extent to which the housing provider has taken meaningful steps to make available an off-site facility or service which would otherwise be unavailable to older persons who are residents of the housing facility.	100.305(b)(2)(iii) Situations may arise where a housing provider makes use of a service or facility that is not located within the development. While the Act does not prohibit consideration of such services or facilities as specifically designed to meet the physical or social needs of older persons, in addition to the other factors, the provision of this kind of service or facility would be evaluated with respect to the extent to which the housing provider made an otherwise unavailable facility or service available to older persons who are residents of the housing development, thus setting it apart from other communities that make use of the facilities. The Department believes that when a housing provider uses generally available services and facilities that are used by others in the same geographic location such use does not tend to set a specific community apart as housing for older persons. If such use was considered within the meaning of the regulation, any community could claim the right to discriminate against families, assuming it met the other requirements of this regulation, all citing the provision of identical or similar facilities and services. This would broaden the exemption beyond the intent of the statute. EXAMPLE 1 Cactus Colonials is a single family development, claiming to be housing for persons 55 years of age or older, with common ownership of certain facilities. A management company provides common maintenance similar to that provided at other, non-exempt housing. The development is located 5 miles from the nearest commercial center and there is no public transportation available. The management provides free transportation

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iii), (cont'd)	100.305(b)(2)(iii), (cont'd) EXAMPLE 1, (cont'd) to the commercial center by means of vans, driven by employees of management. Vans shuttle back and forth every two hours, picking up residents at their door and dropping them off at the commercial center. Some vans include wheelchair lifts. No other housing provides such transportation services. The commercial center contains a library, health services and a senior citizens center. Accordingly, only where the facilities or services are otherwise unavailable and where the housing provider has taken meaningful steps to make them available, will they be considered for purposes of meeting this factor.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iii), (cont'd)	100.305(b)(2)(iii), (cont'd) EXAMPLE 1, (cont'd) The facilities and services provided at the commercial center would qualify for consideration as to whether they are specifically designed only because they are otherwise unavailable to residents and are being made readily available to the older persons residing in the housing development through the meaningful steps taken by the management. The facilities or services at the commercial center are 5 miles away and there is no public transportation. Thus, they are not readily available to the residents of Cactus Colonials without the support of management.
100.305(b)(2)(iv) The extent to which a service, or services, specifically designed to meet the physical or social needs of older persons is provided in connection with the facility.	100.305(b)(2)(iv) In considering whether a facility is "specifically designed" to meet the physical or social needs of older persons, the Department will consider the services that are carried out in the facility in question. Where a facility, even those fully accessible within the meaning of the Fair Housing Accessibility Guidelines (24 CFR Ch.1, Subch. A, App. II), is utilized for several different purposes, it is more likely that the

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iv), (cont'd)	100.305(b)(2)(iv), (cont'd) Department will determine that the facility is "specifically designed" for older persons if services that take place there clearly are "specifically designed" for older persons. EXAMPLE 1 The owner of the Happy Horizons has taken steps to provide the following services: o Happy Horizons has a fully accessible club house with a swimming pool and congregate dining. Meals in the congregate dining facility are prepared based on the nutritional information that is shared at monthly seminars. o Space is also made available on the second floor to provide for medical services where doctors, including a specialist in Gerontology, visit weekly on Tuesday and Thursday. o Services include medical screening for blood pressure, eye examinations, cholesterol and diabetes testing -- with referral to pre-identified sources for more comprehensive care. o Management also contracts with the local wellness clinic to provide monthly seminars on such conditions as Alzheimer's disease, colon, prostate and uterine cancer, osteoporosis, cataracts and glaucoma.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iv), (cont'd)	100.305(b)(2)(iv), (cont'd) EXAMPLE 1, (cont'd) o Staff of Happy Horizons provide supervised exercise classes that include a walk club and very-low impact aerobics designed to stimulate the heart and some exercises recommended by the National Arthritis Foundation to help relieve stress in joints. While the presence of the swimming pool would not be sufficient for the club house to meet this factor, the club house would meet this factor due to the arrangements made by the housing provider for services to be provided at the club house. While medical care and services to provide information on eye problems, cholesterol and diabetes are potentially of interest to older and younger persons alike, these services address physical needs of older persons because they relate to diseases and health problems common among older persons. Supervised exercise classes address both the physical and social needs of older persons. Low-impact aerobic exercise classes may also be of particular benefit to older persons with blood circulation problems or arthritic problems. These activities not only provide the opportunity for social interaction between residents they also focus on matters and issues of a primary concern to older persons. Provision of the congregate dining room and regular seminars on nutrition are services that are routinely requested and needed by older persons. The presence of services that are clearly designed for older persons results in the club house meeting this factor.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(2)(iv), (cont'd)	100.305(b)(2)(iv), (cont'd) EXAMPLE 2 In contrast to Happy Horizons, Morose Manor offers a club house with nothing in it except a pool table and card table with a few chairs. The only organized activity that occurs in the club house is a semi-annual pool tournament arranged by a group of the residents. Since there are no services offered at the club house, it would not satisfy this factor.
100.305 (b)(3) The types of facilities and services provided in Section 202 "Supportive Housing for the Elderly" (24 CFR part 889) are the types of facilities and services that would meet the physical or social needs of older persons in general.	100.305 (b)(3) The House Judiciary Report page 32 set forth examples of facilities and services that are specifically designed to meet the physical or social needs of older persons, and the Report also referred to Section 202(f) of the Housing Act of 1959, 12 U.S.C. 1701q. However, these were intended as examples, not as an exclusive list. The following expands the list of facilities and services cited by Congress. Listed below are examples of the types of facilities and services that would meet the physical or social needs of older persons. This list is merely illustrative and each service or facility must be evaluated using factors set forth in Section 100.305(b) to determine if it qualifies as "specifically designed" to meet the physical or social needs of older persons. (Items 1-4 are facilities and items 5-14 are services).

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(3),(cont'd) However, these do not constitute the exclusive set of facilities and services that the Department will consider in determining whether a facility or service is "*specifically designed* to meet the physical or social needs of older persons."	100.305(b)(3),(cont'd) 1. adult day health facilities; 2. outpatient treatment facilities; 3. congregate dining facilities; 4. community rooms and workshops; 5. social and recreational programs; 6. information, referral, counseling and support services for diseases such as Alzheimer's Disease, colon, uterine and prostate cancer, osteoporosis, cataracts, and strokes; 7. counseling and support services for bereaved spouses; 8. delivery of health, recreational, homemaker, nutritional services (groceries, prepared meals); 9. exterior maintenance services; 10. emergency and preventive health care or programs that address the health concerns of an aging population; 11. provision of transportation to facilitate access to on-site and off-site medical/health, social and recreational facilities and services; 12. services that encourage and assist older residents to use the services and facilities available to them in the housing facility as well as in the community in general; 13. non-mandatory modifications to exteriors and interiors of individual dwelling units at a housing provider's initiative and expense in order to make such units readily accessible to and usable by older persons with mobility, visual or hearing impairments; 14. an overall physical environment that is readily accessible to and usable by older persons with mobility, visual and hearing impairments.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(3), (cont'd)	100.305(b)(3), (cont'd) EXAMPLE 1 The Department will consider actions taken by a housing provider to make individual units accessible to and usable by persons with mobility, visual and hearing impairments to be a service that is "specifically designed" for older persons (See Item 13, above). The Uniform Towers Apartments has modified the units of the development in the following manner: o the kitchen appliances were adapted for use by individuals who use wheelchairs; o water closets (toilets), bathtubs or showers were outfitted with reinforced walls, grab bars and single lever faucets; o smoke detectors with special light signals were added to units to assist persons with hearing impairments; o heat sensors were installed in kitchens to indicate excessive heat around kitchen stoves; and o doors were widened. The Department would consider the actions taken by the housing provider to be a service "specifically designed" to meet the physical or social needs of older persons since it goes beyond any other requirements of the Fair Housing Act or its implementing regulation.

REGULATION	INTERPRETIVE GUIDANCE
100.305(b)(3), (cont'd)	100.305(b)(3), (cont'd) The Department will consider actions by a housing provider to make the overall physical environment of a community accessible to and usable by persons with mobility, visual and hearing impairments to be a service "specifically designed" to meet the physical or social needs of older persons when not otherwise required by law, unless the law is intended to benefit the elderly. When the law is intended to benefit the elderly, the actions will be considered because these actions are specifically designed to meet the needs of older persons. To be so considered, the housing provider must seek to make the *community as a whole accessible* to persons with such impairments, not merely individual services and facilities. EXAMPLE 2 Section II of the Uniform Towers Apartments was first occupied on February 20, 1990. In January 1991, all common areas were redesigned with new features which typically included hand rails along steps and interior hallways, accessible ground floor routes including curb cuts, and lever type door knobs. In this instance, the Department would consider the actions of the housing provider to be a service "specifically designed" to meet the physical or social needs of older persons.

REGULATION	INTERPRETIVE GUIDANCE
100.306 Significant facilities and services.	**100.306 Significant facilities and services.**
100.306 (a)	100.306(a)
The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit *provided that* the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that the facilities and services specifically designed to meet the physical or social needs of older persons are "*significant*".	See discussion in guidance at §100.304(b).
100.306(b)	100.306(b)
In determining whether the facilities and services offered as specifically designed to meet the physical or social needs of older persons are significant, the Department will consider, *in the aggregate*, all facilities and services that meet the requirements of §100.305.	This factor describes the Department's process for reaching a final determination regarding the overall "significance" of the facilities and services provided by the housing provider. The Department will examine all facilities collectively and all services collectively to determine if they meet the requirements of §100.306. Prior to the Department making a determination with respect to significance required by this section, the facilities and services will have had to qualify as being "specifically designed" to meet the physical or social needs of older persons pursuant to §100.305.

REGULATION	INTERPRETIVE GUIDANCE
100.306(b),(cont'd)	100.306(b),(cont'd) Only those facilities and services that meet the requirements of "specifically designed" as set forth in §100.305 are evaluated for their significance in making a determination of whether, in the aggregate, the facilities and services are "significant". The process involves two stages. o First, the Department will apply the factors described in §§100.306(c)(1) through 100.306(c)(6) to evaluate <u>each</u> facility; then o the Department will *aggregate* <u>all such facilities</u> to determine collectively if they are "significant". The same process will be applied to all of the services made available by the housing provider that have been determined to be specifically designed to meet the physical or social needs of older persons as set forth in §100.305(b).
100.306(c) The Department will evaluate each facility or service that meets the requirements of §100.305 by the following criteria to determine whether the facilities in the aggregate and the services in the aggregate are "*significant*":	100.306(c) The Department will weigh each facility and each service against the following six criteria, set forth in §§ 100.306(c)(1) through 100.306(c)(6):

REGULATION	INTERPRETIVE GUIDANCE
100.306(c),(cont'd)	100.306(c),(cont'd) 100.306(c)(1) The extent to which a facility or service offered by a housing provider to residents is not customarily offered to residents of comparable housing (other than housing for older persons) in the relevant geographic area. 100.306(c)(2) The extent to which a facility or service can accommodate the older population of the housing facility. 100.306(c)(3) The extent to which the facility or service is of benefit to older persons. 100.306(c)(4) The extent to which a facility or service is actually used by older persons who are residents. 100.306(c)(5) The extent to which the facility or service is provided by the housing provider rather than by others. 100.306(c)(6) Whether a facility or service is NOT one that is required by a law. This determination is made in the aggregate. When a facility or service, viewed alone, does not appear to have substantial merit under the preceding factors, the housing provider may demonstrate that, nevertheless, the facilities and services, *in the aggregate*, are "significant" and that they meet the requirements of this part.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c),(cont'd)	100.306(c),(cont'd) EXAMPLE 1 The owner of the Little Coast housing development manages a 25 lot mobile home park occupied primarily by retired military personnel. It is located near a military base. The park provides assistance, as needed, to a few residents who have difficulty with light household tasks to help them maintain independent living. The major service provided by the park is regular and dependable bus transportation to the local military base where the residents have access to a heated pool, physical therapy, use of a clinic and other services at a minimum cost to the residents. Standing alone, the service provided by the management on an "as needed" basis would not be significant. However, in evaluating all of the services, the Department would consider whether the household assistance services and any others, *in the aggregate*, are significant in meeting the needs of the older residents.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(1) The extent to which a facility or service offered by a housing provider to residents is not customarily offered to residents of comparable housing (other than housing for older persons) in the relevant geographic area.	100.306(c)(1) This factor compares facilities or services offered by a provider claiming an exemption to those offered by a non-exempt provider of similar housing in the same community. Where the services are not customarily offered by such a non-exempt provider, it is more likely that they are specifically designed for older persons. The evaluation of the facilities and services offered at one type of housing is made (in addition to the other factors) in relationship to or in consideration of the presence or absence of facilities and services at the same type of housing (e.g. mobile home park, high rise condominium, single family detached housing developments, etc.). Housing which meets the requirement of the exemption should be unique for the type of housing which is offered. The Department stresses that there is no indication in the Act or its legislative history that Congress intended that only the most expensive housing, with the most expansive and expensive facilities and services, should qualify for the exemption. Housing in all affordable categories may offer the types of facilities and services for older persons which make that housing unique for the class of persons who can afford that housing. Furthermore, the weight given to a specific facility or service may vary depending upon the type of housing being offered. This determination is made by comparing the housing being offered as housing for older persons to other housing of similar type, size and cost of lease or purchase not claiming the exemption, and evaluating the facilities and services being offered to meet the requirements of the exemption. Therefore, mobile home communities seeking the exemption would be compared to other mobile home communities not seeking to be exempt. Luxury elderly residential communities would be compared to luxury non-elderly complexes.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(1), (cont'd)	100.306(c)(1), (cont'd) EXAMPLE 1 The Midway Heights Mobile Home Park has hook-ups for twenty mobile home units. The owner of the Midway Park recently added paved driveways and lighting at the main gate and throughout the park near most of the lots. The park also provides a daily van service to the city recreation department building where most of the park's residents participate in the golden age noon meal program. The recreation center is close to "First Stop Urgent Care Center" which treats minor illnesses and injuries and provides an assessment of many medical problems that are common among senior citizens. The Midway Park van service makes regular scheduled stops at both the recreation center and the medical facility. The Sunrise Mobile Home Park located in a nearby town is about the same size ~~as~~ Midway Heights (18 lots). Sunrise has no on-site facilities and does not hold itself out as housing for older persons. Big Lot Park a 200 unit luxury mobile home park in the community also provides van services and provides extensive medical facilities for its older residents. Big lot does not hold itself out as housing for older persons. In this example, the Department would give considerable weight to the steps taken by the owner of the Midway Park to ensure that services that are otherwise unavailable to the older residents of the park are made available to them. While the services available at Midway Heights Mobile Home Park are also available at other communities not qualifying for the exemption, the Department's conclusion is based on the comparison between Midway and Sunrise, the housing communities that are of similar type, cost and size.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(1)	100.306(c)(1) EXAMPLE 2 Green Acres, a 100 unit condominium development, holds itself out as housing for persons 55 years of age or older. Management at Green Acres performs all outdoor maintenance and the upkeep of all common areas. Green Acres provides cleaning services for resident units and a congregate dining room. Other condominium developments in the community that house families with children also perform all outdoor maintenance and upkeep of common areas. However, they do not provide housekeeping services and a congregate dining facility is not available. In this instance the Department would determine that the services provided at Green Acres meet this factor because they are not provided customarily at other housing in the community which does not hold itself out as housing for older persons. EXAMPLE 3 Metropolitan Manor is a small 20 family townhouse development located in a small town in New England. During the winter, the management of Metropolitan Manor plows the common walks and drives in the development, but not individually owned driveways, stoops or walkways. All of the large housing developments in this town (50 family or more) offer the same service, regardless of whether they are housing for older persons or not. However, Metropolitan Manor is the only small development to offer snow service.

REGULATION	INTERPRETIVE GUIDANCE
	The service of snow removal from common walks and driveways would meet this factor. The service in this instance is being compared to the same type of housing (small developments).
100.306(c)(2) The extent to which a facility or service can accommodate the older population of the housing facility. The capacity of each facility or service specifically designed to meet the physical or social needs of older persons depends upon *but is not limited to* such factors as: (i) the size of the facility or scope of the service offered; (ii) the length of time during which the facility is made available or the service is offered; (iii) the frequency with which the facility is made available or the service is offered; and (iv) whether the facility or service is offered only at one location or there are a number of locations at which the facility is made available or at which the service is offered.	100.306(c)(2) An important factor in determining whether facilities and services *in the aggregate* are "significant" is the extent to which the housing provider has taken steps to ensure that each facility or service can accommodate the older population of the housing facility. EXAMPLE 1 The Everready housing development is a seventy (70) unit housing complex consisting of one-hundred-fifty (150) residents located in Winona, Virginia. More than 82 percent of the housing complex population is elderly. The housing provider maintains a multi-purpose room which is used by nearly all of its residents. Recreational activities, educational seminars and some clinical screening services are conducted in the room in accordance with a schedule maintained by the housing provider. Several different seminars may be conducted simultaneously. Approximately fifty (50) to seventy-five (75) persons attend the sessions whenever conducted. Because the room capacity is 100, schedules are posted weekly in order for the residents to register in advance of each session. Management monitors the registration sheets and schedules extra sessions when necessary.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(2), (cont'd)	100.306(c)(2), (cont'd) EXAMPLE 1, (cont'd) In this example, the Department would conclude that there is sufficient capacity to make the facilities and the services available to the residents who are age 55 or older. Generally, the greater the number of older persons who are residents, the greater must be the capacity of each facility or service to meet the physical or social needs of older persons. Flexibility and planning to accommodate the number of older persons who need the facility or service is the key. The Department would take note of the fact that the housing provider has planned a flexible schedule to ensure that the services are available to the residents who request them. Use of a flexible schedule also makes maximum use of the limited space in the facility.
100.306(c)(3) The extent to which the facility or service is of benefit to older persons, given the climate and physical setting of the housing facility.	100.306(c)(3) The geographic location of the housing development is one of several relevant factors in assessing whether the facilities and services are "significant". The facility and service must be designed to be useful given the overall setting surrounding the housing. Aspects of location to be assessed include: o whether the facilities or services are designed to be useful given the climate, (i.e. snow removal service may be useful in Chicago but is not in Miami); o whether the facilities or services are designed to be used in an urban or rural area (i.e., certain security features or services may be more useful in urban settings than in rural settings).

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(3), (cont'd)	100.306(c)(3), (cont'd) EXAMPLE 1 The Tropical Lake housing development located in Key West, Florida offers the service of snow shoveling the driveways, walks and stoops of older residents so that they do not have to exert themselves. The Sideway Plaza housing development located in Ithaca, New York offers the same service. The service of snow removal meets this factor in Ithaca, New York because, given the climate, it is likely to be used frequently. However, the service would not meet this factor in Key West, Florida, because, given the climate, it is unlikely to be used. EXAMPLE 2 Project Enliven offers a walking trail around the exterior of the complex. Project Enliven is in a high crime area and does not offer any security measures for the protection of residents using the walking trail such as a fence or panic buttons. At night the trail is poorly lit. The owner of Project Enliven has received complaints from older residents who were accosted on the walking trail. In contrast, Project Heavenly Home offers the same facility but affords some security protection and the trail is well lit. Project Enliven's walking trail would not receive much weight under this factor. Project Heavenly Home's walking trail would receive substantially more weight under this factor.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(4) The extent to which a facility or service is actually used by older persons who are residents.	100.306(c)(4) Actual use is a relevant factor in evaluating each facility or service specifically designed to meet the physical or social needs of older persons. The Department, in its evaluation as to the significance of a housing development's facilities and services, will weigh heavily facilities or services that are used extensively. Conversely, if a facility or service is seldom used by older residents, it would receive little weight under this factor. EXAMPLE 1 Every year, the housing provider receives a grant from a local musical organization to sponsor classical music concerts and other bi-monthly events at the Moorezart housing complex. In addition to these events, bingo and other card games are held in the multi-purpose center every Wednesday night. However, less than five percent of the residents participate in these activities. The services provided in this example would get little weight under this factor.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(4), (cont'd)	100.306(c)(4), (cont'd) EXAMPLE 2 The Crosslands housing development claims, pursuant to a HUD investigation, that it offers transportation services to any resident upon request. On further probing, it is determined that the transportation service which exists is that residents may call the manager and if she is free, she will drive them wherever they want to go. The use of this service is at best sporadic. Many residents are not even aware that such a service exists. Therefore, this transportation service would get little weight under this factor. In contrast, the Cozzy Corner housing development provides regular transportation services to and from a local medical center, a shopping center with a supermarket, cleaners, a bank, and a senior citizens center. A handicap accessible shuttle van runs twice a day, back and forth, to each of these locations and with 24-hour advance notice accommodates residents who wish transportation to other nearby locations. The housing provider is able to document extensive use of these transportation services by the residents, most of whom do not drive their own cars. This service would get great weight under this factor. <u>Use by non-residents</u>: Facilities and services specifically designed to meet the physical or social needs of older persons that are made available to non-residents (including non-residents who are not older persons), would not be excluded. However, when they are made available to non-residents, the extent to which residents who are older persons use the facilities or services, and the extent to which non-residents who are older persons use the facilities and services will weigh heavily in the evaluation.

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(4), (cont'd)	100.306(c)(4), (cont'd) EXAMPLE 3 o The swimming pool at the Seagate Apartments is adapted with grab bars and other accessible features. The housing provider has arranged for regular training in special therapeutic aerobic sessions for the elderly population. o The pool is open to both residents and non-residents. A schedule limits the use of the pool by non-residents who are not older persons to afternoon hours between 3:00 p.m. and 6:00 p.m. Because space is not a problem, elderly non-residents use the pool at any time and it is never over its capacity. In this instance, the facility would receive a favorable evaluation for this factor. The housing provider has the means to determine who is using the facility and to make adjustments where necessary to assure that older persons are the prime beneficiaries of the facility. EXAMPLE 4 There is a golf course on the premises of the All Around Housing Place. Although the course is used by many of the older residents, the course has excess capacity. Management opens up use of the course to non-residents who are charged a golf membership fee. The fact that the course is opened up to outsiders would not preclude the course from being evaluated favorably, assuming it meets the other factors, but it would lessen the weight it would receive under 100.306(c)(3).

REGULATION	INTERPRETIVE GUIDANCE
100.306(c)(4), (cont'd)	100.306(c)(4), (cont'd) EXAMPLE 5 There is a concert hall at the All Around Housing Place which attracts nationally known performers. Tickets are not made available to residents at the housing facility on a preferential basis. Rather, large blocks of the tickets are reserved by local corporations for their employees and clients. Much of the time, residents are unable to get tickets to events at their own facility. The concert hall would not receive weight under this factor. EXAMPLE 6 The All Around Housing Place holds frequent pot luck dinner socials. Residents of neighboring housing for older persons communities are invited and notices are posted at the local senior citizens center inviting persons to attend as well. Most of the non-residents who attend are older persons. In such a case, the participation of non-resident older persons would contribute to a favorable evaluation of the pot luck dinner socials under this factor.
100.306(c)(5) The extent to which the facility or service is provided by the housing provider rather than by others.	100.306(c)(5) Generally, the housing provider must provide facilities and services specifically designed to meet the physical or social needs of older persons in order to demonstrate that they are "significant". However, in some cases facilities and services that are provided by others may also be "significant".

REGULATION	INTERPRETIVE GUIDANCE
100.306 (c)(5), (cont'd)	100.306 (c)(5), (cont'd) Where facilities and services specifically designed to meet the physical or social needs of older persons are provided by the residents or others, the housing provider must *foster, facilitate, or support* such facilities and services to receive credit for them. The extent to which the housing provider has, for example, paid part of the expenses or provided support for such facilities and services will be considered under this factor. EXAMPLE 1 The Jefferson Highway housing development is a 300-unit complex. All of the facilities and services provided at this housing are designed and operated by a resident management association (RMA). The housing provider has entered into agreements with local organizations to provide significant support and assistance to the RMA to ensure that all of the services needed by the residents are available to them. The facilities and services available at this housing development would be given substantial weight in the Department's evaluation. That a housing provider contributes funds, equipment or other support essential for the continued operation of a facility or service will be noted and receive favorable consideration.
100.306(c)(6) Whether a facility or service is not one that is required to be provided by a law related to housing for the elderly or housing for older persons.	100.306(c)(6) A facility or service will not be considered if it is required by law, unless the law requiring the provision of the facility or service is one that sets requirements for housing for the elderly or the law is otherwise intended to benefit the elderly.

REGULATION	INTERPRETIVE GUIDANCE
3100.306(c)(6), (cont'd)	100.306(c)(6), (cont'd) EXAMPLE 1 Uptown Apartments is located in Somewhere, Massachusetts, a town which does not provide garbage collection services. Rather, residents of Somewhere are required to bring their own trash to the city dump. However, Uptown Apartments provides the service of picking up residents' garbage for them and bringing it to the dump. This service would get great weight under this factor. EXAMPLE 2 Hightower Apartments is a 65-unit apartment building located in Somewhere, Massachusetts, a town which does not provide garbage collection services. However, a Somewhere ordinance requires all apartment buildings with 50 or more units to collect garbage and bring it to the dump for the residents. Hightower Apartments' service of picking up residents' garbage and bringing it to the dump would get little or no weight under this factor. EXAMPLE 3 Lowtower Apartments is a participant in the Somewhere, Massachusetts Elderly Housing Program, pursuant to which Lowtower Apartments receives an operating subsidy. As a condition of participation in the elderly housing program, Lowtower Apartments is required to provide garbage collection services for its residents, even though these services are not otherwise provided to residents of Somewhere. Lowtower Apartments' service of picking up residents' garbage and bringing it to the dump would meet this factor because the service is required pursuant to a local law that sets requirements on housing for the elderly.

BILLING CODE 4210-28-C

Dated: June 24, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–16139 Filed 7–6–94; 8:45 am]

BILLING CODE 4210–28–P

federal register

Thursday
July 7, 1994

Part III

Department of Education

34 CFR Parts 668, 682, and 690

Student Assistance General Provisions; Federal Family Education Loan Programs; Federal Pell Grant Program; Interim Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 682, and 690

RIN 1840–AB85 and 1840–AB80

Student Assistance General Provisions; Federal Family Education Loan Programs; Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Interim final regulations with invitation for comment; Correction; Extension of comment period; Compliance with information collection requirements.

SUMMARY: On April 29, 1994, the Secretary of Education published in the **Federal Register** interim final regulations with an invitation for comment for the Student Assistance General Provisions, Federal Family Education Loan programs, and the Federal Pell Grant (59 FR 22348). The final regulations listed the comment period end date as June 20, 1994.

Members of the financial aid community have requested an extension of the comment period. The Secretary agrees that a longer comment period would give the financial aid community a better opportunity to thoroughly evaluate the final regulations and submit more comprehensive comments to the Department. Therefore, the Secretary extends the comment period to July 28, 1994, which is 90 days following the April 29 publication date.

This document also clarifies the Secretary's intent in publishing "interim final regulations with invitation for comment," adds an Office of Management and Budget (OMB) control number to certain sections of the regulations, and corrects the effective date statement and corrects an error in the preamble in the final regulations published in the **Federal Register** on April 29.

DATES: Comments must be received on or before July 28, 1994. The corrections to the April 29 regulations and the addition of OMB control numbers in §§ 668.3, 668.8, 668.12, 668.13, 668.14, 668.15, 668.16, 668.17, 668.22, 668.23, 668.25, 668.26, 668.90, 668.96, 668.113, Appendix A to 34 CFR part 668, 682.414, 682.416, 682.711, and 690.83 are effective July 7, 1994.

ADDRESSES: All comments concerning the final regulations should be addressed to Greg Allen and Wendy Macias, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 4318), Washington, DC 20202–5342.

FOR FURTHER INFORMATION CONTACT: Greg Allen and Wendy L. Macias, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, Room 4318), Washington, DC 20202–5343. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The final regulations published on April 29 had an effective date of July 1, 1994, in accordance with 20 U.S.C. 1089(c), which required that the Secretary publish such regulations "in final form by May 1, 1994" to be in effect for the 1994–1995 award year, which begins on July 1, 1994. Under the terms of 20 U.S.C. 1089(c), any regulatory changes that the Secretary published after May 1, 1994, could not take effect, at the earliest, until July 1, 1995. Thus, the April 29 regulations are final and effective at least with respect to the period July 1, 1994 through June 30, 1995. The "interim" nature of the April 29 regulations reflected the possibility that changes might be made to take effect on July 1, 1995.

The Secretary solicited public comment in the April 29 final regulations to determine whether any changes should be made to take effect on July 1, 1995, the earliest that any such changes can take effect under 20 U.S.C. 1089(c). In order for any such changes to take effect by July 1, 1995, the changes would, under 20 U.S.C. 1089(c), have to be published in final form by December 1, 1994.

Compliance with the information collection requirements in certain sections of the regulations published on April 29 was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1990, as amended. On June 23, 1994, OMB approved those information collection requirements, and affected parties must now comply with those requirements. The Secretary corrects the effective date statement in the April 29 regulations to reflect this more accurately.

A section of the *Analysis of Comments and Responses* was omitted from the final regulations published on April 29. The Secretary notes that the changes to the regulatory text corresponding to this omitted section of the preamble were included in the April 29 final regulations. The omitted material, which is included in this document, is the explanation for those changes.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 64.032 Federal Supplemental Loans for Students Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.268 Federal Direct Student Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program. Catalog of Federal Domestic Assistance Number for the Presidential Access Scholarship.

Dated: June 30, 1994.

Richard W. Riley,

Secretary of Educotion.

1. The authority citation for part 668 of title 34 of the Code of Federal Regulations continues to read as follows:

Authority: 20 U.S.C. 1091, 1092, and 1094, unless otherwise noted.

2. The following sections are amended by adding "(Approved by the Office of Management and Budget under control number 1840–0537)" at the end of each of these sections: Sections 668.3, 668.8, 668.12, 668.13, 668.14, 668.15, 668.16, 668.17, 668.22, 668.23, 668.25, 668.26, 668.90, 668.96, 668.113, Appendix A to 34 CFR part 668, 682.414 682.416, 682.711, and 690.083.

3. The following corrections are made in FR Doc. 94–10140, published on April 29, 1994 (59 FR 22348):

a. On page 22348, column column 1, the first sentence after "**DATES:** Effective Date:" is corrected to read as follows: These regulations take effect July 1, 1994, except that compliance is not required with the information collection requirements in §§ 668.3, 668.8, 668.12, 668.13, 668.14, 668.15, 668.16, 668.17, 668.22, 668.23, 668.25, 668.26, 668.90, 668.96, 668.113, Appendix A to 34 CFR part 668, 682.414, 682.416, 682.711, and 690.83 until the information collection requirements contained in these sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

On page 22382, column 2, the following text is added after "*Changes:* None."

Comments: One commenter expressed concern that the Secretary had not defined the circumstances in which an institution could satisfy the financial responsibility requirements added through the Technical Amendments of 1993 by demonstrating that it had sufficient resources to ensure against precipitous closure. The commenter suggested that the regulations need to

provide specific guidance to institutions showing when the exception can be used. Several other commenters also questioned whether the general financial responsibility standards in the proposed regulations were consistent with the statutory exception permitting an institution to participate without restrictions by demonstrating that it has sufficient resources to ensure against precipitous closure.

Discussion: The Secretary agrees to establish a standard in the regulations that is consistent with the explanation made by Senator Pell that the technical amendments were intended to make sure that financially at-risk institutions are subject to careful scrutiny, to protect institutions that are not financially at risk, and to accomplish these aims without weakening the general standards for financial responsibility. See 139 Cong. Rec. 162–2, S16593 (daily ed. November 19, 1993). The Secretary therefore considers it necessary to define the limited circumstances in which an institution may satisfy the statutory exception in a manner that will not create a lower standard for financial responsibility.

Because an institution using this exception will not be required to post surety or enter into provisional certification, the Secretary has minimized the Federal risks in such unprotected participation by making the exception only available to an institution that met the financial responsibility requirements in its last timely submitted audited financial statement. This structure will permit an institution that now fails the financial responsibility requirements but meets the alternate standards in the exception to have an opportunity to improve its financial condition for one year without having to post surety or be placed under provisional certification. This requirement prevents this exception from becoming a means to continue participating under a lower standard of financial responsibility than that required for all other institutions. An institution that has not satisfied the general standards of financial responsibility in its previous audit and has not improved its operations to meet current financial responsibility standards is not permitted to participate on an unrestricted basis under this provision, and is required to provide the additional safeguards presented through a surety or through provisional certification.

If an institution that met the standards of financial responsibility, as demonstrated by its last audited financial statement, fails to meet these standards in its current audit, it can show that it meets the alternate standards in this provision in order to participate on an unrestricted basis for one year to give it an opportunity to solidify its operations and demonstrate that it meets financial responsibility standards in its next timely submitted audited financial statement. Such participation without surety or provisional certification can only be permitted where the institution meets all of the requirements in § 668.15(d)(2)(ii)(A) to show that it is current in all tax obligations, its equity and operating income have not materially decreased since its last audit, and that it is not shifting the institution's operating capital to its owners or related parties. These standards are necessary to show that the institution's financial condition has not significantly deteriorated since it last demonstrated financial responsibility, and that the institution's failure to meet the current financial responsibility standards is not exacerbated by benefits given to its owners or related parties.

In order to participate without restriction under this provision, an institution that now fails to demonstrate financial responsibility after having done so in its last audit, must show that it has not accelerated the funds going to its owners or related parties through disproportionately large salary increases, or through making uncollateralized loans to these parties. The institution must also show that all loans made to the institution's owners or related parties are in repayment, and that a demand has been made for repayment of any loans that did not carry fixed payment terms. These measures will help ensure that the institution's failure to demonstrate financial responsibility is not due to capital diverted to its owners or related parties.

The institution must also show that there have been no material findings in the institution's latest compliance audit, and that there are no pending administrative or legal actions pending before a member of the Triad or other Federal or State entity.

Changes: Section 668.15(d) now provides that the Secretary considers an institution to be financially responsible, even if the institution does not meet the general standards of financial responsibility (except for the minimum cash reserve requirement) if the institution establishes to the satisfaction of the Secretary, with the support of an audited financial statement, that the institution has sufficient resources to ensure against its precipitous closure. As a part of this showing, an institution must establish that it has the ability to meet all of its financial obligations, including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

The Secretary considers the institution to have sufficient resources to ensure against precipitous closure only if the institution formerly demonstrated financial responsibility under the standards of financial responsibility in its preceding audited financial statement and that its most recent audited financial statement indicates the following (if no prior audited financial statement was requested by the Secretary, the institution must demonstrate in conjunction with its current audit that it would have satisfied the following): (a) All taxes owed by the institution are current; (b) The institution's net income, or a change in total net assets, before extraordinary items and discontinued operations, has not decreased by more than 10 percent from the prior fiscal year, unless the institution demonstrates that the decreased net income shown on the current financial statement is a result of downsizing pursuant to a management-approved business plan; (c) loans and other advances to related parties have not increased from the prior fiscal year unless such increases were secured and collateralized, and do not exceed 10 percent of the prior fiscal year's working capital of the institution; (d) The equity of a for-profit institution, or the total net assets of a nonprofit institution, have not decreased by more than 10 percent of the prior year's total equity; (e) Compensation for owners or other related parties (including bonuses, fringe benefits, employee stock option allowances, 401(k) contributions, deferred compensation allowances) has not increased from the prior year at a rate higher than for all other employees; (f) The institution has not materially leveraged its assets or income by becoming a guarantor on any new loan or obligation on behalf of any related party; (g) All obligations owed to the institution by related parties are current, and the institution has demanded and is receiving payment of all funds owed from related parties that are payable upon demand. The regulations clarify that, for purposes of these provisions, a person does not become a related party by attending an institution as a student.

Finally, in order for the Secretary to consider the institution to have sufficient resources to ensure against precipitous closure, the institution would also have to demonstrate that (1) there have been no material findings in the institution's latest compliance audit of its administration of the Title IV,

HEA programs and (2) there are no pending administrative or legal actions being taken against the institution by the Secretary, and other Federal agency, the institution's nationally recognized accrediting agency, or any State entity.

[FR Doc. 94–16400 Filed 7–6–94; 8:45 am]
BILLING CODE 4000–01–M

Reader Aids

Federal Register

Vol. 59, No. 129

Thursday, July 7, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

The daily Federal Register Table of Contents and the list of documents on public inspection are available on the National Archives fax-on-demand system. You must call from a fax machine. There is no charge for the service except for long distance telephone charges. 301–713–6905

FEDERAL REGISTER PAGES AND DATES, JULY

33897–34342	1
34343–34552	5
34553–34754	6
34755–34966	7

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
June 30, 1994 34341
Proclamations:
6641 (See Proc. 6704) 34329
6704 34329
6705 34343
Executive Orders:
12002 (See EO 12923) 34551
12214 (See EO 12923) 34551
12735 (See EO 12923) 34551
12755 (See EO 12923) 34551
12851 (See EO 12923) 34551
12923 34551

5 CFR

2610 34755
2634 34755
2636 34755
2641 34755
Proposed Rules:
575 34393

7 CFR

272 34553
275 34553
283 34553
916 33897
917 33897
928 33898
947 33900
1205 33901
1421 34345
1755 ..... 34353, 34899
Proposed Rules:
1036 33922

8 CFR

103 33903
245 33903
245a 33903
264 33903
274a 33903

9 CFR

92 34375
97 34756
Ch. III 34375
Proposed Rules:
317 34396

10 CFR

Proposed Rules:
1003 34767

12 CFR

Proposed Rules:
220 33923

14 CFR

21 34572
23 34572
39 ..... 34574, 34576, 34757, 34758, 34899
71 ..... 34577, 34758, 34759, 34760
91 34578
Proposed Rules:
21 34779
39 ..... 34396, 34584
71 ..... 34192, 34585
93 34192

16 CFR

305 34014
Proposed Rules:
300 34780
301 34780
303 34780
1117 33925
1500 ..... 33928, 33932

17 CFR

1 34376
33 34376
190 34376
Proposed Rules:
240 34781

20 CFR

416 33906

21 CFR

510 33908
520 33908
Proposed Rules:
341 34781

22 CFR

60 33909
61 33909
62 33909
63 33909
64 33909
65 33909
514 34760

23 CFR

655 33909

24 CFR

17 34578
3280 34294
Proposed Rules:
43 34300

92 34300
100 34902
570 34300

26 CFR

Proposed Rules:
1 34398

28 CFR

551 34742

29 CFR

1910 ..... 33910, 34580
Proposed Rules:
1915 34586

32 CFR

90 34382
91 34382
383 34382
389 34382
552 ..... 34581, 34761
Proposed Rules:
553 34782

33 CFR

4 34210
130 34210
131 34210
132 34210
137 34210
138 34210
Proposed Rules:
322 34783
334 33939

34 CFR

74 34722
77 34722
641 34198
668 34964
682 34964
685 34278
690 34964
Proposed Rules:
Ch. VI 34398

38 CFR

3 34382

39 CFR

111 33911

40 CFR

9 ..... 33912, 34070
52 ..... 33914, 34383
85 33912
86 33912
112 34070
141 34320
142 34320
372 34386
600 33912
Proposed Rules:
Ch. I 33940
52 ..... 33941, 34399, 34401
185 33941

43 CFR

Public Land Order:
7055 34899
7064 34582

47 CFR

73 ..... 34391, 34766
Proposed Rules:
61 33947
64 33947
69 33947
73 ..... 34404, 34405

49 CFR

392 34708
393 ..... 34708, 34712
1056 34392
Proposed Rules:
571 34405

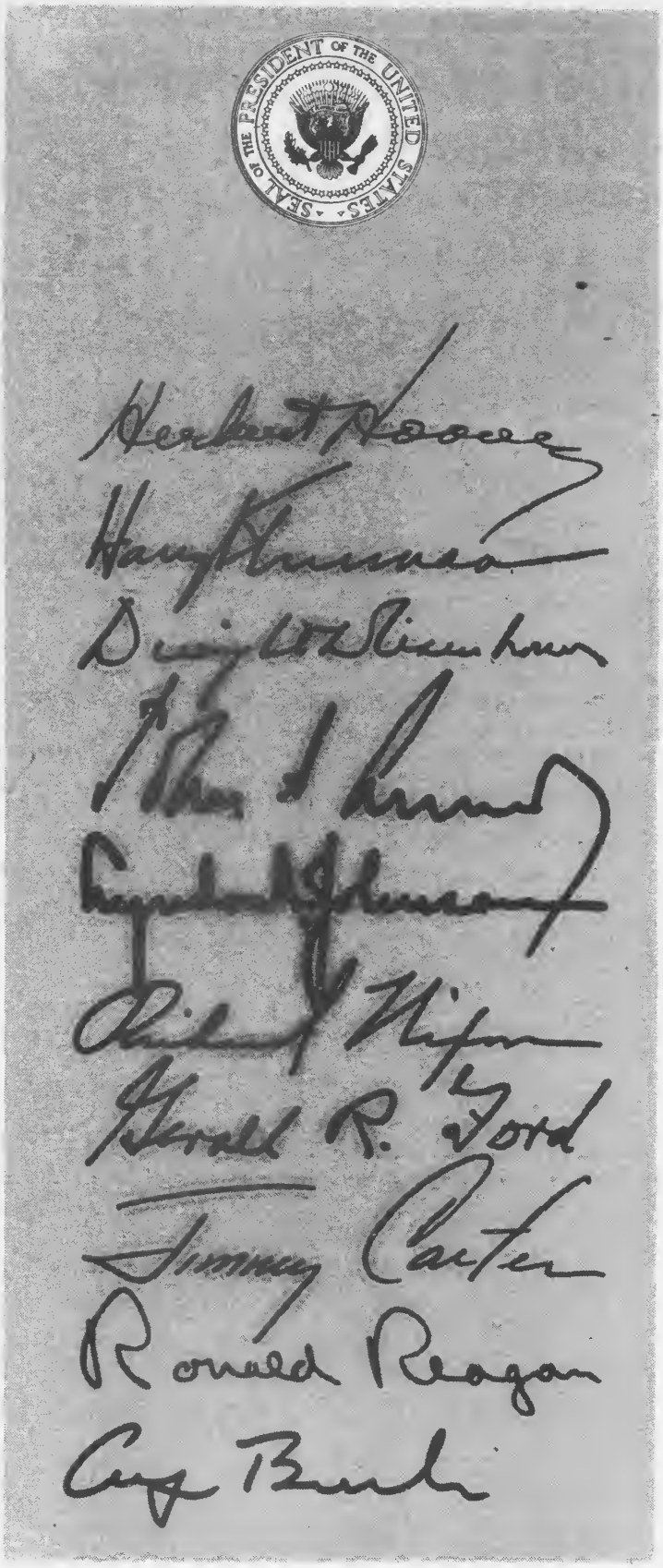
50 CFR

229 34899
658 34582
675 ..... 33920, 34392, 34583
Proposed Rules:
17 34784
654 33947

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List July 6, 1994



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House

Volumes for the following years are available; other volumes not listed are out of print

Ronald Reagan

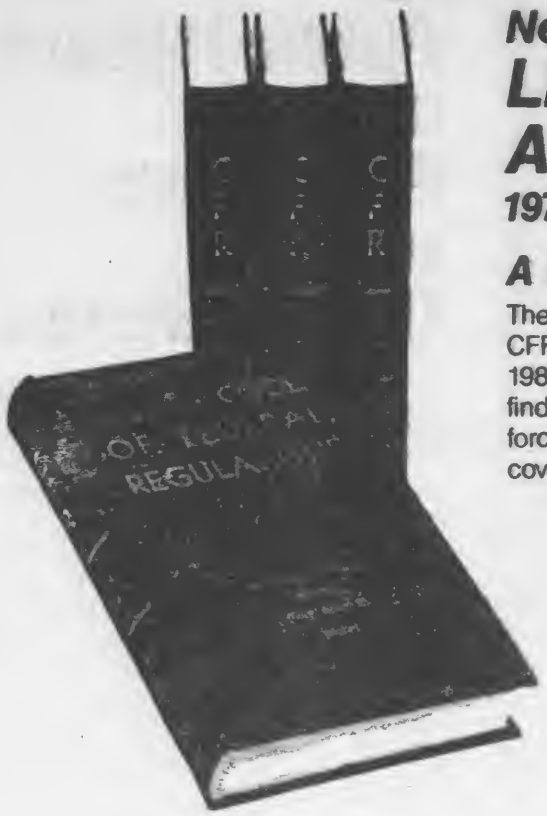
1984 (Book II)	$36.00
1985 (Book I)	$34.00
1985 (Book II)	$30.00
1986 (Book I)	$37.00
1986 (Book II)	$35.00
1987 (Book I)	$33.00
1987 (Book II)	$35.00
1988 (Book I)	$39.00
1988–89 (Book II)	$38.00

George Bush

1989 (Book I)	$38.00
1989 (Book II)	$40.00
1990 (Book I)	$41.00
1990 (Book II)	$41.00
1991 (Book I)	$41.00
1991 (Book II)	$44.00
1992 (Book I)	$47.00
1992–93 (Book II)	$49.00

Published by the Office of the Federal Register National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P O Box 371954, Pittsburgh, PA 15250-7954



New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16). $27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27). $25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41). $28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50). $25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code
***6962**

Charge your order. It's easy!

To fax your orders and inquiries--(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog--Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date) ***Thank you for your order!***

(Signature)

Rev 6-92

Printed on recycled paper