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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531, 536, 772, 831, 841, 842, 846, 870, and 890

RIN 3206-AE16

Interim Relief

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is publishing final regulations at 5 CFR parts 531, 536, 772, 331, 841, 842, 846, 870, and 890 to provide agencies with the authorities necessary to take personnel actions providing interim relief under the *Whistleblower Protection Act of 1989,* Public Law 101-12, codified at 5 U.S.C. 7701(b)(2)(A). These regulations address the areas of: (1) Taking personnel actions to effect interim relief, (2) pay and benefits administration, and (3) the effect of interim relief on entitlement to retirement, health, and life insurance benefits for the period of time an employee, former employee, or applicant for employment remains in an interim relief status.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: For parts 531 and 536: Robert T. Gatewood (202) 606-2858 or FTS 266-2858; for part 772: Gary D. Wahlert (202) 606-2920 or FTS 266-2920; and for parts 831, 841, 842, 846, 870, and 890: Patricia A. Rochester (202) 606-0299 or FTS 266-0299.

SUPPLEMENTARY INFORMATION: OPM published for comment proposed regulations on this subject in the Federal Register on February 5, 1991, on pages 4562-4567. Comments and suggestions were received from eight agencies and one union. These comments and suggestions, along with the rationale for and explanation of changes to various parts of the Code of Federal Regulations, are discussed below.

The *Whistleblower Protection Act of 1989* (WPA) provided that prevailing parties in an appeal to the Merit Systems Protection Board (MSPB) ". . . shall be granted the relief provided in the decision, and remaining in effect pending the outcome of any petition for review. . . ." The final regulations authorize agencies to take interim personnel actions to provide a prevailing applicant or employee the interim relief ordered in an MSPB initial decision. Interim personnel actions include, but are not limited to, interim appointments, interim repromotions after demotions, and interim within-grade increases.

1. Part 772—When Interim Relief Is Appropriate and When It Is Effective

Two commenters suggested that the regulations address the question of whether or not interim relief is only appropriate when an appellant alleges that an appealed action was taken in reprisal for whistleblowing. In response, OPM has amended § 772.101 to clarify that the interim relief provisions of the WPA apply to MSPB appeals involving employees and applicants for employment—as opposed to, for example, applicants for retirement—whether or not whistleblowing issues are involved.

Two commenters suggested that the circumstances should be defined under which an agency determines that it would be "unduly disruptive to the work environment" under the WPA for the appellant to be returned or to be present at the place of employment. OPM believes that the WPA authorized agencies to make this determination as the agency sees fit on a case-by-case basis and that it would be inappropriate for OPM to restrict an agency's exercise of this authority. The regulations note that, when such an "unduly disruptive" determination is made, the individual affected is placed in a paid, non-duty status with all of the compensation and benefits he or she would receive had the individual been placed in a paid, duty status on interim relief.

Several commenters raised questions about whether interim relief is required in all instances, whether interim relief is required when the appellant rather than the agency files a petition for review, and whether time limits for effecting interim relief should be set. With respect to the first issue, OPM notes that interim relief is never appropriate unless an MSPB initial decision orders such relief. A typical situation where interim relief would not be ordered might involve a 30-day suspension which had been served and the employee was returned to duty by the time the MSPB issued an initial decision. Even where interm relief has been ordered, OPM believes, after further review of the WPA, that interim relief is only appropriate if a petition for review is filed (or will be filed) with the full Board. In this regard, OPM notes that the current MSPB practice of advising agencies to implement interim relief "if a petition for review is filed" appears to be consistent with this position.

With respect to the second issue of whether interim relief is required when the petitioner is an appellant, OPM notes that the WPA requires interim relief "pending the outcome of any petition for review" (emphasis supplied) without noting the identity of the petitioner. As a result, OPM believes that interim relief is required, whether the petitioner is the agency or the appellant. If the petitioner is the appellant (e.g., when a removal is mitigated to a demotion by the initial decision and only the appellant challenges the decision), interim relief would still be appropriate because the appeal has not yet reached finality (the matter is still under adjudication and could result in the initial decision being overturned and the agency's action completely sustained). OPM also notes that the current MSPB practice of ordering interim relief as noted above appears to be consistent with this position.

Finally, with respect to the third issue about time limits, OPM believes that such limits are unnecessary. In this regard, the WPA only requires that the effective date of interim relief be the same date as the MSPB decision ordering relief. No additional constraints are provided by law. In view of the position stated above that interim relief is only appropriate if there is (or will be) a petition for review, OPM has concluded that an agency must initiate interim relief by the time a petition for review is filed by the agency and, when a petition is filed by the appellant, must initiate interim relief within a

reasonable time after it becomes aware of the appellant's petition for review. Again, and in any circumstance, the effective date of the interim relief must be the date of the MSPB initial decision.

Accordingly, OPM is amending § 772.102 to clarify the conditions under which a grant of interim relief is appropriate and to describe the timing of an agency's actions to initiate interim relief.

2. Part 772—Ending of Relief Provided by an Interim Personnel Action

The relief provided by an interim personnel action ends upon the issuance of a final Board order under 5 U.S.C. 7701(b)(2)(A) or when a party withdraws a petition for review such that no petition remains pending at the full Board. The ending of relief provided by an interim personnel action in such circumstances is not subject to adverse action procedures and is neither appealable nor grievable. In this regard, one commenter noted that, even though interim relief may be ended by a final Board order sustaining the agency's action and the ending of relief is not appealable or grievable, the applicant or employee could still continue to challenge the agency's original action by seeking review by the Court of Appeals for the Federal Circuit. OPM agrees.

An interim personnel action may be ended sooner in certain other circumstances. These include the reaching of a settlement agreement which involves cancelling the interim personnel action, the requesting by the applicant or employee that the interim personnel action be cancelled after he or she secures other employment, leaves the agency or retires, or the removing under adverse action procedures of an employee from an interim appointment for cause such as misconduct during the interim relief period.

3. Part 772—Employee Entitlements While in an Interim Relief Status

Several commenters questioned whether an employee or former employee who is a prevailing party and is granted interim relief must be returned to the exact position the employee occupied prior to the agency's action, e.g., the position occupied before the employee was removed, demoted, etc. OPM believes that since the WPA does not require "cancellation" of the action appealed, placement in the same position would not be necessary in order for the agency to provide all of the benefits of interim relief envisioned by the WPA.

OPM believes, however, that if the employee is not returned to the same position, he or she must be returned to a similar position of the same grade and pay and which would provide for the same benefits (e.g., basic pay, overtime, differential pay, locality pay, within-grade increases, gain-sharing, merit increases granted under the Performance Management and Recognition System, OWCP benefits, life insurance, health insurance, retirement coverage, leave accrual, status, tenure, retention level, and, as appropriate, participation in the Thrift Savings Plan) in order to be in compliance with the intent of the WPA. In addition, it is noted that employees in an interim relief status are subject to the same rules affecting other employees, e.g., 5 CFR Part 752, Adverse Actions; 5 CFR Part 432, Performance Based Reduction in Grade and Removal Actions; 5 CFR Part 351, Reduction in Force; etc. Any disputes as to whether a similar position provided the same benefits as the former position would be an appropriate subject for review by MSPB.

Accordingly, OPM is amending § 772.102 by clarifying that interim relief requires that an employee be placed in the same or similar position occupied prior to the agency's action.

With regard to participation in the Thrift Savings Plan, one commenter suggested that the Federal Retirement Thrift Investment Board be informed about the possible impact of interim relief on its activities. OPM agrees with this suggestion and will provide information about the interim relief program to the Thrift Board. OPM will consult with the Board concerning benefits questions that may be brought to OPM's attention.

With regard to RIF actions that might affect an employee on interim relief, one commenter suggested that the final regulations address matters such as bump and retreat rights that might be affected by interim appointments. OPM has declined to elaborate in regulation on this subject but notes that the guiding principle to be followed is that employees serving under interim appointments should be treated for RIF purposes as if the disputed or appealed actions had not occurred (and whether or not the employees were returned to their original positions or to the same or similar positions).

Two commenters suggested that the period of time between the date of an action taken (e.g., removal) and the effective date of interim relief should not be creditable for qualifications, time in grade, or other staffing purposes except to the extent normally permitted. OPM agrees. The final regulations should not be construed to entitle an employee on interim relief to credit for that period of time for these purposes.

Another commenter also suggested that time spent in an interim relief status (i.e., the time between the effective date and the ending date of interim relief) should not be counted toward completion of an employee's probationary period. OPM disagrees. OPM believes that interim relief service should be counted toward completion of the probationary period because the employee is in a pay status (contrary to the time period between a separation and the beginning of interim relief noted in the paragraph above where no pay is provided).

Additional staffing guidance concerning interim relief appointments will be issued after these regulations are published.

4. Part 772—Back Pay and Attorney Fees

Interim relief does not entitle the applicant or employee to awards of back pay or attorney fees. Decisions concerning these awards will be made after a decision is issued by the full Board, or after an initial decision becomes final pursuant to 5 U.S.C. 7701(e)(1)(A).

One commenter questioned whether interim relief ordered in the case of appealed enforced leave would require the agency to restore the leave at issue. OPM believes that such restoration during interim relief would effectively constitute back pay and thus not be permissible under the WPA.

5. Part 531—Interim Within-Grade Increases

Under OPM's current regulations at part 531, if an agency properly grants a within-grade increase, there is no mechanism for specifically terminating the employee's entitlement to the within-grade increase. However, when the personnel action being appealed is the withholding of a within-grade increase, the only possible interim relief is the interim granting of the within-grade increase. Should the full Board ultimately sustain the agency's withholding of the within-grade increase, the agency needs a mechanism for terminating the interim relief, i.e., terminating the employee's entitlement to the within-grade increase, which no longer has a legal basis. OPM is amending part 531 to permit agencies to grant interim within-grade increases, which may be terminated or made permanent, as appropriate, after the Board's final action.

The break in service immediately

preceding an interim appointment is not creditable service for within-grade increase purposes. If the Board's final action overturns a removal and the employee has received a within-grade increase during the interim appointment, the break in service is cancelled and the agency must recompute the effective date of the within-grade increase to reflect the additional period of creditable service.

One commenter questioned whether the effective date of an interim within-grade increase should be on any date other than the effective date of the interim relief. In this regard, OPM believes that the WPA did not intend for interim relief personnel actions to supersede the normal requirements of title 5 of the United States Code. Section 5335 of that title sets several conditions for the granting of within-grade increases including one that such an increase is made effective as of the "beginning of the next pay period" following completion of the required waiting period and one that an acceptable level of competence determination has been made at the end of the waiting period. With respect to the second condition, an MSPB initial decision ordering interim relief is the practical equivalent of a competence determination.

Two commenters asked whether agencies can recover the payment of an interim within-grade increase after a final determination by the Board upholding the agency's denial of the appellant's within-grade increase. OPM notes that the interim relief provision of the law itself is the authority for the payment of the interim increase and there is no basis for recovering the increase if the agency prevails before the full Board. The termination of such interim relief when the agency prevails does not negate the legitimacy of the interim relief and therefore does not create an indebtedness to the United States for the monies paid to the appellant during the interim relief period. Similarly, and contrary to the suggestion of another commenter, making the effective date of the termination of an interim within-grade increase at the end of the pay period in which the Board's decision becomes final does not result in an overpayment to the employee for monies received during the period of interim relief.

One commenter observed that the purpose of interim relief was the return of a withdrawn benefit to an employee who prevails in an MSPB initial decision. The commenter noted that, in the case of within-grade increases, the benefit is not withdrawn and thus the employee could not have restored to him or her a benefit the employee never had. OPM notes, however, that the interim relief in such situations is a determination that the employee is performing at an acceptable level of competence. The lack of such a determination itself is a bar to granting of the within-grade increases, and it is the negative determination, rather than its consequences, that gives rise to an appeal right. The WPA protects an employee by giving the employee the relief he or she would have received if the appealed action had not occurred. In the case of within-grade increases, the appealed action is the negative determination of the employee's competence, not the withholding of the within-grade increase. Once the employee receives the interim relief, i.e., a determination that the employee is performing at an acceptable level of competence, there is no further bar to granting the interim within-grade increase.

6. Part 531—Highest Previous Rate

OPM believes that the use of a rate of pay as an employee's highest previous rate under part 531 when that rate of pay was received solely during a period of interim relief should not be permitted. If the legal basis for the interim rate of pay is removed, e.g., the agency's action is ultimately sustained by the full Board, OPM does not believe it would be appropriate to fix an employee's pay based on the rate of pay received solely during the period of interim relief. Accordingly, OPM is amending part 531 to reflect this position.

7. Part 536—Grade and Retention

Under existing regulations, a break in service of 1 workday or more normally terminates an employee's entitlement to grade or pay retention. (The *Supplementary Information* portion of the proposed regulations erroneously referred to a 3-day break.) Since in virtually all cases of interim relief involving removal actions, more than 1 workday will elapse between the effective date of the removal and the effective date of the interim personnel action, OPM is amending part 536 so that entitlement to grade and pay retention may be continued during a period of interim relief and not be lost because of the break in service of more than 1 workday. This permits employees to keep retained grade and pay benefits as if no personnel action, e.g., removal, had taken place.

8. Part 831—Retirement, Part 841—Federal Employees Retirement System—General Administration, and Part 842—Federal Employees Retirement System—Basic Annuity

OPM is amending the current regulations to make clear that an employee with an interim appointment under the interim relief provisions in 5 U.S.C. 7701(b)(2)(A) may be covered under the Civil Service Retirement System or the Federal Employees Retirement System, as appropriate.

Agencies are required to notify OPM when they appoint on an interim basis an individual who had previously retired so that OPM can suspend the annuity payments until final disposition of the appeal case before the MSPB or until the interim appointment is otherwise ended. If the MSPB decision requiring interim relief is reversed by the full Board and the employee's separation is sustained or the employee agrees to terminate the interim appointment, the employee's annuity will be resumed effective the day after the interim appointment terminates. The annuitant will be deemed to have been a reemployed annuitant during the interim appointment for the limited purpose of applying for any benefits for which he or she qualifies under the provisions of 5 U.S.C. 8344 or 8468. If the initial MSPB decision canceling the agency's separation action (and thereby retroactively reinstating or restoring the employee) is not appealed and becomes the MSPB's final action, if a final MSPB decision cancels the separation, or if the agency agrees to cancel the separation, the employing agency must notify OPM. The agency's notice to OPM should include a request that OPM specify the amount of any erroneous payment—including recurring annuity payments or refunded retirement deductions—to be recovered by the employing agency from any back pay to which the employee may be entitled.

These regulations provide that waiver consideration under 5 U.S.C. 8346(b) or 5 U.S.C. 8470(b) will not be given to any part of an erroneous payment collected from the individual's back pay adjustment. While this provision is contrary to the court's final decision in the case of *Day* v. *OPM*, 833 F.2d 1580 (Fed. Cir. 1987), it is consistent with Congressional intent expressed in the legislative history of section 1221(j) of the *Whistleblower Protection Act of 1989*. In this regard, the Joint Explanatory Statement at S 2784 of the *Congressional Record* on March 16, 1989, states that "[t]he waiver provisions under sections 8346(b) and 8470(b) of

title 5 should not be applicable." Thus, part of the impact of section 1221(j) is to negate the holding of the Federal Circuit in *Day* that OPM is required to grant equitable waiver consideration under 5 U.S.C. 8346(b) to a successful appellant before recovering through offset against a back pay award. However, an individual may request a waiver of the unrecovered portion of the erroneous retirement benefit when there is no back pay or the back pay is insufficient to cover the entire erroneous payment.

In adopting these regulations in final form as revised, OPM has taken into consideration a number of comments made on the proposed regulations as discussed below.

One commenter asked whether an employee who had CSRS coverage when separated will be coded as CSRS when the employee receives an interim appointment under § 772.102, without regard to the length of the break in service and whether the reference in § 831.201(b)(6) to CSRS is a generic term and applies equally if the employee had CSRS offset coverage at separation. The answer to both questions is "yes."

A commenter suggested that § 831.305(d) be amended to include a specific reference to the alternative form of annuity (AFA) lump sum, if it must be returned upon cancellation of the employee's removal. Even though "retirement benefits" as used includes both annuity payments and refunded retirement deductions including the AFA lump sum, for the sake of clarity, OPM has revised the language of this section so that it refers to overpaid annuity and lump sum retirement deductions. OPM has also amended § 841.506 to reflect this same intent.

One commenter suggested that the reference to lump sum payment in § 831.2011 concerning the effect of Part 772 on CSRS lump sum payments be changed to "refund of retirement contributions." OPM did not adopt this suggestion since lump sum payment as used in this section refers to a one-time payment of the employee's retirement contributions in contrast to the monthly payment of an annuity. OPM believes that it is clear what is intended if the section is considered in the context of Subpart T of the regulations and the discussion of the comment above about the AFA lump sum.

At the suggestion of another commenter, OPM added language to §§ 831.805(e) and 841.506(e) to indicate that annuity suspended because of an interim appointment will be increased by the Cost of Living Allowances (COLA) and other adjustments provided by law during the period that the annuity is suspended.

One commenter recommended that the reference in § 841.507 to lump sum payment be changed to "refund of retirement contributions." As with the comment above on § 831.2011, lump sum payment refers to a one-time payment of the employee's retirement contributions in contrast to the monthly payment of an annuity. OPM understands that "refund" is commonly used to refer to a lump sum payment of retirement contributions. However, OPM prefers to use the term "lump sum" that is embodied in the definition of lump sum credit provided in law at section 8331(8) of title 5, United States Code.

A commenter requested that OPM make a clear statement about the waiver of overpayments if the agency's action is upheld by the full Board. In this regard, the agency's success on the original removal issue would not cancel out the interim appointment and therefore should not create any overpayments. The only overpayments that OPM can foresee would be the occasional instance where there is a delay between the date of the interim appointment and the notification to OPM to suspend the annuity. OPM does not believe that there is any reason to authorize waiver of such overpayments. OPM intends to collect any payments that occur under the normal overpayment procedures. Also, the fact that OPM is suspending payment of an annuity during the period of an interim relief appointment and will only resume payment prospectively should eliminate any situations where there would be a dual payment of salary and annuity benefits. If there is an actual overpayment, OPM does not know of any authority that would permit authorization of a waiver or nonrecovery of the overpayment as a policy. Where an overpayment occurs, the agency must continue to deal with each case as it comes up under the appropriate waiver authority it has for dealing with the particular overpayment involved. If an overpayment of annuity is involved, such waiver requests must be referred to the Retirement and Insurance Group at OPM for consideration as provided in the current FPM guidance.

Another commenter asked for a clarification of the situation where the agency is ordered by MSPB to provide interim appointment after the employee has been separated for more than 365 days. OPM believes that the intent of the WPA is that the employee is placed in the same or similar position he or she was in prior to removal. Therefore, the employee should be restored to the same benefits coverage he or she had at the time of removal.

A commenter asked that additional language be added to the regulation to address the impact on annuity payments or eligibility for refunds where the interim appointments last for less than 1 year, for 1 year to less than 5 years, and for 5 years or more. OPM does not intend to include such a discussion in the regulations, but, instead, will provide additional guidance to agencies later on this topic. In this regard, OPM does note that at the end of the interim appointment, if the individual does not qualify for a supplemental or redetermined annuity, he or she may only receive a refund of the retirement deductions taken during the interim appointment. If the individual has one or more but less than 5 years of service in the interim appointment, he or she may qualify for a supplemental annuity if all other conditions for entitlement are met. If the individual has 5 or more years of service, he or she may qualify for a redetermined annuity. There is no difference in the effect of the individual's length of service under an interim appointment than there would be for any other reemployed annuitant.

OPM rejected a suggestion that the regulations be revised to cover situations when an employee becomes disabled while employed under an interim appointment. The current regulations provide the result OPM believes should apply here, i.e., employees on interim relief appointments could apply for benefits. Additional information on this topic will be provided in future guidance.

OPM also rejected a suggestion that the regulations be made more clear as to whether an annuitant in an interim appointment is treated as a reemployed annuitant. The regulations as proposed already specify that the individual is not subject to the provisions for reemployed annuitants. Additional discussion of indicator codes, salary reduction, etc., will be provided in FPM guidance.

9. Part 846—Federal Employees Retirement System—Electing Coverage

OPM is amending § 846.201(b) in the current regulations governing an employee's opportunities to elect FERS coverage. Because the order of interim relief is based on an initial finding that cancellation of a separation is appropriate, giving an employee an interim appointment under 5 U.S.C. 7701(b)(2)(A) will not convey a new opportunity for the employee to elect FERS coverage even though under normal circumstances a break in service would give rise to an election right.

A commenter suggested that an individual serving under an interim

appointment be allowed to elect FERS coverage to be consistent with the provisions allowing the employee a new health benefits enrollment opportunity and an opportunity to increase the level of coverage for life insurance when the period of separation exceeds 180 days. OPM does not adopt this suggestion for the reason noted in the above paragraph. It is appropriate not to allow a FERS election based on a break in service followed by interim relief which is premised on the likelihood of the individual's prevailing in his or her attempt to cancel the break in service. The health and life insurance programs, on the other hand, provide specific opportunities for enrollees to change enrollments based on their changed circumstances and needs for current coverage. This insurance program concept—unlike the retirement program, which is intended to provide benefits at the end of an employee's career—is the basis for the opportunity to make insurance changes upon an interim appointment.

10. Part 870—Basic Life Insurance and Part 890—Federal Employees Health Benefits Program

OPM amends the current regulations on health benefits and life insurance to allow coverage of an employee given an interim appointment under § 772.102 of this chapter.

Like any other employees with a break in service exceeding 3 days, employees who are given interim appointments generally may enroll in any health benefits plan or option for which they are otherwise eligible. However, if the individual is an annuitant and the annuity is suspended, the health insurance held as an annuitant is transferred to the employing agency.

For employees on interim appointments, the life insurance they had when they last separated from service is reinstated; however, if there is a break in service of at least 180 days, they may increase their level of coverage. If they are annuitants, the life insurance coverage they have as annuitants does not affect their coverage when they are reemployed.

If the final outcome of the appeal is to reverse the separation and award back pay, the regular rules governing cancellation of an erroneous separation apply.

One commenter asked what happens if an individual elects FEHB coverage during the interim appointment or increases FEGLI coverage (if there was a break in service of more than 180 days) and then is retroactively restored to his or her previous position and there is no break in service between the interim appointment and the restoration. The back pay guidance in FPM Supplement 990–2, Book 550, S8–9b assumes that the individual is not Federally employed when he or she is retroactively restored. In extension of the current guidance, an individual with an interim appointment and FEHB coverage could choose either to have the FEHB restored, or simply to continue the insurance held during the interim appointment. Since there is no break in service, there is no opportunity to newly enroll or change enrollment. If the individual had a break in service exceeding 180 days and, upon receiving the interim appointment, chooses to increase his or her life insurance coverage, he or she keeps the new coverage when the restoration occurs. Additional guidance on this topic will be issued by OPM in the future.

One commenter asked what would happen to an individual's TCC coverage during the interim appointment and whether the individual would get a new TCC right if MSPB affirms the agency's removal of the individual. In this instance, like anyone else who acquires regular FEHB coverage, the TCC coverage would stop when the regular coverage becomes effective. Also, like anyone else removed (for a reason other than gross misconduct), the individual would have a new right to TCC.

One commenter asked if an individual who has been separated more than 180 days and elects a higher level of life insurance coverage can carry the higher level coverage into retirement. In this regard, retiring employees can continue options (including levels of additional insurance) if they have had the option (or level) for at least 5 years before retirement.

One commenter asked if an individual has conversion rights under health and life insurance upon separation from an interim appointment. OPM has determined that the individual would have such rights.

11. Part 772—Processing Interim Personnel Actions

Guidance on preparing official documentation to effect an interim personnel action is located in FPM Supplement 296–33. When an interim action is effected, the agency must retain in the individual's Official Personnel Folder (OPF) the Notification of Personnel Action (SF 50) documenting the action that gave rise to the appeal. If the initial decision granting interim relief is later overturned or the interim personnel action is otherwise cancelled, the SF 50 documenting the interim action must be removed from the OPF when the cancellation is effected. When a final Board order is issued, the agency must follow the instructions in FPM chapter 296 and FPM Supplement 296–33 to document the actions required by the decision.

12. Miscellaneous Comments/ Suggestions

One commenter stated that an alleged violation of the WPA and these regulations concerning interim relief should be grievable under 5 U.S.C. 7103(a)(9). With regard to interim relief, OPM notes WPA and these regulations do not apply to arbitration awards reversing agency actions. Under the adjudicatory scheme established by Congress, matters covered by chapters 43 and 75 of title 5 of the U.S.C. may be raised under either an applicable negotiated grievance procedure (NGP) or under the appellate procedures described in chapter 77 of that title (i.e., appeals to MSPB), but not both. An employee choosing to seek review under an NGP is not covered by the interim relief provisions which are associated with chapter 77 MSPB appeals. In addition, unlike MSPB initial decisions, arbitration awards (whether concerning matters under Chapters 43 and 75 or other matters) are "final" and thus equivalent to final Board decisions or initial MSPB decisions which have become final under statute. Relief ordered by arbitration awards must be effected by agencies on a "noninterim" or permanent basis. Finally, since Congress only provided for MSPB to order interim relief, OPM believes that only MSPB has authority (through its compliance/enforcement procedures) to insure that an agency has properly complied with that order. To allow grievances on such matters would be inconsistent with the carefully crafted and integrated scheme of administrative and judicial review established by Congress through the *Civil Service Reform Act of 1978* as modified by the WPA.

One commenter wondered why part 300 or other parts of the CFR concerning employment were not referenced in connection with interim relief. OPM did not refer to the "normal" employment parts of the regulations because it believes interim relief is a unique action associated only with the appellate process.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal employees.

List of Subjects in 5 CFR Parts 531, 536, 772, 831, 841, 842, 846, 870, 890

Administrative practice and procedure; Government employees; retirement; health benefits; life insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM amends parts 531, 536, 772, 831, 841, 842, 846, 870, and 890 of title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338, and chapter 54; E.O. 12748; subpart A issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462, and E.O. 12736; subpart B also issued under 5 U.S.C. 5333, 5402, and 7701(b)(2); subpart D also issued under 5 U.S.C. 7701(b)(2); subpart E also issued under 5 U.S.C. 5336.

2. Section 531.203 is amended by removing the word "or" at the end of paragraph (d)(2)(v); redesignating paragraph (d)(2)(vi) as (d)(2)(vii); and adding a new paragraph (d)(2)(vi), to read as follows:

§ 531.203 General provisions.

* * * * *

(d) * * *

(2) * * *

(vi) A rate received solely during a period of interim relief under the interim relief provisions of 5 U.S.C. 7701(b)(2)(A); or

* * * * *

3. In § 531.406, the second sentence of paragraph (a) is revised to read as follows:

§ 531.406 Creditable service.

(a) *General.* * * * Service credit is given during this employment for periods of annual, sick, and other leave with pay; advanced annual and sick leave; service under a temporary or term appointment; and service under an interim appointment made under § 772.102 of this chapter. * * *

* * * * *

4. In § 531.407, paragraph (c) is amended by removing the word "and" at the end of paragraph (c)(5); removing the period and adding a semicolon and the word "and" at the end of paragraph (c)(6); and adding a new paragraph (c)(7), to read as follows:

§ 531.407 Equivalent increase determinations.

* * * * *

(c) * * *

(7) An interim within-grade increase terminated under § 531.414(c) of this part.

5. A new § 531.414 is added to subpart D, to read as follows:

* * * * *

§ 531.414 Interim within-grade increase.

(a) An interim within-grade increase shall be granted to an employee who has:

(1) Appealed a negative within-grade increase determination to the Merit Systems Protection Board under 5 U.S.C 5335(c); and

(2) Been granted a favorable within-grade increase determination under the interim relief provisions of 5 U.S.C. 7701(b)(2).

(b) An interim within-grade increase granted under paragraph (a) of this section shall become effective on the first day of the first pay period beginning on or after the date of the favorable within-grade increase determination.

(c) If the final decision of the Merit Systems Protection Board upholds the negative within-grade increase determination, an interim within-grade increase granted under this section shall be terminated at the end of the pay period in which the Board's decision becomes final.

(d) If the final decision of the Merit Systems Protection Board overturns the negative within-grade increase determination, an interim within-grade increase granted under this section shall be made permanent and shall be granted retroactively to the first day of the first pay period beginning on or after completion of the applicable waiting period.

(e) An employee may not appeal the termination of an interim within-grade increase under paragraph (c) of this section.

PART 536—GRADE AND PAY RETENTION

6. The authority citation for part 536 continues to read as follows:

Authority: 5 U.S.C. 5361–5366 and 7701(b)(2); § 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

7. In § 536.202, a new paragraph (c) is added, to read as follows:

§ 536.202 Period of grade retention.

* * * * *

(c) Notwithstanding § 536.207(a)(1) of this part, grade retention shall continue to apply to an employee serving under an interim appointment made under § 772.102 of this chapter for the duration of the original 2-year period if the employee's grade was retained under this part in the appointment immediately preceding the interim appointment.

8. In § 536.205, paragraph (f) is redesignated as (g) and a new paragraph (f) is added, to read as follows:

§ 536.205 Determination of rate of basic pay.

* * * * *

(f) Notwithstanding § 536.209(a)(1) of this part, pay retention shall continue to apply to an employee serving under an interim appointment made under § 772.102 of this chapter if the employee's pay was retained under this part in the appointment immediately preceding the interim appointment.

* * * * *

PART 772—INTERIM RELIEF

9. A new part 772 is added to title 5 of the Code of Federal Regulations to read as follows:

PART 772—INTERIM RELIEF

Subpart A—General

Sec.

772.101 Basic authority.

772.102 Interim personnel actions.

Authority: 5 U.S.C. 1302, 3301, 3302, and 7301; Pub. L. 101–12.

Subpart A—General

§ 772.101 Basic authority.

This part establishes a mechanism for agencies to provide interim relief to employees and applicants for employment who prevail in an initial decision issued by the Merit Systems Protection Board (MSPB) as required by the *Whistleblower Protection Act of 1989*, Pub. L. 101–12 (codified at 5 U.S.C. 7701(b)(2)(A)). The interim relief provisions of the law are applicable whether or not alleged reprisal for whistleblowing is at issue in an appeal to MSPB.

§ 772.102 Interim personnel actions.

When an employee or applicant for employment appeals an action to MSPB and the appeal results in an initial decision by an MSPB administrative judge granting interim relief under 5 U.S.C. 7701(b)(2)(A) and a petition for review of the initial decision is filed (or will be filed) with the full Board under 5

U.S.C. 7701(e)(1)(A), the agency shall provide the relief ordered in the initial decision by taking an interim personnel action subject to the following terms:

(a) Interim personnel actions, except interim within-grade increases under § 531.414 of this chapter, shall be made effective upon the date of issuance of the initial decision and must be initiated on or before the date of a petition for review by the agency or within a reasonable time after the date it becomes aware of a petition for review by the appellant;

(b) The relief provided by interim personnel actions shall end:

(1) When the full Board issues a final decision on a petition for review filed by an applicant for employment, employee, and/or agency under 5 U.S.C. 7701(e)(1)(A),

(2) When the initial decision becomes final pursuant to an action of the full Board or pursuant to a decision by an applicant for employment, employee, and/or agency to withdraw (or change intentions to file) any petition for review filed under 5 U.S.C. 7701(e)(1)(A), or

(3) When the applicant for employment or employee requests or reaches agreement with the agency that the interim relief ordered in the initial decision be cancelled;

(c) Interim relief shall entitle the applicant for employment or employee to the same compensation and benefits he or she would receive if the relief effected had not been on an interim basis except as provided in paragraph (f) of this section;

(d) Upon the taking of an interim personnel action, the agency shall place the applicant for employment or employee in a paid, duty status, in the same or similar position previously occupied, unless the agency determines that the return or presence of the individual would be unduly disruptive to the work environment, whereupon the agency may place him or her in a paid, *non-duty* status (with the applicant for employment or employee receiving the same compensation and benefits he or she would be entitled to if placed on interim relief in a paid, *duty* status) during the pendency of a petition for review to the full Board under 5 U.S.C. 7701(e)(1)(A);

(e) An interim personnel action shall not be taken if the MSPB administrative judge, pursuant to 5 U.S.C. 7701(b)(2)(A)(i), determines that granting interim relief is not appropriate;

(f) An interim personnel action under this part shall not entitle the applicant for employment or employee to an award of back pay or attorney fees; and

(g) The agency shall follow the instructions in Federal Personnel Manual Supplement 296–33 and Federal Personnel Manual Chapter 296 in taking an interim personnel action.

PART 831—RETIREMENT

10. The authority citation for Part 831 is amended in part to add a cite for § 831.201(b)(6) as set out below:

Authority: 5 U.S.C. 8347
* * * § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); * * *

11. In § 831.201, paragraph (b) is amended by removing the period at the end of (b)(5) and adding the semicolon in its place, and by adding (b)(6) to read as follows:

§ 831.201 Exclusions from retirement coverage.

* * * * *

(b) * * *

(6) The employee receives an interim appointment under § 772.102 of this chapter and was covered by CSRS at the time of the separation for which interim relief is required.

* * * * *

12. In Subpart H, a new § 831.805 is added to read as follows:

§ 831.805 Effect of part 772 of this chapter on CSRS annuity benefits.

(a) *Agency notification to OPM.* (1) When it is determined that a CSRS retiree is to be given interim relief under 5 U.S.C. 7701(b)(2)(A), the employing agency must notify OPM of the effective date of the interim appointment under § 772.102 of this chapter. The notice must specify that the appointment is required by the *Whistleblower Protection Act of 1989.*

(2) Upon receiving a final MSPB order requiring cancellation of the retiree's separation or after the retiree and the agency agree to cancel the separation, the employing agency must notify OPM and request the amount of the erroneous payment to be covered under § 550.805(e) of this chapter from any back pay adjustment to which the employee may be entitled.

(b) *Suspension of annuity payments during the appointment.* Except as provided in paragraph (d)(4) of this section, the provisions of 5 U.S.C. 8344 will not apply while the retiree is employed in an interim appointment under § 772.102 of this chapter. In all cases, OPM will suspend the retiree's annuity effective on the commencing date of the interim appointment. The suspension will last until the interim appointment ends.

(c) *Employee deductions and agency contribution.* For the duration of the interim appointment, the agency will withhold the appropriate employee deduction and contribute the matching agency contribution as prescribed by OPM.

(d) *Erroneously paid retirement benefits.* (1) Any erroneous payment of a CSRS annuity or a lump sum credit, including the alternative form of annuity lump sum, resulting from the action which led to the interim appointment under § 772.102 of this chapter will be determined when the MSPB initial decision overturning the employee's separation becomes final, when the Board issues a final order cancelling the separation, or when the agency agrees to cancel the separation.

(2) If OPM determines that an overpayment has occurred and the employee is entitled to receive back pay because of the cancelled separation, the overpaid retirement benefits must be deducted to the extent they can be recovered from the back pay adjustment as required by 5 CFR 550.805(e).

(3) Amounts recovered from back pay will not be subject to waiver consideration under the provisions of 5 U.S.C. 8346(b). If there is no back pay or the back pay is insufficient to recover the entire erroneous payment, the employee may request that OPM waive the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

(4) If the MSPB action does not result in cancellation of the separation, the retiree may apply for any additional benefits for which he or she qualifies under the provisions of 5 U.S.C. 8344.

(e) *Resumption of annuity payments.* (1) If the retiree withdraws his or her objection to the separation or MSPB issues a final order sustaining the retiree's separation, the employing agency must notify OPM of the date that the interim appointment ends so that annuity payments may be resumed.

(2) OPM will resume annuity payments effective the day after the interim appointment ends. The annuity rate will be adjusted to reflect any cost-of-living increases or other adjustments that would have been made during the period the annuity was suspended.

13. In Subpart T, a new § 831.2011 is added to read as follows:

§ 831.2011 Effect of part 772 of this chapter on CSRS lump-sum payments.

(a) An interim appointment under § 772.102 of this chapter does not affect the lump-sum payment of retirement contributions made to a separated employee unless it becomes effective within 31 days of the employee's separation from the service. An interim appointment effective within 31 days of

the employee's separation makes the employee ineligible for the lump-sum payment. Payments made in error will be collected under subpart M of part 831 of this chapter.

(b) When an employee's separation is cancelled after the MSPB initial decision becomes final, when the Board issues a final order cancelling the employee's separation, or when the agency and the employee agree to cancel the separation, the agency must notify OPM and request the amount of the erroneous lump-sum payment.

(c) At the time the employee's separation is cancelled, the agency must deduct the amount of the lump-sum payment from any back pay to which the employee is entitled as required by 5 CFR 550.805(e).

(d) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8346(b). If there is no back pay or the back pay is insufficient to recover the erroneous payment, the employee may request that OPM waive the recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

14. The authority citation for subpart E of part 841 is amended in part to add the following cites for § 841.506 and 841.508 to read as follows:

Authority: 5 U.S.C. 8461 * * *; § 841.506 also issued under 5 U.S.C. 7701(b)(2); § 841.508 also issued under section 505 of Pub. L. 99–335.

§§ 841.506 and 841.507 [Redesignated as §§ 841.507 and 841.508]

15. In part 841, subpart E is amended by redesignating §§ 841.506 and 841.507 as §§ 841.507 and 841.508, respectively, and adding a new § 841.506 to read as follows:

§ 841.506 Effect of part 772 of this chapter on FERS payments.

(a) *Agency notification to OPM.* (1) When it is determined that a FERS employee is to be given interim relief under 5 U.S.C. 7701(b)(2)(A), the employing agency must notify OPM of the effective date of the interim appointment under § 772.102 of this chapter. The notice must specify that the appointment is required by the *Whistleblower Protection Act of 1989.*

(2) When the MSPB initial decision cancelling the employee's separation becomes final, when the Board issues a final order cancelling the retiree's separation, or when the agency agrees to cancel the separation, the employing agency must notify OPM of the date the interim appointment ends and request the amount of the erroneous payment to be recovered under § 550.805(e) of this chapter from any back pay adjustment to which the employee may be entitled.

(b) *Suspension of annuity payments during the appointment.* Except as provided in paragraph (d)(2) of this section, the provisions of 5 U.S.C. 8468 will not apply while the retiree is employed in an interim appointment under § 772.102 of this chapter. In all cases, OPM will suspend the retiree's annuity effective on the commencing date of the interim appointment. The suspension will last until the interim appointment ends.

(c) *Employee deductions and normal cost percentage.* For the duration of the appointment, the agency will withhold the appropriate employee deduction and contribute the total amount of the normal cost percentage for the employee as prescribed by OPM. If and when a separation action is cancelled, the agency must make the corrections specified under § 841.507 of this subpart.

(d) *Erroneously paid retirement benefits.* (1) Any erroneous payment of a FERS annuity or a lump sum credit, including the alternative form of annuity lump sum, resulting from the action which led to the interim appointment under § 772.102 of this chapter will be determined when the initial MSPB decision cancelling the separation action becomes final, when the Board issues a final order cancelling the separation of the retiree, or when the agency agrees to cancel the separation.

(2) If the MSPB action does not result in cancellation of the separation, the retiree may apply for additional benefits under 5 U.S.C. 8468 for which he or she qualifies based on the service performed during the interim appointment.

(e) *Resumption of annuity payments.* (1) If the retiree withdraws his or her objection to the separation or MSPB issues a final order sustaining the retiree's separation, the employing agency must notify OPM of the date the interim appointment ends so that annuity payments may be resumed.

(2) OPM will resume annuity payments effective the day after the interim appointment ends. The annuity rate will be adjusted to reflect any cost-of-living increases or other adjustments that would have been made during the period the annuity was suspended.

16. In § 841.507, a new paragraph (d) is added to read as follows:

§ 841.507 Correction of unjustified or unwarranted personnel action.

* * * * *

(d) (1) Any FERS benefits—lump-sum payments or annuity benefits—paid based on a separation that is later cancelled are considered erroneous payments that must be repaid to OPM. Agencies must deduct such payments from any back pay adjustment to which the employee may be entitled as required by 5 CFR 550.805(e).

(2) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8470(b). If there is no back pay, or the back pay is insufficient to recover the entire erroneous payment, the employee may request that OPM waive recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

17. The authority citation for part 842 is amended to revise the cites for §§ 842.105 and 842.106 to read as follows:

Authority: 5 U.S.C. 8461(g) * * * § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under sec. 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, and 5 U.S.C. 8402(c)(1); * * *

18. § 842.105 is amended by adding a new paragraph (c) to read as follows:

§ 842.105 Regulatory exclusions.

* * * * *

(c) Paragraph (a) of this section does not deny FERS coverage to an employee who receives an interim appointment under § 772.102 of this chapter and was covered by FERS at the time of the separation for which interim relief is required.

PART 846—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

13. The authority citation for part 846 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); § 846.201(b) also issued under 5 U.S.C. 7701(b)(2); § 846.202 also issued under section 301(d)(3) of Pub. L. 99–335.

14. Section 846.201(b) is revised to read as follows:

§ 846.201 Elections to become subject to FERS.

* * * * *

(b) *Separated employees who are reemployed.* A former employee who,

after June 30, 1987, becomes reemployed and subject to CSRS may elect, during the 6-month period beginning on the date he or she becomes subject to CSRS, to become subject to FERS, except that an employee serving under an interim appointment under the authority of § 772.102 of this chapter is not eligible to elect to become subject to FERS.

* * * * *

PART 870—BASIC LIFE INSURANCE

21. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2).

22. In § 870.202, a new paragraph (c) is added to read as follows:

§ 870.202 Exclusions.

* * * * *

(c) Paragraph (a) of this section does not deny coverage to an employee serving under an interim appointment established under § 772.102 of this chapter.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

23. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104, 5 U.S.C. 7701(b)(2) and Pub. L. 100–654; § 890.803 also issued under sec. 303 of Pub. L. 99–569, 100 Stat. 3190, sec. 188 of Pub. L. 100–204, 101 Stat. 1331, sec. 204 of Pub. L. 100–238, 101 Stat. 1744, and 50 U.S.C. 403p, 22 U.S.C. 4060(c) and 4069c–1; Subpart K also issued under title II of Pub. L. 100–654; Subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064.

24. In § 890.102, paragraph (d) is revised to read as follows:

§ 890.102 Coverage.

* * * * *

(d) Paragraph (c) of this section does not deny coverage to:

(1) An employee appointed to perform "part-time career employment," as defined in section 3401(2) of title 5, United States Code, and 5 CFR part 340, subpart B; or

(2) An employee serving under an interim appointment established under § 772.102 of this chapter.

* * * * *

[FR Doc. 92–2226 Filed 1–30–92; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV–91–449IR]

Avocados Grown in South Florida; Relaxation of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes grade requirements for Florida avocados to permit handlers to ship avocados of dissimilar varieties in the same container when they are shipped to destinations within the production area (South Florida). Currently, all of the avocados in a particular container for shipment to any destination must have similar varietal characteristics in order to meet the current minimum grade requirement of U.S. No. 2. This action is expected to facilitate the picking and preparation of avocados for production area markets when more than one avocado variety matures at the same time, and help the Florida avocado industry more efficiently market its crop in production area markets.

DATES: This rule becomes effective January 31, 1992. Comments must be received by March 2, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Marketing Agreement and Marketing Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are about 40 handlers of Florida avocados subject to regulation under Marketing Order No. 915, and about 300 avocado producers in the production area in South Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the avocado handlers and producers may be classified as small entities.

The interim final rule amends § 915.306 (7 CFR 915.306) by relaxing grade requirements so that handlers may ship avocados of dissimilar varieties in the same container when they are shipped to destinations within the production area. Currently, all of the avocados in a particular container shipped to any destination must have similar varietal characteristics in order to meet the current minimum grade requirement of U.S. No. 2. This grade requirement is defined in the United States Standards for Grades of Florida Avocados. Container regulations for Florida avocados are specified in §§ 915.305 and 915.306.

This action is designed to facilitate the picking and preparation of avocados for production area markets when more than one avocado variety matures at the same time, and help the Florida avocado industry more efficiently market its crop. Sometimes growers and handlers have relatively small quantities of avocados consisting of several different varieties ready for picking and packing at the same time, which they intend to ship to markets within the production area only.

These growers and handlers believe that they could save time and expense if they were permitted to commingle these avocados in the same packing and shipping containers.

Currently, avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since this action does not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 (7 CFR 915.306) for avocados handled to points outside the production area, there is no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

Maturity requirements for Florida avocados handled to points both within and outside the production area are specified in § 915.332. These requirements, based on minimum weights and diameters, remain in effect unchanged by this rule.

Since shipments of this season's Florida avocado crop are currently in progress, this action is being taken on an interim final basis with a 30-day comment period. This action relaxes current requirements, and was unanimously recommended by the committee.

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

After consideration of all relevant material presented and other available information, it is found that this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice and opportunity to comment, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes grade requirements for certain Florida avocados; (2) Florida avocado handlers are aware of this action which was unanimously recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1991–92 season Florida avocado crop is currently in progress; and (4) this interim final rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 915.306 is amended by revising paragraphs (a) and (a)(1) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) No handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 2, except that avocados handled to destinations within the production area may be placed in containers with avocados of dissimilar varietal characteristics.

* * * * *

Dated: January 27, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2319 Filed 1–30–92; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR part 1421 with respect to the farmer-owned reserve (FOR) program which is conducted by CCC in accordance with section 110 of the Agricultural Act of 1949 (1949 Act), as amended. This rule is necessary in order to implement the changes made to section 110 by the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act). The amendment made by this rule simply codifies the determination made by the Secretary of Agriculture that 1991 crop wheat may not be pledged as collateral for FOR loans.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Craig Jagger, Food Grains Group, Commodity Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7923.

SUPPLEMENTARY INFORMATION: This amendment has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and it has been designated as "major". A Final Regulatory Impact Analysis has been prepared and is available from the above-named individual.

The title and number of the Federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this notice applies is Grain Reserve Program—10.067.

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

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

Section 110 of the 1949 Act sets forth the statutory authority for the FOR program which was added to the 1949 Act by the Food and Agriculture Act of 1977. FOR was originally intended to encourage producers to store wheat and feed grains during times of surplus for orderly marketing at a later time. As noted in the Conference Report to the 1990 Act, however, experience has shown that the FOR has not operated in an efficient manner:

> The managers feel that the FOR has not been operated in an efficient manner in the recent past. The changes made in this section are intended to provide for a more moderate transition of grain into and out of the reserve. The managers note that the program has, in the past, had the effect of completely isolating the reserve from the market—some wheat from the 1978 crop remains in the reserve at the time this Act is being completed. The managers intend that the changes made in the Act will allow for a more orderly flow of grain into and out of the FOR. Accordingly, the amendments adopted in the conference substitute become effective December 1, 1990, to govern the administration of the FOR as of that date.

In order to ensure that unreasonably large quantities of grain are not placed for the FOR, the 1990 Act amended

section 110 to provide that the maximum quantity of wheat in the FOR cannot exceed 450 million bushels and the maximum quantity of feed grains cannot exceed 900 million bushels; there are no minimum quantities which must be maintained in the FOR. The maximum quantity of wheat in the FOR may be established within the range of 300–450 million bushels and the maximum quantity of feed grains within a range of 600–900 million bushels.

Entry into the FOR is triggered based upon price and stocks-to-use ratios. Section 110 provides:

(1) *Discretionary Entry*—The Secretary may make extended loans available to producers of wheat or feed grains if:

(A) The Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to December 15 for wheat or March 15 for feed grains is less than 120 percent or the current loan rate for wheat or corn, respectively;

(B) As of the appropriate date specified above the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be:

(i) In the case of wheat, more than 37.5 percent; and

(ii) In the case of corn, more than 22.5 percent.

(2) *Mandatory Entry*—The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (1) are met for wheat and feed grains, respectively.

Section 110 provides that the determination of whether or not there will be entry of wheat into the FOR will be announced by December 15 of the year in which the crop of wheat was harvested and, in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

If entry into the FOR is allowed, as noted in the Conference Report, the terms and conditions of the FOR loans are designed to allow greater flexibility to producers than was previously allowed under section 110:

> The current statutory restrictions on access to FOR grain severely restrict usefulness of the FOR. The amendments adopted in the Conference substitute will allow producers to gain access to FOR-held grain to encourage producers to redeem grain from the FOR as market conditions and individual marketing plans warrant. The amendments allow all producers to redeem FOR loans at any time without imposition of penalties, as exist in current law. The amendments also provide that once market prices reach 95% of the current established price for the commodity, storage payments will end, and loans extended for FOR grain will begin accruing interest once market prices each (sic) 105% of the established price for the commodity.

Storage payments will be paid with respect to FOR grain after the fact on a quarterly basis. Section 110 also provides:

> The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

Although the FOR program was intended to ensure that grain would come out of the FOR when prices were high, producers have shown a reluctance to repay FOR loans. In large part, this is due to the storage payments which they could earn under the FOR and due to special Internal Revenue Code tax provisions which allow producers the option to defer the declaration of the proceeds of CCC price support loans as income until the maturity of the loan.

In order to ensure orderly management of the FOR, section 110 provides that producers may, if entry is allowed, only enter the FOR after the maturity of the regular 9-month price support loan expired. Also, in order to provide for equitable treatment of producers, section 110 provides that the Secretary shall take regional differences into consideration when administering the FOR.

As discussed above the determination as to whether there will be entry into the FOR is based upon a review of the market prices for the 90 days immediately preceding the determination, as well as upon a projection of the estimated stocks-to-use ratio which is projected to exist at the end of the marketing year for wheat and corn, respectively. Accordingly, on December 16, 1991, the Secretary announced that the 1991 stocks-to-use ratio was less than 37.5 percent and that the 90-day market price was in excess of 120 percent of the 1991 price support level.

Based on a review of existing and projected market conditions, the Secretary has no authority to allow the 1991 crop wheat into the FOR. This final rule amends 7 CFR part 1421 to set forth this determination. Since this amendment merely codifies an existing determination, no further rulemaking is necessary.

List of Subjects in 7 CFR Part 1421

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

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

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

Authority: 7 U.S.C. 1421, 1423, 1425 and 1445e; 15 U.S.C. 714b and 714c.

2. Section 1421.742 is revised to read as follows:

§ 1421.742 Reserve quantity.

(a) The maximum quantity of 1990 crop wheat which may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended, is 300 million bushels. No quantity of 1990 crop feed grains may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended.

(b) No quantity of 1991 crop wheat may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended.

Signed at Washington, DC, on January 24, 1992.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–2356 Filed 1–30–92; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 92–005]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Mississippi from Class B to Class A. We have determined that Mississippi now meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Mississippi.

DATES: Interim rule effective January 27, 1992.

Consideration will be given only to comments received on or before March 31, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief,

Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket 92–005. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT:
Dr. John Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The Brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughter establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and have an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the effective date of this interim rule, Mississippi was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Mississippi meets the standards for Class A status.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd; and (4) maintain the specified surveillance system.

Therefore, we are removing Mississippi from the list of Class B States in § 78.41(c) and adding it to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Mississippi.

Immediate Action

Robert Melland, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Mississippi.

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

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have on effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Mississippi from Class B to Class A reduces certain testing and other requirements governing the interstate movement of cattle from Mississippi. However, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The principal group affected would be the owners of noncertified herds in Mississippi not known to be affected with brucellosis who seek to sell cattle.

There are an estimated 27,000 herds in Mississippi that could potentially be affected by this rule change. We estimate that 98 percent of these herds are owned by small entities. During fiscal year 1991, Mississippi tested 168,967 eligible cattle at livestock markets. We estimate that approximately 5 percent of this testing was done to qualify cattle for interstate movement for purposes other than slaughter. Testing costs approximately $1.50 per head. Since herd sizes vary, larger herds will accumulate more savings than small herds. Also, not all herd owners will choose to market their cattle in a way that accrues these cost savings. The overall effect of this rule on small entities should be to provide very small economic benefit.

Therefore, we believe that changing Mississippi's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, 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.

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.*).

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.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Paragraph (b) of § 78.41 is amended by adding "Mississippi," immediately after "Kentucky,".

3. Paragraph (c) of § 78.41 is amended by removing "Mississippi,".

Done in Washington, DC, this 27th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–2353 Filed 1–30–92; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 25

RIN 3150–AD86

NRC Licensee Reinvestigation Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require a reinvestigation program for NRC licensee personnel with "Q" and "L" access authorizations and to amend the fee schedule to recover the investigative costs. The reinvestigation program is consistent with the Department of Energy's program for its contractors and is consistent with NRC's policy of reinvestigating its own employees, consultants, contractors, experts and panel members. This amendment is necessary to achieve a higher level of assurance that licensee personnel with access to Restricted Data or National Security Information remain eligible for such access.

EFFECTIVE DATE: March 31, 1992.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4127.

SUPPLEMENTARY INFORMATION:

Background

The NRC currently requires a reinvestigation every five years for its employees, consultants, contractors, experts, and panel members with "Q" or "L" access authorization, but does not require a reinvestigation for licensee personnel with the same level of access authorizations. A recommendation was made in the 1988 GAO Report "NRC's Security Clearance Program Can Be Strengthened" and amplified in 1989 hearings before Congressman Synar that NRC have a reinvestigation program for its "L" cleared employees, consultants, contractors, experts, and panel members to assure their continued reliability, integrity, and trustworthiness. The rationale behind that recommendation applies equally to licensee personnel with "L" and "Q" access authorizations.

The final rule establishes the requirement that licensee personnel, whose access authorizations were granted five or more years ago are subject to a reinvestigation similar in scope to that required for NRC employees and contractors and consistent with that required by the Department of Energy for its contractors who have access to Restricted Data or National Security Information. The final rule also amends Appendix A "Fees for NRC Access Authorization" to recover the costs of the reinvestigations required by these changes. The rule does, however, allow for recognition of other Federal agencies, principally the Department of Energy's, reinvestigations. In cases where NRC can verify an appropriate reinvestigation by another Federal agency, there is no charge to the licensee or other organization. Where there is no other reinvestigation, or the reinvestigation does not meet NRC requirements, the fee is assessed. However, the assessed fee is usually nominal, as reflected in appendix A.

Public Comments

On July 31, 1991, the Commission published a proposed rule for comment in the Federal Register (56 FR 36113) to require a reinvestigation program for NRC licensee personnel with "Q" and "L" access authorizations and amend the fee schedule to recover investigative costs. The comment period expired on September 13, 1991. One comment was received from the public on October 7, 1991, after the comment period had closed. The comment concurred with the concept of the proposed reinvestigation program but objected to a procedural aspect of its implementation. Specifically, the proposed rule would have required a licensee to submit duplicate original applications for reinvestigation both to NRC and to any other Federal agency conducting reinvestigations in those cases where a licensee was subject to both programs. The commenter recommended that an original packet be submitted to only one agency, and that the licensee provide NRC with an abbreviated format listing critical identifying data for the employee and information concerning the reinvestigation package submitted to the other agency (e.g., DOE). Since the paperwork burden on affected licensees would be substantially reduced by the commenter's recommendations and copies of the original security clearance package can be obtained from the reinvestigating agency, if required in specific individual cases, this comment has been adopted and the final rule revised to adopt this comment.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0046.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits or the alternatives

considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, Room LL6, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the regulatory analysis may be obtained from Duane G. Kidd, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4127.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This rulemaking only applies to those licensees and others who generate, receive, safeguard and store National Security Information or Restricted Data (as defined in 10 CFR part 25). Approximately 31 NRC licensee and other license related interests are affected under the provisions of 10 CFR part 25. Because these licensees are not classified as small entities as defined by the NRC's size standards (December 9, 1985; 50 FR 50241), the Commission finds that this rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does apply to this final rule because it falls within the criteria of 10 CFR Part 50.109(a)(1), but that a backfit analysis is not required because this final rule qualifies for exemption under 50.109(a)(4)(iii) that reads "That the regulatory action involves . . . redefining what level of protection to the . . . common defense and security should be regarded as adequate."

List of Subjects in 10 CFR Part 25

Classified information, Criminal penalty, Investigations, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 25.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 25.8, paragraph (c) is revised to read as follows:

§ 25.8 Information collection requirements: OMB approval.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 25.17(b), 25.21(c), 25.27(a), 25.29, and 25.31, NRC Form 237 is approved under control number 3150–0050.

(2) In §§ 25.17(c), 25.21(c), 25.27(b), 25.29, 25.31, SF–86 is approved under control number 3150–0007.

(3) In § 25.21(b), NRC Form 354 is approved under control number 3150–0026.

(4) In § 25.33, NRC Form 136 is approved under control number 3150–0049.

(5) In § 25.35, NRC Form 277 is approved under control number 3150–0051.

3. In § 25.17, paragraph (e) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(e) Applications for access authorization or access authorization renewal processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization, or renewal request. Access authorization and access authorization renewal fees will be published each time the Office of Personnel Management notifies NRC of a change in the rates it charges NRC for the conduct of investigations. Any such changed access authorization or access authorization renewal fees will be applicable to each access authorization or access authorization renewal request received upon or after the date of publication. Applications from individuals having current Federal access authorizations may be processed more expeditiously and at less cost, since the Commission may accept the certification of access authorization and investigative data from other Federal Government agencies that grant personnel access authorizations.

4. Section 25.19 is revised to read as follows:

§ 25.19 Processing applications.

Each application for access authorization or access authorization renewal, together with its accompanying fee, must be submitted to the NRC Division of Security. If necessary, the NRC Division of Security may obtain approval from the appropriate Commission office exercising licensing or regulatory authority before processing the access authorization or access authorization renewal request. If the applicant is disapproved for processing, the NRC Division of Security shall notify the submitter in writing and return the original application (security packet) and its accompanying fee.

5. In § 25.21, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 25.21 Determination of initial and continued eligibility for access authorization.

(a) Following receipt by the NRC Division of Security of the reports of the personnel security investigations, the record will be reviewed to determine that granting an access authorization or renewal of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. If such a determination is made, access authorization will be granted or renewed. Questions as to initial or continued eligibility will be determined in accordance with part 10 of chapter I.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section, NRC "Q" and "L" access authorizations expire five years from the date of issuance. If a continued "Q" or "L" access authorization is required, an application for renewal must be submitted at least 120 days prior to its expiration date. Failure to make a timely application will result in expiration of access authorization. Access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal must include:

(i) A statement by the licensee or other person that the individual continues to require access to classified National Security Information or Restricted Data; and

(ii) A personnel security packet as described in § 25.17(c).

(2) An exception to the access authorization expiration date, the time for submission of renewal applications, and the paperwork required for renewal applications is provided for:

(i) Those individuals whose original access authorization date of issuance is more than five years old as of the effective date of this final rule. For those individuals, an application for renewal must be submitted by September 28, 1992; and

(ii) Those individuals who have a current and active access authorization from another Federal agency, are subject to a reinvestigation program by that agency that is determined by NRC to meet NRC's requirements (the DOE Reinvestigation Program has been determined to meet NRC's requirements), and for which the licensee or other person has notified NRC of the applicability of this exception at least 120 days prior to the original expiration date of the access authorization. For those individuals, the licensee or other person may submit to NRC, concurrent with its next submission to the other government agency (after the effective date of this rule), a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, to include Social Security Number, date of birth, type of request, i.e., renewal, Reinvestigation Submittal Date, and Agency Conducting Reinvestigation, signed by a licensee or licensee contractor official as the supporting documentation for an NRC access authorization renewal application. Any NRC access authorization continued in response to a renewal application submitted pursuant to this paragraph will, thereafter, not expire until the date set by the other government agency for the next reinvestigation of the individual pursuant to the other agency's reinvestigation program provided that period is no longer than seven years from the date of the NRC renewal. At that time (and at the time of each subsequent reinvestigation of the individual), the licensee or other person may again submit, concurrent with its submission to the other government agency, a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, Social Security Number, date of birth, type of request, i.e., renewal, Reinvestigation Submittal Date, and Agency Conducting Reinvestigation, signed by a licensee or licensee contractor official as the supporting documentation for an NRC access authorization renewal application. Failure to file a renewal application concurrent with the submission of an individual's SF–86 to the other government agency pursuant to their reinvestigation requirements, even if less than five years has passed since the date of issuance or renewal of the NRC "Q" or "L" access authorization, will result in the expiration of the individual's NRC access authorization.

6. Section 25.23 is revised to read as follows:

§ 25.23 Notification of grant of access authorization.

The determination to grant or renew access authorization will be furnished in writing to the licensee or organization that initiated the request. Upon receipt of the notification of original grant of access authorization, the licensee or organization shall obtain, as a condition for grant of access authorization and access to classified information, an executed "Classified Information Nondisclosure Agreement" (SF–312) from the affected individual. The individual shall also be given a security orientation briefing in accordance with § 95.33 of this chapter. The signed SF–312 must be promptly forwarded to the NRC Division of Security. Records of access authorization grant and renewal notification must be maintained by the licensee or other organization for three years after the access authorization has been terminated by the NRC Division of Security. This information may also be furnished to other representatives of the Commission, to licensees, contractors, or other Federal agencies. Notifications of access authorization will not be given in writing to the affected individual except:

(a) In those cases in which the determination was made as a result of a Personnel Security Hearing or by Personnel Security Review Examiners, or

(b) When the individual also is the official designated by the licensee to whom written NRC notifications are forwarded.

7. Section 25.25 is revised to read as follows:

§ 25.25 Cancellation of requests for access authorization.

When a request for an individual's access authorization or renewal of access authorization is withdrawn or cancelled, the requestor shall notify the NRC Division of Security immediately by telephone so that the full field investigation, National Agency Check with Credit Investigation or other personnel security action may be discontinued. The requestor shall identify the full name and date of birth of the individual, the date of request, and the type of access authorization ("Q" or "L") or access authorization renewal requested. The requestor shall confirm each telephone notification promptly in writing.

8. In § 25.27, paragraph (a) is revised to read as follows:

§ 25.27 Reopening of cases in which requests for access authorizations are cancelled.

(a) In conjunction with a new request for access authorization (NRC Form 237) or renewal of access authorization for individuals whose cases were previously cancelled, new fingerprint cards (FD–257) in duplicate and a new Security Acknowledgment (NRC Form 176) (for cases where no final access authorization was previously issued) must be furnished to the NRC Division of Security along with the request.

* * * * *

9. In § 25.31, a new paragraph (d) is added to read as follows:

§ 25.31 Extensions and transfers of access authorizations.

* * * * *

(d) The date of an extension or transfer of access authorization may not be used to determine when a request for renewal of access authorization is required. Access authorization renewal requests must be timely submitted, in accordance with § 25.21(c).

10. Appendix A to part 25 is revised to read as follows:

APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	[1] $45
Reinstatement of "L" Access Authorization	[1] 45
Extension or Transfer of "L" Access Authorization	[1] 45
Renewal of "L" Access Authorization	[1] 45
Initial "Q" Access Authorization	2,600
Initial "Q" Access Authorization (expedited processing)	3,000
Reinstatement of "Q" Access Authorization	[2] 2,600
Reinstatement of "Q" Access Authorization (expedited processing)	[2] 3,000
Extension or Transfer of "Q"	[2] 2,600
Extension or Transfer of "Q" (expedited processing)	[2] 3,000
Renewal of "Q" (Initial five year reinvestigation)	[1] 1,500
Renewal of "Q" (subsequent five year reinvestigations)	[1] 45

[1] If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of $2,600 will be assessed prior to the conduct of the investigation.

[2] Full fee will only be charged if investigation is required.

Dated at Rockville, MD, this 17th day of January 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-2301 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Central Regional Office; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to include the new address for its recently relocated Central Regional Office. This office, while remaining in the same city, has moved to a new location in Chicago, Illinois.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-6090.

SUPPLEMENTARY INFORMATION: Commission regulation 140.2 is being amended to reflect the fact that the Central Regional Office of the Commission has been moved. The Central Regional Office of the Commission has moved from the Sears Tower, 46th floor, 233 South Wacker Drive, Chicago, Illinois 60606 to 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Central Regional Office. The appropriate changes have been made to reflect the new addresses in each of these provisions.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends parts 140 and 145 of the Code of Federal Regulations as follows.

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

List of Subjects

17 CFR Part 140

Authority, delegations, Conflict of interests, Organization and functions.

17 CFR Part 145

Confidential business information, Freedom of information.

17 CFR parts 140 and 145 are amended as follows:

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

Authority: 17 U.S.C. 12a.

2. Section 140.2 is amended by revising paragraph (b) to read as follows:

§ 140.2 Regional Offices—Regional Directors.

* * * * *

(b) The Central Regional Office is located at 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606 and is responsible for enforcement of the act and administration of programs of the Commission in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin.

* * * * *

PART 145—[AMENDED]

3. The authority citation for part 145 continues to read as follows:

Authority: Public Law 89-554, 80 Stat. 383, Public Law 90-23, 81 Stat. 54, Public Law 93-502, 88 Stat. 1561-1564 (5 U.S.C. 552); Sec. 101(a), Public Law 93-463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Public Law 99-570.

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this Part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254-3382. Requests for public records directed to a regional office of the Commission pursuant to § 145.0(c) and 145.2 should be sent to:

Division of Economic Analysis, Commodity Futures Trading Commission, One World Trade Center, suite 4747, New York, New York 10048, Telephone: (212) 466-2061.

Division of Trading and Markets, Commodity Futures Trading Commission, 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606, Telephone: (312) 353-5990.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 370-3255.

Division of Trading and Markets, Commodity Futures Trading Commission, 4900 Main Street, suite 721, Kansas City, Missouri 64112, Telephone: (816) 374-6602.

Division of Enforcement, Commodity Futures Trading Commission, 10880 Wilshire Blvd., suite 1005, Los Angeles, California 90024, Telephone: (213) 209-6783.

* * * * *

Issued in Washington, DC, on January 27, 1992, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 92-2312 Filed 1-30-92; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL-4096-8]

Hazardous Waste Management Program: Codification of Approved State Hazardous Waste Program for Illinois

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA section 3008. Thus, EPA intends to codify the Illinois authorized State program in 40 CFR part 272. The purpose of today's Federal Register (FR) notice is to codify EPA's approval of recent revisions to Illinois' program.

DATES: Codification of Illinois' revised authorized hazardous waste program shall be effective March 31, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Illinois' codification must be received by 4:30 p.m., March 2, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 1992.

ADDRESSES: Written comments should be sent to Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson Boulevard, HRM-7J, Chicago, Illinois 60604, (312) 886-7450, (FTS: 886-7450).

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson Boulevard, HRM-7J, Chicago, Illinois 60604, (312) 886-7450, (FTS: 886-7450).

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1989, EPA published in the **Federal Register** notice of its decision to codify Illinois' then authorized hazardous waste program (see 54 FR 37649). Effective April 30, 1990, EPA granted authorization to Illinois for additional certain revisions to the State hazardous waste program (see 55 FR 7320). In this notice, EPA is codifying the currently authorized State hazardous waste program in Illinois.

EPA codifies its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. Although EPA has the authority to enforce authorized standards in Illinois' hazardous waste program without codification of those standards, this effort will provide clearer notice to the public of the scope of the authorized program in Illinois.

Revisions to Illinois' and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Illinois' authorized program in subpart O of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Illinois' authorized hazardous waste management programs, see 54 FR 37649 (September 12, 1989).

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Illinois' program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indiana lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 14, 1992.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, subpart O of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.700 is amended by revising the last sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 272.700 State authorization.

(a) * * * EPA's approvals of revisions to Illinois' base program were effective on March 5, 1988 (see 53 FR 126), and on April 30, 1990 (see 55 FR 7320).

(b) Illinois is not authorized to implement any HSWA requirements in lieu of EPA unless EPA has explicitly indicated its intent to allow such action in a **Federal Register** Notice granting Illinois' authorization.

* * * * *

3. Section 272.701 is amended by revising the introductory text and paragraphs (a)(1), (a)(2)(i) (a)(2)(ii) introductory text, (b), (c) and (d) to read as follows:

§ 272.701 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Illinois has final authorization for the following elements submitted to EPA in Illinois' base program and program revision applications for final authorization and approved by EPA effective on January 31, 1986 (see 51 FR 3778), January 5, 1988 (see 53 FR 126), and April 30, 1990 (see 55 FR 7320).

(a) *State Statutes and Regulations.* (1) The following Illinois regulations and statutes are incorporated by reference and codified as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*:

(i) Illinois Administrative Code, title 35, part 702, sections 702.101–702.104; 702.110–702.187; part 703, sections 703–100–703.246; part 709, sections 709.102–709.603; part 720, sections 720.101–702.122, appendix A; part 721, sections 721.101–721.133, appendices A, B, C, G, H, I, J, Z; part 722, sections 722.110–722.151; part 723, sections 723.110–723.131; part 724, sections 724.101–724.451, appendices A, D, E; part 726, sections 726.120–726.180; and part 729, sections, 729.100–729.321; (January 1, 1985, as amended January 1, 1986 and January 1, 1987).

(ii) Illinois Revised Statutes, Chapter 111½, section 1003.53, section 1020 (a), (b), and section 1022.4 (as amended, effective August 25, 1986).

(2) * * *

(i) Illinois Revised Statutes, chapter 111½, sections 1001 through 1003.52; sections 1003.54 through 1005.1; sections 1007 through 1007.1; section 1020(c); sections 1020.1 through 1022.3; sections 1022.5 through 1022.6; sections 1030 through 1034; and section 1039 parts a, d, g, k.

(ii) Illinois Administrative Code, title 35, part 700, sections 700.101–700.504; part 702, section 702.105–702.109; part 705, section 705.101–705.212; part 720, section 720.140–720–141; and title 2, part 1826, sections 1826.101–1826.503 and title

2, part 1826, sections 1826–101–1826.503, appendices A, B.

* * * * *

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA—Region V and the Illinois Environmental Protection Agency, signed by the EPA Regional Administrator on January 26, 1990, is codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statements of Legal Authority.* The Illinois Attorney General's Statements for final authorization signed by the Attorney General of Illinois on June 4, 1985, July 15, 1986, and May 26, 1988, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 92–2159 Filed 1–30–92; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 272

[FRL–4096–8]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Michigan

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA Section 3008. Thus, EPA intends to codify the Michigan authorized State program in 40 CFR part 272. The purpose of today's **Federal Register** is to codify EPA's approval of recent revisions to Michigan's program.

DATES: Codification of Michigan's revised authorization hazardous waste program shall be effective March 31, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Michigan's codification must be received by the close of business March 2, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 1992.

ADDRESSES: Written comments should be sent to Ms. Judy Greenberg, Michigan Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 77 West Jackson Boulevard, HRM–7J, Chicago, Illinois 60604, Phone: (312) 886–4179 [FTS: 886–4179].

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 77 West Jackson Boulevard, HRM–7J, Chicago, Illinois 60604, Phone: (312) 886–4179 [FTS: 886–4179].

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1989, and May 1, 1990, EPA published notices in the **Federal Register** (FR) of its decisions to codify Michigan's then authorized hazardous waste program (see 54 FR 48608 and 55 FR 18112, respectively). Since then, EPA has granted authorization to Michigan for additional revisions to the State hazardous waste program Cluster III authorization at 56 FR 18517 (April 23, 1991). In this notice, EPA is codifying the currently authorized State hazardous waste program in Michigan.

EPA codifies its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. Although EPA has the authority to enforce authorized standards in Michigan's hazardous waste program without codification of those standards, this effort will provide clearer notice to the public of the scope of the authorized program in Michigan.

Revisions to Michigan's and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Michigan's authorized program in subpart X of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Michigan's authorized hazardous waste program, see 54 FR 48608 (February 21, 1989) and 55 FR 18112 (May 1, 1990).

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Michigan's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 14, 1992.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, subpart X of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.1150 is amended by revising paragraphs (a) and (b) to read as follows:

§ 272.1150 State authorization.

(a) The State of Michigan is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under subtitle C of the Resource Conservation

and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.* subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Public Law 98–616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR part 271. The State's program, as administered by the Michigan Department of Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6926(b) and part 271 of this chapter. EPA's approval of Michigan's base program was effective on October 30, 1986 (see 51 FR 36804). EPA's approval of the revisions to Michigan's base program was effective on January 23, 1990 (see 54 FR 48608) and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

(b) Michigan is authorized to implement certain HSWA requirements in lieu of EPA. EPA has explicitly indicated its intent to allow such action in a Federal Register notice granting Michigan authorization and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

* * * * *

3. Section 272.1151 is amended by revising the introductory text, paragraphs (a)(1)(ii), (a)(3)(ii), (b), (c) and (d) to read as follows:

§ 272.1151 State-administrated program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Michigan has final authorization for the following elements submitted to EPA in Michigan's base program and program revision applications for final authorization and approved by EPA effective on October 30, 1986 (see 51 FR 36804), January 23, 1990 (see 54 FR 46808), and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

(a) * * *

(1) * * *

(ii) Michigan Administrative Code, Rules 299.9101–9206(3)(g), 299.9206(4)–9208(1), 299.9208(3)–9209(1), 9209(4)–(9209(6), 299.9210(2)–9211(1)(a), 299.9211(1)(c)–9212(4), 299.9212(6)–9212(7), 299.9212(8)(b)–9213(1)(a), 299.9213(1)(c), 299.9213(2)–9214(6)(b), 299.9215–9217, 299.9220, 299.9222, 299.9224–9225, 299.9301–9304(1)(b), 299.9304(1)(d)–299.9401(5), 299.9402, 299.9404(1) introductory text, 299.9404(1)(b)–9405, 299.9407–9408(1), 299.9409–9410, 299.9501–9504(1) introductory text, 299.9504(1)(b)–9506, 299.9508–9508(1)(g), 299.9508(1)(i)–9521(1)(b), 299.9521(2)–9522, 299.9601–9611(2)(a), 299.9611(3)–9623(1)(b), 299.9623(3)–9710, 299.9801–9804, 299.11001–11008 (1985 Annual Michigan Administrative Code Supplement, as supplemented by the April 1988 Michigan Register, pages 3–107, and the January 1989 Michigan Register, pages 1–27). Copies of the Michigan regulations that are incorporated by reference in this paragraph are available from the Department of Management and Budget's Publication Office, 7461 Crowner Drive, Lansing, Michigan 48913, Phone: (517) 322–1897. Copies may be inspected at: U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460. Phone: (202) 382–5926; U.S. EPA Region V, Office of RCRA, Regulatory Development Section, 230 S. Dearborn St., 13th Floor, Chicago, IL. Phone: Ms. Judy Greenberg, (312) 886–4179; and at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

(3) * * *

(ii) Michigan Administrative Code Rules 299.9208(2), 299.9209 (2) and (3), 299.9210(1), 299.9211(1)(b), 299.9212 (5) and (8)(a), 299.9213(1) (b) and (d), 299.9214(6)(c), 299.9218–9219, 299.9221, 299.9223, 299.9226, 299.9304(1)(c), 299.9401(6), 299.9403, 299.9404(1)(a), 299.9406, 299.9408 (2) and (3), 299.9411–9412, 299.9504(1)(a), 299.9507, 299.9508(1)(h), 299.9523, 299.9611(2) (b) and (c), 299.9623(2), 299.9711, 299.9901–9906 (1985 Michigan Administrative Code Annual Supplement, as supplemented by the April 1988 Michigan Register, pages 3–107, and the January 1989 Michigan Register, pages 1–27).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA—Region V and the Michigan Department of Natural Resources, signed by the EPA Regional Administrator on February 7, 1991, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statement of Legal Authority.* The Michigan Attorney General's Statements for final authorization signed by the Attorney General of Michigan on October 25, 1985, and supplements to that Statement dated June 3, 1986, September 19, 1986, September 7, 1988, and July 31, 1990, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description dated June 30, 1984, and the supplements thereto dated June 30, 1986, September 12, 1988, and July 31, 1990, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, U.S.C. 6921 *et seq.*

[FR Doc. 92–2160 Filed 1–30–92; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 911180–2022]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of final 1992 fishing quotas.

SUMMARY: NMFS issues this notice of final quotas for the Atlantic surf clam and ocean quahog fisheries for 1992. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1992.

EFFECTIVE DATE: January 1, 1992, through December 31, 1992.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's Analysis and Recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges that have been identified as an OY for each fishery.

For surf clams, the quota must fall within the range of 1.85 million bushels and 3.40 million bushels. For ocean quahogs, the quota must fall within the range of 4.00 million bushels and 6.00 million bushels.

A notice of proposed 1992 quotas was published in the Federal Register on November 20, 1991 (56 FR 58537) with a comment period ending December 16, 1991. No comments on this notice were received.

In specifying the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

Final quotas of 2.85 million bushels for surf clams and 5.3 million bushels for ocean quahogs are specified by the Secretary. These quotas are identical to those specified by the Secretary for the 1991 fisheries.

Surf Clams

The 1992 quota for surf clams of 2.85 million bushels is identical to the base quota for the Mid-Atlantic region and Nantucket Shoals combined for the years 1986 through 1991. The potential harvest of 300,000 bushels for the Georges Bank Area (i.e., base quota in those years for this area) was not added to this quota on the assumption that the area east of 69° west longitude will be closed for fishing in 1992 due to the danger of paralytic shellfish poisoning. Under the current FMP, the Mid-Atlantic, Nantucket Shoals, and Georges Banks Areas are combined. Therefore, the 300,000 bushels could be taken in the areas west of 69° west longitude. However, with the decline in abundance of surf clams in the Mid-Atlantic Area and the absence of a significant year class since 1976 off New Jersey and 1977 off Delmarva, conservation of the resource is best served by maintaining the current quota of 2.85 million bushels.

Ocean Quahogs

The 1992 quota for ocean quahogs is 5.3 million bushels. Since only 2 percent of the minimum biomass estimate is removed each year, this level of quota is conservative in regard to biological restrictions. However, the heavy concentration of the active fishery, and the subsequent decrease of catch per unit of effort, on the southern 10 percent of the resource has caused the Council to recommend, and the Secretary to specify, this level of quota.

The final quotas for the 1992 Atlantic surf clam and ocean quahog fisheries are as follows:

1992 Surf Clam/Ocean Quahog Quotas

Fishery	1992 final quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,300,000

Other Matters

This action is taken under authority of 50 CFR 652.21 and in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

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

Dated: January 28, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-2387 Filed 1-28-92; 4:30 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 21
Friday, January 31, 1992

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[WRPA Docket No. 1; FV-91-275]

RIN 0581-AA32

Watermelon Research and Promotion Plan; Proposed Amendments to Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board and Proposed Amendments to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on proposed amendments to an interim final rule relating to the Watermelon Research and Promotion Plan's procedures for nominating producer and handler members to the National Watermelon Promotion Board (Board). In addition, comments are invited on proposed amendments to the rules and regulations relating to the determination of a handler. This action would simplify voting procedures used at nomination conventions, set a date by which nominee qualification forms must be received by the U.S. Department of Agriculture (Department), and clarify that nominees are responsible for directly forwarding their qualification statements to the Board for forwarding to the Department. This action would further clarify who is a handler for the purposes of paying assessments due the Board. This proposed rule would also update OMB control numbers assigned to Part 1210.

DATES: comments must be received by March 2, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2533, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference Docket Number FV-91-275 and the date and page number of this issue of the **Federal Register.** Copies of all comments received will be made available for public inspection in the office of the Docket Clerk, USDA-AMS, room 2533, South Building, 14th and Independence Avenue S.W., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Richard H. Mathews, Marketing Order Administration Branch, F&V, AMS, USDA, room 2533-South, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-9917.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Watermelon Research and Promotion Plan (Plan) (7 CFR part 1210). The plan is effective under the Watermelon Research and Promotion Act (7 U.S.C. 4901-4916), hereinafter referred to as the Act.

This proposed rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation No. 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

The Act and Plan provide that all producers (not including persons engaged in the growing of less than five acres of watermelons) and handlers of watermelons are subject to regulation under the Plan for watermelons produced in the contiguous 48 States. The plan provides that watermelon producers and handlers, as those terms are defined by the Plan, may participate in the procedures by which producers and handlers are nominated for membership on the Board. The Board conducts nationally coordinated research and promotion programs, including paid advertising, designed to result in an increase in demand, and thus an increase in per capita watermelon consumption with a resulting benefit to the industry. The Act and Plan further provide that watermelon producers and handlers pay equal assessments for operating the program. The Act and Plan provide that handlers are responsible for collecting and submitting both producer and handler assessments to the Board, reporting their handling of watermelons, and for maintaining records necessary to verify their reportings.

There are approximately 750 watermelon handlers and 5,000 watermelon producers subject to regulation under the Plan. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000 and small agricultural producers are defined as those having receipts of less than $500,000. The majority of watermelon handlers and producers may be classified as small entities.

This action would not have a significant economic impact on small producers or handlers. This action would benefit producers and handlers by simplifying the voting procedures employed at nomination conventions. Producers and handlers would also benefit from this action through the further clarification of who is a handler for the purpose of paying assessments.

Based on the experience of its first two years of oversight of this program, the Department recommends that paragraph (f) of § 1210.401 relating to nomination procedures be amended to provide a final date by which nominee and convention information required by § 1210.401 must be received by the Department and to clarify that nominees are responsible for forwarding their required qualification statements and other specified information to the Department through the Board. The Department recommends that July 15 be the date by which all nominee qualification statements and other specified information be received by the Department so that the Department will have sufficient time to review and verify the information and make appropriate appointments prior to the beginning of the next term of office. Information in the qualification statements is confidential and, as worded, paragraph (f) of § 1210.401 requires the convention chairperson to forward the qualification

statements to the Secretary of Agriculture (Secretary). To better ensure confidentiality, the Department recommends that the nominees be directly responsible for forwarding their qualification statements to the Secretary through the Board.

The Subpart—Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board, effective September 15, 1989, was published as an interim final rule with request for comment in the September 15, 1989, issue of the Federal Register (54 FR 38202). Written comments were invited from interested persons until November 14, 1989. One comment was received.

The commenter believes that the voting procedures of paragraph (h) of § 1210.403 should be simplified by eliminating the requirement that each nominee for each of the positions be elected separately. It was recommended that both nominees for each position be elected simultaneously. Using this procedure, the convention chairperson would open the floor to the nomination of candidates for possible election as a Board member nominee for each available position. Each position would be dealt with separately; i.e., candidates for one position would be nominated and then elected before the convention moves on to the next available position. Each eligible voter would vote for two of the nominees on one ballot. The two nominees receiving the greatest number of votes, and at least a simple majority of the votes cast, would be elected as the district's Board members nominees for the position. There would be no designation, as is currently the practice, of first and second choice nominees.

The experience of nomination conventions held since the effective date of the nomination procedures has demonstrated the need for this recommended amendment. Under existing procedures, each Board member nominee is elected separately with the first elected designated as the industry's first choice nominee and the second elected designated as the industry's second choice nominee. A result has been the belief of some second choice nominees that they will not receive consideration by the Secretary for appointment. This belief has resulted in the late submittal of qualification statements and in some cases the disqualification of candidates for failing to submit required qualification statements. Another problem has been the misconception of some first choice nominees that they would automatically be confirmed by the Secretary as the Board member from their district. The proposed amendment would eliminate the designation of candidates as first and second choice; thereby eliminating the misconceptions that currently exist among Board member nominees. This action would save the time by reducing participant confusion and the number of ballots necessary for the election of nominees.

Section 1210.404 would be amended to revise the existing Office of Management and Budget (OMB) control number and to add a second such number. Since publication of the nomination procedures, two actions involving the OMB have necessitated amendment of § 1210.404. First, the Department is now using a standardized qualification form for all advisory committees and boards. This form has been approved by the OMB and assigned OMB Control Number 0505–0001. Referral to this number would be added to § 1210.404. Second, the OMB has reapproved the information collection provisions of the national watermelon promotion program and assigned OMB Control Number 0581–0093. This action would change the existing number (0581–0158) to the newly assigned number (0581–0093). Section 1210.540 would also be amended to revise the existing OMB control number (0581–0158) to the newly assigned number (0581–0093).

Based on experience, the Department and Board recommend the amendment of § 1210.517 of the Rules and Regulations, Determination of handler. It is believed that changes to this section are necessary to further clarify who is a handler for the purposes of payment of assessments to the Board.

The Department recommends the addition of a new paragraph (a)(3) of § 1210.517 to read as follows:

> Producer purchases watermelons from another producer. The producer purchasing the watermelons is the first handler.

This addition would clarify that a producer who purchases watermelons from one or more producers, in any amount and for whatever purposes, becomes a handler under the Plan and the rules and regulations thereunder. The addition of this paragraph would necessitate the redesignation of paragraphs (a)(3) through (a)(11) as (a)(4) through (a)(12), respectively.

Further, the Board recommends inserting "/Commission House" after Broker and Broker's each time they occur in existing paragraphs (a)(8) and (a)(9) (redesignated paragraphs (a)(9) and (a)(10) respectively) of § 1210.517. This addition clarifies that Commission Houses, for assessment purposes under the Plan, are treated the same as Brokers.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*), this proposed rule contains no new information collection or recordkeeping requirements from those already approved by the OMB under OMB Control Numbers 0518–0093 and 0505–0001. Approximately 750 handlers and 5,000 producers would be affected by these provisions.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

All written comments received in response to this publication by the date specified herein will be considered prior to issuance of any final rule.

List of Subjects in 7 CFR Part 1210

Agricultural promotion, Agricultural research, Market development, Reporting and recordkeeping requirements, Watermelons.

Recommended Amendments

For the reasons set forth in the preamble, chapter XI of title 7 is proposed to be amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

2. Section 1210.401 is amended by revising the paragraph after (f)(2) to read as follows:

§ 1210.401 District conventions.

* * * * *

(f) * * *

(2) * * *

This information must be provided by the chairperson to the Board in a manner that will ensure receipt, at the addresses specified in the call, within 14 calendar days of the district convention's completion; but not later than July 8 for positions to become effective the following January 1. The Board must forward such information to the Secretary, in a manner that will ensure receipt, within 21 calendar days of completion of the district convention; but not later than July 15 for positions to become effective the following January 1. Further, the chairperson will immediately arrange for completion of qualification statements and other

specified information by each nominee and each nominee shall qualify by forwarding such information to the Board within 14 calendar days of completion of the district convention; but not later than July 8 for positions to become effective the following January 1. The Board must forward the completed qualification statements and other specified information to the Secretary, in a manner that will ensure receipt within 21 calendar days of completion of the district convention; but not later than July 15 for positions to become effective the following January 1.

3. Section 1210.403 is amended by revising paragraph (h) to read as follows:

§ 1210.403 Voting procedures.

* * * * *

(h) Two nominees shall be elected for each of the two producer and two handler positions from each district on the Board. The two nominees for each position shall be elected simultaneously. The convention chairperson will open the floor to the nomination of candidates for possible election as a Board member nominee for each available position. Each position will be dealt with separately (i.e., candidates for one position will be nominated and then elected before the convention moves on to the next available position). Each eligible voter may vote for two of the nominees on one ballot. The two nominees receiving the greatest number of votes, and at least a simple majority of the votes cast, will be elected as the district's Board member nominees for the position. No individual elected as a nominee for Board membership may be a candidate on subsequent Board member nominee ballots (i.e., four different producer names and four different handler names must be submitted as nominees from each district to the Secretary of Agriculture). There shall be no designation of first and second choice nominees.

4. Section 1210.404 is revised to read as follows:

§ 1210.404 Paperwork Reduction Act assigned number.

The Office of Management and Budget (OMB) has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. chapter 35, and OMB Control Numbers 0505–0001 and 0581–0093 have been assigned. OMB Control Number 0505–0001 applies to the qualification form filed by each nominee and OMB Control Number 0581–0093 applies to the remaining information collection provisions of this subpart.

5. Section 1210.517 is amended by redesignating paragraphs (a)(3) through (a)(11) as paragraphs (a)(4) through (a)(12) respectively, adding a new paragraph (a)(3), and revising redesignated paragraphs (a)(9) and (a)(10) to read as follows:

§ 1210.517 Determination of handler.

* * * * *

(a) * * *

(3) Producer purchases watermelons from another producer. The producer purchasing the watermelons is the first handler.

* * * * *

(9) Broker/Commission House receives watermelons from a producer and sells such watermelons in the Broker's/Commission House's name. In this instance, the Broker/Commission House is the first handler, regardless of whether the Broker/Commission House took title to such watermelons.

(10) Broker/Commission House, without taking title or possession of watermelons, sells such watermelons in the name of the producer. In this instance, the producer is the first handler.

* * * * *

6. Section 1210.540 is revised to read as follows:

§ 1210.540 Paperwork Reduction Act assigned number.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Control Number 0581–0093.

Dated: January 27, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2320 Filed 1–30–92; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91–045]

Movement and Handling of Pork and Pork Products From Sonora, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to allow additional pork and pork products from Sonora, Mexico, including fresh, chilled, or frozen pork and pork products, to transit the United States for immediate export to other countries. Additionally, we are proposing to relieve certain restrictions on the intransit movement of pork and pork products from Sonora, Mexico, that are currently eligible to transit the United States. We are taking this action based on investigations indicating that pork and pork products from Sonora present a relatively low risk of transmitting hog cholera, which exists in Mexico. The intended effect of this action is to allow additional movements of pork and pork products from Sonora, Mexico, through the United States without presenting a significant risk of introducing hog cholera into the United States.

DATES: Consideration will be given only to comments received on or before March 2, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91–045. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Blackwell, Senior Staff Microbiologist, Import-Export Products Staff, USDA, APHIS, VS, room 756–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7834.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations), among other things, govern the importation into the United States of pork and pork products in order to prevent the introduction into the United States of hog cholera. The regulations also stipulate the conditions under which animal products and materials may transit the United States for immediate export. Section 94.15 of the regulations provides, among other things, that only animal products and materials that are eligible for entry into the United States may transit the United States. Section 94.9 of the regulations sets forth conditions for the entry of pork and pork products from countries where hog cholera exists. Among other things, § 94.9 requires that the pork and pork products—(1) have been treated in accordance with one of the approved procedures of this section, (2) were

prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act, and (3) shall be accompanied by a certificate issued by an official of the national government of the country of origin.

The Ministry of Agriculture and Water Resources (Secretaria de Agricultura Y Recursos Hidraulicas (SARH)) of Mexico has requested that the United States allow fresh, chilled, and frozen pork and pork products from Sonora, Mexico, to transit the United States for immediate export. This request was made because Mexico has experienced problems in exporting fresh, chilled, and frozen pork and pork products to other countries because of its limited ocean port facilities. To export the quantity of fresh, chilled, and frozen pork and pork products that it is capable of supplying to foreign countries, the SARH has determined that utilizing U.S. deep-water, ocean ports would facilitate Mexico's exportation of fresh, chilled, and frozen pork and pork products. Although Mexico is affected with hog cholera, Mexican authorities have declared the State of Sonora free of hog cholera. Recently, USDA officials met with Mexican representatives knowledgeable in disease prevention, epidemiology, and diagnostic methods. This U.S./Mexican team inspected animal processing and testing facilities within the distinct regions of Sonora. The USDA officials were encouraged by the findings upon their preliminary investigation of the sites visited. Additionally, these officials noted the factors that would reduce the risk of hog cholera being present in Sonora: (1) Sanitary control by SARH; (2) Active support by the private sector represented by the Sonoran Pork Producers Council (porticultores); (3) Paucity of swine production in the northern regions of Baja California, Sinaloa, and Chihuahua, all of which border Sonora; and (4) Natural geographical barriers between the above northern regions and Sonora. For example: the Sierra Madre mountain chain forms the boundary between Sonora and the State of Chihuahua; the Pacific Ocean (Gulf de California) forms the western boundary of Sonora. In addition, movement of animals along Highway 15, the major north-south throughway, and Highway 40, the major east-west throughway from Baja California, is controlled by SARH inspectors. Finally, the Sonoran prohibition against swine and pork products from entering Sonora from other Mexican States, as well as from countries affected by livestock diseases exotic to the United States, is enforced.

Based upon the USDA review of the situation in Sonora, Mexico; the level of Mexican veterinary health expertise; the restrictive entry of pork and pork products into Sonora; the support of SARH programs by porticultores; and the natural geographical boundaries of Sonora; we believe that, under certain conditions, pork and prok products from Sonora, Mexico, that do not meet the requirements of § 94.9 for entry into the United States, could transit the United States without presenting a significant risk of introducing hog cholera into this country. Specifically, we propose to amend § 94.15 to allow these products to transit the United States for immediate export to other countries if the following conditions, explained below, are met: (1) Any person desiring to transport pork and pork products from Sonora, Mexico, across the United States for immediate export would have to first obtain a permit from the Animal and Plant Health Inspection Service (APHIS) Import-Export Products Staff in Hyattsville, Maryland; (2) The pork and pork products would have to be sealed in Sonora, Mexico, in a leakproof container with serially-numbered seals approved by APHIS; (3) The person moving the pork or pork products through the United States would be required to notify the port inspector, in writing, of certain facts, explained below, concerning the pork or pork products prior to their arrival in the United States; (4) The pork or pork products would be required to transit the United States under Customs bond; and (5) The pork or pork products would be required to be exported from the United States within the time period specified on the permit.

Permits

The proposal would require that the person moving the pork or pork products through the United States obtain a permit from the Import-Export Products Staff, APHIS, before transporting pork or pork products across the United States for immediate export to other countries. The application for the permit would tell APHIS who would be involved in the transportation, how many and what type of pork and pork products would be transported, when they would be transported, and the method and route of shipment to the United States. This information, and the actual permit issued, would enable APHIS to track and monitor the movement to determine whether it was made in accordance with the regulations. These permits would be issued to allow the pork or pork products only to transit the United States.

Containers

The proposal requires that the pork and pork products be sealed in Sonora, Mexico, in a leakproof container with serially-numbered seals approved by APHIS. This container would be required to remain sealed at all times while transiting the United States. Such action would help prevent the introduction of exotic livestock diseases into the United. States Also, sealing the container would help alert APHIS inspectors to any tampering with a container or its contents.

Written Notification

The proposal would require that the person moving the pork or pork products through the United States notify the port inspector, in writing, of certain facts concerning the pork or pork products before the reach the port of arrival in the United States. The person moving the pork or pork products through the United States would be required to notify APHIS of the times and dates that the pork or pork products are expected at the port of arrival in the United States. The person moving the pork or pork products through the United States would also be required to provide the time schedule and route to be followed through the United States for all shipments. This information, along with the permit number and serial numbers of the seals on the containers, would help APHIS keep abreast of the whereabouts of the pork or pork products during their transit across the United States for immediate export. This information would also help us ensure that the pork or pork products actually leave the United States.

Customs Bond and Time Limit for Transit

The proposal would require the pork or pork products to transit the United States under Customs bond. This Customs bond would require that the person moving the pork or pork products through the United States or his/her agent, usually a licensed and bonded Custom House Broker, guarantee that the pork or pork products meet the requirements of the regulations. Further, to discourage the use of circuitous routes, the pork or pork products would be required to be exported from the United States within a time period specified on the permit. The time limit would allow a reasonable time for transit based upon the port of arrival, the port of export, and any time needed

for storage. Any pork or pork products exceeding this time limit or transited in violation of any of the requirements of the permit or this regulation would be destroyed or otherwise disposed of at the Administrator's discretion.

User Fees

Finally, we have published a proposed rule, "User Fees—Agricultural Quarantine and Inspection Services, Phytosanitary Certificates, Animal Quarantine Services, Veterinary Diagnostics, Export Health Certificates" (56 FR 37481–37499; August 7, 1991), that contains provisions for collecting APHIS user fees for certain certification, inspection, and testing services we provide. No final regulations have yet been published in that matter. However, if we adopt the proposed APHIS user fees, certain fees may apply to the services provided for in this document.

Executive Order 12291 and Regulatory Flexibility Act

This proposal has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed change to 9 CFR part 94 would allow additional pork and pork products from Sonora, Mexico, including fresh, chilled, or frozen pork and pork products, to transit the United States for immediate export to other countries. Additionally, it would relieve certain restrictions on the intransit movement of pork and pork products from Sonora, Mexico, that are currently eligible to transit the United States. Based on current Mexican exports of pork and pork products, the Department does not anticipate a large volume of shipments transiting the United States. Mexico exported 900 metric tons of pork and pork products worldwide to countries other than the United States in 1989. This represented only about 0.03 percent of total world exports of pork and pork products. Assuming that Mexico would want to transit all of its pork and pork products destined for other countries through the United States, there would be approximately 50 truckloads transiting the United States annually (calculated using the 900 metric tons exported in 1989 as a parameter and assuming that each truck load is about 40,000 pounds). Using the average quoted freight rates of $1.97 per mile and a distance of 513 miles between Nogales (Arizona) and San Diego (California),[1] the proposed change would yield a total revenue of about $51,000 to businesses in the United States. Because the current Interstate Commerce Commission regulations forbid Mexican carriers from hauling the product beyond the border zone, small U.S. specialized transport companies and brokerage houses would benefit.

At present, Mexico is the third largest partner of the United States. The United States exported $25 billion worth of goods and services to Mexico in 1989 and imported $28 billion worth of goods and services from Mexico. Seventy-five percent of the total trade was carried overland by trucks. Mexican pork and pork products transiting the United States would represent a small fraction of the total carried overland by trucks. However, facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States.

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

Paperwork Reduction Act

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

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.)

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products.

[1] This example represents the most likely route for transit of pork and pork products to other countries such as Japan, which imports such products from Mexico.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would be revised to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 94.15 would be amended by redesignating the introductory paragraph and paragraphs (a) and (b) as paragraphs (a), (1), and (2), respectively, and by adding a new paragraph (b) to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(b) Pork and pork products from Sonora, Mexico, that are not eligible for entry into the United States in accordance with the regulations in this part may transmit the United States for immediate export if the following conditions are met:

(1) The person desiring to move the pork or pork products through the United States obtains a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors (VS Form 16–6). (An application for the permit may be obtained from the Import-Export Products Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.)

(2) The pork and pork products are sealed in Sonora, Mexico, in leakproof container, and the container remains sealed during the entire time that it is in transit across the United States, from the point of arrival to its exportation.

(3) The person moving the pork or pork products through the United States notifies, in writing, the Plant Protection and Quarantine Officer at the United States port of arrival prior to such transiting. The notification must include the following information regarding the pork and pork products:

(i) Permit number;

(ii) Times and dates of arrival in the United States;

(iii) Time schedule and route to be followed through the United States; and

(iv) Serial numbers of the seals on the containers.

(4) The pork or pork products transit the United States under Customs bond and are exported from the United States within the time limit specified on the permit. Any pork or pork products that have not been exported within the time limit specified on the permit or that have not been transited in accordance with the permit or applicable requirements of this part will be destroyed or otherwise disposed of as the Administrator may direct pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111).

Done in Washington, DC, this 27th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-2354 Filed 1-30-92; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 87-015P]

RIN 0583-AA78

Use of Binders in Certain Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to permit the use of food starch-modified, sodium caseinate, isolated soy protein, and carrageenan as binders in cured pork products labeled as "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." The use of such binders would prevent purging of the pumped brine solution from the products. This proposed rule is in response to petitions submitted by various companies and industry associations.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205-0080.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in export or domestic markets.

Effects on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposal would permit the use of certain binders to prevent purging of added brine solution in specific cured pork products. Manufacturers opting to use such binders would incur labeling expenses in revising the ingredients statements of their labels to show the presence of such binders, and incur costs of purchasing such binders. However, the use of these binders would be voluntary.

Currently, there are approximately 1,079 establishments, both large and small, producing "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." Decisions by individual manufacturers on whether the use binders in these pork products would be based on their conclusions that the benefits would outweigh the implementation costs.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 87-015P. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

FSIS has been petitioned to permit the following substances as binders to prevent purging of added brine solution in certain cured pork products, as provided in 9 CFR 319.104, as follows:

1. *Food starch-modified*, submitted by Corn Refiners Association, Inc., Washington, DC, to be used at a level not to exceed 2 percent of the product formulation. The Federal meat inspection regulations do not currently permit the use of food starch-modified for any purpose in meat food products.

The Food and Drug Administration (FDA) lists food starch-modified as a direct food additive at 21 CFR 172.892 for use in foods when used in accordance with good manufacturing practices.

2. *Sodium caseinate*, submitted by DVM Campina, Inc., Stone Mountain, GA, to be used at a level not to exceed 2 percent of the product formulation. The Federal meat inspection regulations permit the use of sodium caseinate as a binder and extender at a level sufficient for purpose in imitation sausage, nonspecific loaves, soups, and stews (9 CFR 318.7(c)(4)).

FDA lists sodium caseinate as generally recognized as safe (GRAS) for use in foods at 21 CFR 182.1748 when used in accordance with good manufacturing practices.

3. *Isolated soy protein*, submitted by Protein Technologies International, St. Louis, MO, to be used at a level not to exceed 2 percent of the product formulation. The use of isolated soy protein has been permitted in certain meat food products since 1965 as a result of a final rule published by the Department (30 FR 8673). The Federal meat inspection regulations permit the use of isolated soy protein as a binder and extender in sausage, chili con carne, spaghetti with meatballs, and similar products at levels ranging between 2 percent and 12 percent, depending on the product in which it is used (9 CFR 318. 7(c)(4)).

Although FDA does not currently list isolated soy protein in its regulations, FDA has determined, in a February 8, 1977, memorandum, that isolated soybean protein is a food and therefore GRAS.[1] During the development of this rulemaking, FSIS reconfirmed FDA's earlier determination. FDA has permitted the use of isolated soy protein in a variety of foods, including meat products, when used within good manufacturing practices.

4. *Carrageenan*, submitted jointly by Hercules, Wilmington, DE, and FMC Corporation, Rockland, ME, to be used at a level not to exceed 1.5 percent of the product formulation. The Federal

[1] A copy of this memorandum is available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

meat inspection regulations permit the use of carrageenan as an extender and stabilizer in breading mixes and sauces at the level sufficient for purpose in formulating meat products (9 CFR 318.7(c)(4)).

FDA lists carrageenan at 21 CFR 172.620 as a direct food additive that may be safety used in the amount necessary as an emulsifier, stabilizer, or thickener in foods when used in accordance with good manufacturing practices. It is common practice in the meat industry to use these terms of technical functions interchangeably with "binder." Thus, these functions are considered in this rulemaking under the category of "binders."

Regulations on Cured Pork Products

Section 319.104 of the Federal meat inspection regulations (9 CFR 319.104) provides standards of composition and labeling requirements for cured pork products depending on the product's minimum protein fat-free content; for example, "Ham", "Ham with Natural Juices", "Ham Water Added", and "Ham and Water Product—X% of Weight is Added Ingredients." However, 9 CFR 319.104 does not currently provide for the use of binders or extenders in these products. FSIS has determined that it is appropriate to permit the addition of certain binders and extenders in the cured pork products labeled as "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" for the reasons discussed below.

During manufacturing, the cured pork products labeled as "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" are pumped with a brine solution in an amount equal to various percentages of the weight of the green ham. These two products are normally packaged in clear plastic and are enclosed by a vacuum seal. As the brine drains from the product, it settles in the package around the product. This drained brine solution may appear to consumers as excessive and may create an aesthetically displeasing product. As a result, some retailers remove and discard these products well before the shelf life expiration date, creating economic losses for both industry and consumers. None of the ingredients in the brine solution, either alone or in combination, serves to completely control purging of the moisture in these products.

The petitioners contend that the addition of food starch-modified, sodium caseinate, isolated soy protein, or carrangeenan to these products will prevent moisture purge. They have supplied technical data and information supporting their claims regarding the technical effects of these individual binders at the requested used levels.[2]

After reviewing the petitioners' technical data and information, the Administrator believes that (1) the proposed use of these binders would be in compliance with applicable FDA requirements, (2) their use would be functional and suitable for the products intended, (3) the substances would be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances in products would not render them adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act. In addition, the use of binders would not affect the protein fat-free calculations for the products to which they are added. All added nonmeat proteins are subtracted from the total protein of the finished product by the laboratory before calculating the protein fat-free value of the product.

FSIS proposes to allow the use of carrageenan at a level not to exceed 1.5 percent of the product formulation, and food starch-modified, sodium caseinate, and isolated soy protein at a level not to exceed 2 percent of the product formulation. These substances would not be permitted in combination with one or more such substances because the data presented by the petitioners involved only the use of each individual binder.

Manufacturers opting to use any such binder would be required to list the binder in the ingredients statement by its common or usual name in order of predominance (9 CFR 317.2(f)(1)). This would necessitate approval and printing of new labels.

The Proposal

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR part 318 and 319 of the Federal meat inspection regulations to read as follows:

List of Subjects

9 CFR Part 318

Meat inspection, Food additives.

9 CFR Part 319

Meat inspection, Standards of identity.

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

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

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

2. In the chart in § 318.7(c)(4), the Class of substance "Binders and extenders" would be amended by adding at the end thereof the following:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Binders and extenders	Carrageenan	To prevent purging of added brine solution.	Cured pork products as provided in 9 CFR 319.104.	Not to exceed 1.5 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.602.
	Food starch modified	....do	....do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.892.

[2] A copy of the supporting data is available for public review in the FSIS Hearing Clerk's office.

Class of substance	Substance	Purpose	Products	Amount
	Sodium caseinate	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 182.1748.
	Isolated soy protein	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products.

* * * * *

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for part 319 would continue to read as follows:

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

4. Section 319.104 would be amended by adding a new paragraph (d) to read as follows:

§ 319.104 Cured pork products.

* * * * *

(d) The binders provided in § 318.7(c)(4) of this subchapter for use in cured pork products may be used singly in those cured pork products labeled as "Ham water added" and "Ham and water product—X% of weight is added ingredients." These binders are not permitted to be used in combination with one or more such binders approved for use in cured pork products. When any such substance is added to these products, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance.

Done at Washington, DC, on January 3, 1992.

Ronald J. Prucha,

Acting Administrator.

[FR Doc. 92–2357 Filed 1–30–92; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 49

[PS–27–91]

RIN 1545–AQ04

Special Rules for Use of Government Depositaries Under Chapter 33

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to deposits of excise taxes imposed on communications services and air transportation. These proposed regulations reflect changes made by the Omnibus Budget Reconciliation Acts of 1989 and 1990 and affect persons required to collect and pay over those taxes. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments, and requests to speak and outlines of oral comments to be presented at the public hearing must be received by March 31, 1992. The public hearing is scheduled for Tuesday, April 28, 1992, beginning at 10 a.m.

ADDRESSES: Send comments, and requests to speak and outlines of oral comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attention: CC:CORP:T:R (PS–27–91), room 5228). In the alternative, comments, and requests to speak and oral outlines may be hand delivered to: CC:CORP:T:R (PS–27–91), Internal Revenue Service, room 5528, 1111 Constitution Avenue, NW., Washington, DC 20224. The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Ruth Hoffman, (202) 566–4475; concerning comments, and requests to speak and oral outlines, Bob Boyer, Regulations Unit, (202) 377–9231 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224.

The requirements for collection of information in this proposed regulation are in §§ 40.6302(c)–3(b)(2)(ii), 40.6302(c)–3(b)(2)(iii), 40.6302(c)–3(e), and 40.6302(c)–3(f)(2)(ii). This information is required by the Internal Revenue Service to verify compliance with section 6302(c) of the Internal Revenue Code. This information will be used to determine the amount of tax and whether deposits of such tax have been computed correctly. The likely respondents and/or recordkeepers are businesses and other organizations.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents and recordkeepers may require more or less time, depending on their particular circumstances.

Estimated total annual recordkeeping burden: 240,000 hours.

Estimated average annual burden per recordkeeper: 60 hours.

Estimated number of recordkeepers: 4000.

Estimated total annual reporting burden: 2,050 hours.

Estimated average burden per respondent: 0.5 hour.

Estimated number of respondents: 4000.

Estimated frequency of responses: On occasion.

Background

On January 3, 1991, temporary regulations (T.D. 8328) relating to requirements for returns, payments, and deposits of tax for excise taxes currently reportable on Form 720 were published in the **Federal Register** (56 FR 179). A notice of proposed rulemaking (PS–65–90) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (56 FR 233). Those proposed and temporary regulations include rules relating to

taxes imposed under chapter 33 of the Code of communications and air transportation, but special rules for deposits of chapter 33 taxes were reserved. This document amends the proposed regulations by adding special deposit rules for chapter 33 taxes.

Chapter 33 Taxes

In chapter 33, section 4251 imposes a tax on amounts paid for communications services, section 4261 imposes a tax on amounts paid for taxable air transportation of persons, and section 4271 imposes a tax on amounts paid for taxable air transportation of property. In each case, the person making the payment subject to tax is liable for the tax. However, section 4291 provides that the person receiving the payment subject to tax must collect the amount of the tax from the person making that payment and pay over the tax to the government. Under existing regulations and §§ 40.6011(a)–1T and 40.6302(c)–1T, any person required to collect and pay over tax must file returns and make deposits of tax.

Current Rules

Because persons required to collect and pay over chapter 33 taxes often keep their accounts on the basis of amounts billed or tickets sold, rather than on the basis of actual collections, existing regulations under § 49.6302(c)–1(a)(1)(iii) allow such persons to compute the amount to be deposited on the basis of amounts billed or tickets sold (the "considered collected" method). Under this method, the tax included in amounts billed or tickets sold during a semimonthly period is considered collected during the second following semimonthly period. Rev. Proc. 76–45, 1976–2 C.B. 668, which applies to certain communications tax return filers that deposit tax under the considered collected method, provides a rule for reporting tax on Form 720 based on amounts billed.

Under section 6302(e), persons using the considered collected method must deposit certain taxes within three banking days after the end of the first week of the semimonthly period in which the tax is considered collected (a one-week speed-up of deposits from what § 49.6302(c)–1(a)(1)(ii) would otherwise require). This speed-up applies to the taxes imposed by section 4261 (a) and (b) (relating to domestic air transportation of persons) and section 4251 (relating to communications). For air transportation taxes not subject to section 6302(e), § 49.6302(c)–1(a)(1)(ii) requires deposits based on the considered collected method to be made within three banking days after the end of the semimonthly period in which the tax is considered collected.

Explanation of Proposed Regulations

Changes are being proposed because there has been considerable confusion regarding the considered collected method. These proposed regulations replace the considered collected method with the "alternative method" of computing the amount of tax to be deposited and reported on Form 720. The proposed method is an alternative to the general 9-day rule for computing deposits of these taxes provided under § 40.6302(c)–1T. These proposed regulations also reflect the statutory deposit requirements under section 6302(e), and clarify points in existing rules.

Alternative Method

The alternative method of computing the amount of tax to be deposited and reported is in substance the same as the considered collected method. Under the alternative method, deposits and returns of tax are based upon amounts billed or tickets sold, rather than on actual collections. Amounts billed or tickets sold during a semimonthly period are considered as collected during the first week of the second following semimonthly period.

In order to use the alternative method, a person must maintain a separate account into which items of federal excise tax that are included in amounts billed or tickets sold to customers are recorded (the "billings account"). This is distinguished from an account into which items of federal excise tax are recorded when actually received from customers (the "revenue account"). A person may use the alternative method for taxes imposed by one section of chapter 33 and the 9-day rule for taxes imposed by other sections of chapter 33. In such cases, a person would only be required to maintain a billings account relating to taxes for which the alternative method is used, and would maintain a revenue account for other chapter 33 taxes.

Period to Which Deposits Relate

One of the points clarified by these proposed regulations is that the alternative method deposit for a semimonthly period is based on the amounts of tax that are considered as collected during the period, and not on the amounts billed or the tickets sold during the period. Thus, for example, the tax related to amounts billed on June 1, 1992, is considered as collected during the period of July 1st through 7th, and must be included in the deposit of tax for the first semimonthly period of the third calendar quarter of 1992.

Some chapter 33 filers erroneously applied the considered collected method by crediting deposits to the quarter in which the tax was included in amounts billed or tickets sold. If those persons begin using the alternative method provided by these regulations in the third quarter of 1992, their deposits computed on the basis of amounts billed or tickets sold during June 1992 will be credited to the third quarter. This will not result in a failure to deposit penalty for the second quarter of 1992, because the proposed regulations provide that the amount of tax to be reported on the Form 720 for the second quarter is the amount of tax included in amounts billed or tickets sold in April and May 1992.

Time to Deposit

Section 6302(c) authorizes the Secretary to prescribe regulations relating to the time to make deposits of tax. These proposed regulations set forth the time to deposit chapter 33 taxes and incorporate special rules for sections 4251 and 4261 (a) and (b) provided by section 6302(e). To simplify reporting and administration, these proposed regulations provide that all deposits of chapter 33 taxes under the alternative method are due at the same time. Thus, under these proposed regulations, the deposit for a semimonthly period is due by the third banking day after the end of the first week of that semimonthly period. For example, the deposit of taxes considered as collected during the period of July 1 through 7, 1992, is due by July 10, 1992.

Reporting of Tax

Another point clarified by these proposed regulations is the amount of tax to be reported on returns of tax by chapter 33 filers. A chapter 33 filer using the actual collections method for computing deposits during a calendar quarter must report the amount of tax actually collected during the quarter on the return filed for that quarter. A chapter 33 filer using the alternative method for computing deposits during a calendar quarter must report the amount of tax considered as collected during the quarter on the return filed for that quarter. The amount of tax considered as collected will reflect items of adjustment (*e.g.*, overpayments) relating to prior quarters within the period of limitations on credits and refunds.

Change of Method

Chapter 33 filers may change between (1) computing deposits and reporting tax based on actual collections and (2) computing deposit and reporting tax using the alternative method. However, only one method may be used during a calendar quarter, and the Commissioner must be notified on any change in method.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing has been scheduled for April 28, 1992. Requests to speak may be submitted by anyone that timely submits written comments.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR part 601) shall apply to the public hearing. A person wishing to make oral comments at the public hearing shall file written comments and submit an outline of the oral comments to be presented at the hearing and the time to be devoted to each topic by March 31, 1991.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes, exclusive of the time consumed by answering questions from the panel for the government.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Because of access restrictions, visitors cannot be permitted beyond to lobby of the Internal Revenue Building before 9:45 a.m.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 40

Administrative practice and procedure, Excise taxes.

26 CFR Part 49

Exicse taxes, Telegraph, Telephone, Transportation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 40 and 49 are proposed to be amended as follows:

Note: The section numbers cited in the instructional paragraphs below as proposed sections reflect the section numbers as they would appear in the final rule (example: § 40.6302(c)–1). They do not reflect the "T" suffix currently found in the temporary rule version (example: § 40.6302(c)–1T).

Paragraph 1. The authority for part 40 continues to read in part as follows:

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

Par. 2. Proposed § 40.6302(c)–1 published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations published the same day (56 FR 179) is amended as follows:

1. Paragraph (a) is amended by adding a new sentence between the third and fourth sentences.

2. Paragraph (b)(2) is revised.

3. Paragraph (b)(3) is amended by adding to the first sentence the language ", 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271)," following the language "(relating to deposits of section 4681 taxes)".

4. Paragraph (c)(1) is amended by adding to the last sentence the language "⅓", sections 4251, 4261, and 4271 taxes to which § 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271) applies," following the language "section 4681 taxes".

5. The added and revised provisions read as follows:

§ 40.6302(c)–1 Use of Government depositaries.

(a) * * * Section 40.6302(c)–3 provides an alternative method for computing the amount of deposits of taxes imposed by sections 4251, 4261, and 4671 (relating to communications services and air transportation). * * *

(b) * * *

(2) *Amount of deposit.* Except as otherwise provided in paragraph (c) of this section (relating to safe harbor rules for 9-day taxes) or in §§ 40.6302(c)–2(a)(2) (relating to safe harbor rules for section 4681 taxes) and 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271), the deposit of tax for any semimonthly period (as defined in paragraph (d) of this section) shall not be less than the amount of net tax liability incurred during that semimonthly period.

Par. 3. Proposed § 40.6302(c)–3 published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations published the same day (56 FR 179) is revised to read as follow:

§ 40.6302(c)–3 Special rules for use of Government depositories under chapter 33.

(a) *Overview.* This section sets forth an alternative method for computing the amount of deposits of taxes imposed by chapter 33, and provides rules relating to the time for making a deposit and the amount of tax to be reported on the return of tax for each quarter by persons using the alternative method. Chapter 33 includes the taxes imposed by section 4251 on communications services, section 4261 (a) and (b) on air transportation of persons, section 4261(c) on use of international air travel facilities, and section 4271 on air transportation of property. Section 40.6302(c)–1 sets forth the general 9-day rule for computing deposits of these taxes.

(b) *Alternative method for computing deposits—(1) In general—(i) Alternative method.* Any person required to collect and pay over any tax imposed by chapter 33 may compute the amount of such tax to be deposited on the basis of amounts considered as collected (the "alternative method") instead of on the basis of actual collections of tax.

(ii) *Using more than one method to compute deposits.* A person may compute deposits of tax imposed by one or more sections of chapter 33 using the alternative method provided by this section and compute deposits of taxes imposed by other sections of chapter 33 on the basis of amounts actually collected using the 9-day rule of § 40.6302(c)–1. For purposes of this paragraph (b)(1)(ii), the taxes imposed by section 4261 (a) and (b) are treated as one section.

(2) *Applicability—*(1) *In general.* A person may use the alternative method with respect to a tax only if the person—

(A) Separately accounts for the tax in accordance with paragraph (b)(2)(ii) of this section; and

(B) Makes a return of the tax on the basis of the amount of the tax that is considered as collected.

(ii) *Separate account.* The account required under paragraph (b)(2)(i)(A) of this section (the "separate account") shall reflect for each month—

(A) All items of the tax that are included in amounts billed or tickets should to customers during the month; and

(B) Items of adjustment relating to the tax for prior months within the period of limitations on credits or refunds.

(iii) *Change of method.* Only one method of computing deposits may be used during a calendar quarter. Before changing the method a person uses to compute the amount of tax to be deposited and reported for a calendar quarter, the person must notify the Commissioner so that proper adjustments may be made in order to properly reflect that person's collections of excise tax.

(3) *Period during which tax is considered as collected.* For purposes of this section, the tax included in amounts billed or tickets sold during the semimonthly period (as defined in § 40.6302(c)–1(d)) is considered as collected during the first week of the second following semimonthly period. Thus, the tax included in amounts billed or tickets sold during the first semimonthly period of a calendar month is considered as collected during the period of the 1st through the 7th of the following month; the tax included in amounts billed or tickets sold during the second semimonthly period of a calendar month is considered as collected during the period of the 16th through 22nd of the following month.

(4) *When amounts are billed.* For purposes of this section, an amount is billed on the earlier of the date the amount is received or the date a bill for the amount is rendered.

(c) *Time to deposit.* Under the alternative method, the deposit of tax for any semimonthly period shall be made by the third banking day after the end of the first week of that semimonthly period. Thus, for example, the deposit for the semimonthly period beginning to July 1, 1992, (relating to amounts billed between June 1 and 15, 1992) is due by July 10, 1992, three banking days after July 7, the end of the first week of the semimonthly period.

(d) *Amount of deposit.* Under the alternative method, the deposit of tax for any semimonthly period shall not be less than the net amount of the tax that is considered as collected during the first week of that semimonthly period. The net amount of tax that is considered as collected during a semimonthly period shall be either the net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or one-half the net amount of tax reflected in the separate account for the preceding month.

(e) *Reporting of tax.* If a tax is deposited under the alternative method, the return of tax for the calendar quarter shall report the net amount of the tax that is considered as collected during that calendar quarter and not the amount of the tax that is actually collected or the amount billed during the quarter. The amount to be reported for each month is the net amount of tax reflected in the separate account for the preceding month. Thus, amounts billed in June, July, and August are considered as collected during July, August, and September, and are reported as the collections of tax for July, August, and September (the third calendar quarter). The net amount of tax reflected in the separate accounts for June, July, and August is the amount reported as collections for the third quarter.

(f) *Transitional rule for third calendar quarter of 1992*—(1) *Applicability.* This paragraph (f) applies if the person—

(i) Erroneously applied the "considered collected" method provided under § 49.6302(c)–1(a)(1)(iii) of this chapter in the second calendar quarter of 1992 by calculating deposits of a chapter 33 tax on the basis of amounts billed or tickets sold during the quarter rather than on the basis of taxes considered as collected during the quarter; and

(ii) Uses the alternative method provided under this section to calculate deposits and the return of that tax for the third quarter of 1992.

(2) *Rule*—(i) *Crediting of deposits.* If this paragraph (f) applies, any such deposits computed on the basis of amounts billed on tickets sold during June 1992 are credited to the third calendar quarter of 1992.

(ii) *Return to tax for the second calendar quarter of 1992.* If this paragraph (f) applies, the amount of tax to be reported on the person's Form 720 for the second calendar quarter of 1992 shall be the amount of tax included in amounts billed or tickets sold in April and May 1992.

(3) *Example.* The application of this paragraph (f) may be illustrated by the following example:

(a) *Facts.* (i) X, a corporation, has been providing air transportation subject to tax under section 4261 (a) and (b) for several years and is required to collect and pay over these taxes. X maintains a separate account in which all items of these taxes are recorded. For calendar quarters beginning before July 1, 1992, including the second quarter of 1992, X erroneously applied the "considered collected" method of computing deposits of these taxes by treating the tickets sold during each quarter as the collections for the quarter. For quarters beginning after June 30, 1992, X uses the alternative method provided by this section for computing deposits of these taxes.

(ii) For the period March 1, 1992, through June 30, 1992, X's separate account reflects the following amounts of tax:

Mar. 1st–15th	$4,000
Mar. 16th–31st	4,000
Apr. 1st–15th	7,000
Apr. 16th–30th	7,000
May 1st–15th	5,000
May 16th–31st	5,000
June 1st–15th	9,000
June 16th–30th	9,000

(iii) During the period April through July of 1992, X made the following deposits:

Date	Amount	Credited to
Apr. 10th	$4,000	1st quarter.
Apr. 27th	4,000	1st quarter.
May 12th	7,000	2nd quarter.
May 28th	7,000	2nd quarter.
June 10th	5,000	2nd quarter.
June 25th	5,000	2nd quarter.
July 10th	9,000	2nd quarter.
July 27th	9,000	2nd quarter.

(iv) X credited the April deposits (relating to tickets sold in March) to the first quarter of 1992 and reported the tax included in tickets sold in March as first quarter collections on the Form 720 for the first quarter. X followed the same procedure for deposits in the second quarter; the May, June, and July deposits (relating to the April, May, and June tickets sold) were credited to the second quarter.

(b) *Deposit requirement; transitional rule.* In order to use the alternative method, X must deposit and report the amount of tax that is considered as collected in the quarter rather than the amount of tax included in tickets sold during the quarter. Under paragraph (f)(2)(i) of this section, X's July deposits (related to the tickets sold in June) will be credited to the third quarter of 1992. X must report on the form 720 for the second quarter only the $24,000 tax included in the April and May tickets sold. The amount of tax included in the tickets sold in June must be reported on the Form 720 for the third quarter.

(g) *Cross reference.* For general provisions relating to use of Government depositaries, see § 40.6302(c)–1.

(h) *Effective date.* This section is effective July 1, 1992, for deposits of taxes that are considered as collected after June 30, 1992, (i.e., amounts billed or tickets sold after May 31, 1992), and for returns of tax for quarters beginning after March 31, 1992.

Par. 4. Proposed § 40.9999–1(g) published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations

published the same day (56 FR 179) is revised to read as follows:

§ 40.9999–1 Examples.

* * * * *

(g) *Example relating to air transportation tax; alternative method for deposits.*

Example 8. (1) *Facts.* P, a corporation engaged in the provision of air transportation subject to tax under section 4261 (a) and (b), is responsible for collecting and paying over that tax. P files Form 720 on a quarterly basis to report the tax. P is not required to report any other taxes on its Form 720. P maintains a separate account in which all items of air transportation tax included in tickets sold are recorded. P uses the alternative method provided by § 40.6302(c)–3 for computing deposits of these taxes. For the last month of 1992 and the first two months of 1993, P's separate account reflects the following:

Dec. 1st–15th	$11,000
Dec. 16th–31st	11,000
Jan. 1st–15th	7,500
Jan. 16th–31st	7,500
Feb. 1st–15th	9,500
Feb. 16th–28th	9,500
Total	56,000

(2) *Filing requirement.* P must continue to file a Form 720 for each calendar quarter (§ 40.6011(a)–1(a)) until P files a final return in accordance with § 40.6011(a)–2. P's Form 720 for the fourth calendar quarter of 1992 reporting air transportation tax for that quarter is due by Monday, March 1, 1993. The Form 720 would ordinarily be due by February 28, 1993 (the last day of the second month after the end of the calendar quarter (§ 40.6071(a)–2)), but because February 28, 1993, is a Sunday, P has until that Monday to file.

(3) *Deposit and reporting requirement; alternative method.*

(i) P is required to make semimonthly deposits of tax (§ 40.6302(c)–1(b)(1)). Under the alternative method (§ 40.6302(c)–3), deposits of air transportation tax are due by the third banking day after the end of the week during which the tax is considered as collected. The tax is considered as collected during the first week of the second semimonthly period following the semimonthly period in which the tickets were sold to the customers § 40.6302(c)–3(b)(3)). Thus, the tax included in tickets sold during the period December 1992 through February 1993 is considered as collected as follows:

For Dec. 1st–15th	Jan. 1st–7th
For Dec. 16th–31st	Jan. 16th–22nd
For Jan. 1st–15th	Feb. 1st–7th
For Jan. 16th–31st	Feb. 16th–22nd
For Feb. 1st–15th	Mar. 1st–7th
For Feb. 16th–28th	Mar. 16th–22nd

Accordingly, P meets the semimonthly deposit requirement for the first quarter of 1993 if P makes the following deposits:

By Jan. 12th	$11,000
By Jan. 27th	11,000
By Feb. 10th	7,500
By Feb. 25th	7,500
By Mar. 10th	9,500
By Mar. 25th	9,500

Under the alternative method, these deposits are credited to the first calendar quarter of 1993 (the period during which the taxes were considered as collected (§ 40.6302(c)–3(e)(1)). P's Form 720 for the first quarter of 1993 reports the $56,000 of air transportation taxes considered as collected during that quarter (§ 40.6302(c)–3(e)(2)).

Par. 5. Part 49 is amended as follows:

1. The authority for part 49 continues to read in part as follows:

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

2. Proposed regulation § 49.0–1(b) published January 3, 1991 (56 FR 233) cross-referencing temporary regulations published the same day (56 FR 179) is amended by adding a new last sentence to read as follows:

§ 49.0–1 Introduction.

* * * * *

(b) * * * Section 49.6302(c)–1(a)(1)(iii) (relating to semimonthly periods) shall not apply for calendar quarters beginning after June 30, 1992.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 92–1723 Filed 1–30–92; 8:45 am]

BILLING CODE 4830–01–M

Notices

Federal Register
Vol. 57, No. 21
Friday, January 31, 1992

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

Farmers Home Administration

Recipients of Fiscal Year 1991 Section 515 Loan Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has compiled a list of all recipients of FY 1991, section 515 loan funds. This action is taken to inform the public of recipients of FY 91 section 515 funds. The intended effect is public awareness.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Loan Assistant, Rural Rental Housing Branch, Multi-Family Housing Processing Division, FmHA, USDA, room 5337, South Agriculture Building, Washington, DC, 20250, telephone (202) 720–1608 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans.

Discussion of Notice

The information available is an 85 page compilation that lists borrower names, names of the general partners, project name and location, number of units developed, and FmHA loan amount. This information is available to all interested parties and can be obtained by writing the following address: USDA, FmHA, Multi-Family Housing Processing Division, Room 5337–S, Washington, DC, 20250. The request must be accompanied by a self-addressed, self-stamped envelope. Envelopes must be a minimum of 11" × 9" in size, and bear first class postage of $1.65. Requests without the required return envelope and postage will not be acknowledged or responded to.

Dated: January 24, 1992.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92–2350 Filed 1–30–92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 920119–2019]

Annual Capital Expenditures Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Consideration.

SUMMARY: Notice is hereby given that the Bureau of the Census is considering a proposal to conduct a pilot and pretest of the Annual Capital Expenditures Survey for the years 1991 and 1992 under the authority of title 13, United States Code, sections 193 and 224. This survey has been submitted to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended. On the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from nongovernmental or governmental sources.

DATES: Any suggestions or recommendations concerning the proposed survey should be submitted in writing on or before March 2, 1992.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: John Berry on (301) 763–7464.

SUPPLEMENTARY INFORMATION: The primary users of these data will be numerous Government agencies, including the Bureau of the Census, Bureau of Economic Analysis, Bureau of Labor Statistics, and the Treasury Department. Other users will include other Government agencies, business firms, academics, and research and consulting organizations. The data will be used for calculation of the National Income and Product Accounts and to measure and analyze fixed capital stocks and capital formation. Companies in the survey represent private nonfarm businesses. The information to be develop from this survey is necessary for comprehensive and detailed measurement of capital investment. Copies of the proposed form are made available on request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: January 23, 1992.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 92–2346 Filed 1–30–92; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 35–91]

Foreign-Trade Zone 123—Denver, Colorado. Proposed Subzone Storage Technology Corporation Information Storage Equipment Plant Boulder County, CO, Amendment to Application

Notice is hereby given that the application submitted by the City and County of Denver, Colorado, grantee of FTZ 123, requesting special-purpose subzone status for the information storage equipment manufacturing facilities of Storage Technology Corporation (StorageTek) located in Boulder County, Colorado (56 FR 28862, 6/25/91), has been amended to include additional products and components. The new finished products are spare parts and field replaceable units (duty rates range from zero to 3.9 percent). The new components are transceivers, fiber optic cables, structural foam array, batteries, and packaging materials. The duty rates on the components range from zero to 8.5 percent (HTS categories 8517, 9001, 3921, 8507, 3923). The application remains otherwise unchanged.

The comment period is reopened until March 1, 1992.

Dated: January 24, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–2381 Filed 1–30–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to request a review

Not later than February 29, 1992, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping duty proceedings	Period
Austria: Railway track maintenance equipment (A-433-064)	02/01/91-01/31/92
Canada: Racing plates (A-122-050)	02/01/91-01/31/92
Japan: Benzyl paraben (A-588-816)	10/10/90-01/31/92
Japan: Carbon steel butt-weld pipe fittings (A-588-602)	02/01/91-01/31/92
Japan: Melamine (A-588-056)	02/01/91-01/31/92
Japan: Mechanical transfer presses (A-588-810)	02/01/91-01/31/92
The Federal Republic of Germany: Sodium thiosulfate (A-428-807)	10/19/90-01/31/92
The People's Republic of China: Heavy forged hand held tools, finished or unfinished, with or without handles (A-570-803)	10/19/90-01/31/92
The People's Republic of China: Natural bristle paint brushes (A-570-501)	02/01/91-01/31/92
The People's Republic of China: Sodium thiosulfate (A-570-805)	12/12/90-01/31/92
The Republic of Korea: Certain small business telephone systems and subassemblies thereof (A-580-803)	02/01/91-01/31/92
United Kingdom: Sodium thiosulfate (A-412-805)	10/19/90-01/31/92
Countervailing duty proceedings	
Peru: Cotton sheeting & sateen (C-333-001)	01/01/91-12/31/91
Peru: Cotton yarn (C-333-002)	01/01/91-12/31/91
Saudi Arabia: Carbon steel wire rod (C-517-501)	01/01/91-12/31/91
Thailand: Malleable iron pipe fittings (C-549-803)	01/01/91-12/31/91

In accordance with § 353.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by February 29, 1992.

If the Department does not receive by, February 29, 1992, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: January 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary.

[FR Doc. 92-2384 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 18, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan. The review covers one manufacturer/exporter of this merchandise to the United States and the period April 1, 1989 through March 31, 1990 (sixth review).

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of comments received, we have changed the final results from those in the preliminary results of review.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1991, the Department of Commerce (the Department) published in the Federal Register (56 FR 58225) the preliminary results of its administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan (49 FR 18336, April 30, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1990).

Scope of the Review

Imports covered by the review are shipments of color television receivers (CTVs), except for video monitors, complete or incomplete, from Taiwan. The order covers all CTVs regardless of tariff classification. This merchandise is currently classifiable under items 8528.10.80, 8529.90.15, and 8540.11.00 of the Harmonized Tariff Schedules (HS). HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers one manufacturer/exporter of CTVs, except for video monitors, from Taiwan for the period April 1, 1989 through March 31, 1990 (sixth review). Final results of review for other manufacturers/exporters for that period were published in the Federal Register on December 16, 1991 (56 FR 65218).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.22(c) of the Commerce Regulations. We received comments from Zenith Electronics Corp. (Zenith) and Proton. In addition, we corrected an error in the preliminary results. For the preliminary results, where there was no identical or similar home market model match to the U.S. sale at the same level of trade, we used constructed value (CV) as the basis of foreign market value (FMV). For these final results, we compared the U.S. sale to a home market sale of identical or most similar merchandise, as appropriate, at a different level of trade.

Comment 1: Zenith argues that the Department used the incorrect U.S. tax base in determining the amount of commodity tax and value added tax (VAT) to add to United States price (U.S. price). Zenith notes that the duty paying value (DPV), *i.e.*, the tax base, for determining the amount of commodity tax for merchandise from bonded warehouses is defined in the preliminary results as the ex-factory price. Zenith claims that the DPV used by the Department to determine the commodity tax for bonded-factory shipments to the United States is overstated because it includes elements which are not included in an ex-factory price. According to Zenith, these elements include U.S. selling, general, and administrative (SG&A) expenses, profit attributable to the U.S. subsidiary, and estimated antidumping duties. Zenith also contends that the DPV is inflated by the inclusion of imputed Taiwan import duties, which would not be included in the ex-factory price of export merchandise where import duties are not collected by reason of exportation of the merchandise. Zenith advocates determining the DPV by deducting f.o.b. charges, such as foreign inland freight and brokerage, from the f.o.b. price.

Zenith also claims that the tax base used for calculating the VAT, defined in the preliminary results of review as the price to the unrelated customer, is overstated because it includes expenses which are incurred after the merchandise is exported from Taiwan. Zenith argues that the Department should use as the VAT base the price at which the merchandise is sold for exportation, whether or not it is the price to an unrelated purchaser.

Proton argues that the amount of tax which would have been collected on sales to the United States should be based on the commodity tax actually paid by the respondent on its sales in the home market. Accordingly, Proton contends that the imputed commodity tax on the U.S. sale should be based on the actual DPV of the home market comparison model, adjusted, where necessary, for differences in merchandise (difmer).

Proton argues that the price charged to unrelated parties in the home market is the appropriate tax base on which to calculate the VAT, since the VAT is only imposed in the home market and not on exports. However, it contends that, if the VAT is based on U.S. prices, the Department should continue to use the price to the unrelated customer in the United States as the tax base. Proton claims that this is consistent with the Department's methodology in other antidumpng cases, *e.g.*, *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition* (56 FR 32376, July 16, 1991).

Department's Position: We disagree with Zenith. Also, we disagree with Proton that we should base the amount of commodity tax added to U.S. price on the home market DPV, or the VAT base on the home market price to the unrelated customer. In this case, we have calculated the commodity tax base and the VAT base in a manner consistent with our prior practice in the television cases. *See, e.g.*, our response to Comment 2 in *Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Duty Administrative Review* (56 FR 31378, July 10, 1991) (*Fifth Taiwan CTV Review*), and our response to comment 1 in *Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Administrative Review* (56 FR 65218, December 16, 1991) (*Fourth and Sixth Taiwan CTV Review*).

The commodity tax base in Taiwan, or the DPV, is submitted by each firm and approved by the Taiwan authorities. For CTVs sold from bonded factories in Taiwan, the DPV is the ex-factory price; for CTVs sold from unbonded factories, the DPV consists of production costs, SG&A costs, and profit, *i.e.*, the price to the first unrelated customer. The VAT tax base in Taiwan is the price to the first unrelated customer.

In order to ensure that FMV and U.S. price are comparable, and to impose the tax at a point comparable to the point at which the home market tax is assessed, it is necessary to determine at what point in the manufacturing/marketing chain the tax authority in Taiwan would have imposed the taxes on the exported merchandise. Accordingly, we have calculated the U.S. commodity tax base for each type of sale (*i.e.*, whether from a bonded or unbonded warehouse) and the VAT base by applying the same formulae used to calculate the home market tax bases. In other words, we used the terms and conditions of home market sales to determine the imputed tax base for U.S. sales. Therefore, with regard to the commodity tax, we used the ex-factory price of the merchandise for sales from bonded factories. This price is not overstated because it includes the same elements as are in the home market ex-factory price, which serves as the base for the commodity tax. For unbonded factories, we used the price to the first unrelated customer in the United States as the U.S. tax base. For the VAT, we used the price to the first unrelated customer in the United States as the U.S. tax base, not the price at which the merchandise is sold for exportation, since the home market VAT base is the price to the first unrelated customer. The tax rate in Taiwan was then applied to the U.S. tax base to determine the amount of tax that should be added to U.S. price, pursuant to 19 U.S.C. 1677a(d)(1)(C).

Comment 2: Zenith argues that the Department is required to measure the amount of tax which is passed through to home market purchasers, pursuant to 19 U.S.C. 1677a(d)(1)(C). As support for its argument, Zenith relies on decisions by the Court of International Trade (CIT) in *Zenith Electronics Corporations* v. *United States*, 633 F. Supp. 1382 (Ct. Int'l Trade, 1986), *appeal dismissed*, 975 F.2d. 291 (Fed. Cir. 1989) (*Zenith I*), *Daewoo Electronics Company, Ltd.* v. *United States*, 712 F. Supp. 931 (Ct. Int'l Trade, 1989) (*Daewoo*). and *Zenith*

Electronics Corporation v. *United States*, Slip Op. 91–66 (July 29, 1991) (*Zenith II*). Moreover, citing *Daewoo Electronics Company, Ltd.* v. *United States*, 760 F. Supp. 200 (Ct. Int'l Trade, 1991), Zenith argues that, because Proton benefits from tax adjustments to U.S. price, it should be required to establish its entitlement to such adjustments by determining the amount of home market tax incidence, in accordance with a methodology chosen by the Department. Zenith argues that since the respondent has not established its entitlement to a tax adjustment, and the Department has failed to determine the home market tax incidence, there is no basis for a tax adjustment to U.S. price.

Department's Position: We do not agree with the CIT's decisions in *Zenith I*, *Daewoo*, or *Zenith II*, but have not had an opportunity to appeal this issue on its merits. Consistent with our long-standing practice, we have not attempted to measure the amount of tax incidence in the Taiwan home market. We do not agree that the statutory language, limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of CTVs sold in the Taiwan home market, requires the Department to measure the home market tax incidence. See our response to Comment 1 in the *Fifth Taiwan CTV Review* and our response to Comment 2 in the *Fourth and Sixth Taiwan CTV Review*. Regarding Zenith's argument that Proton must establish entitlement to the tax adjustment to U.S. price, we are satisfied that the record shows that the tax was charged and paid on the home market sales. Therefore, the respondent is entitled to the adjustment to U.S. price.

Comment 3: Zenith argues that the Department incorrectly failed to cap the amount of tax added to U.S. price by the amount of home market tax included in the home market price of the comparison model, and has incorrectly adjusted FMV for differences between the amount of home market tax and the amount of tax added to U.S. price. Zenith cites the CIT's decision in *Zenith I* as support for its argument that the amount of tax added to U.S. price must not exceed the amount of tax included in the home market price, and that the Department is prohibited from using the authority of 19 U.S.C. 1677b(a)(4)(B) to make a circumstances-of-sale (COS) adjustment to FMV for differences in taxes in order to neutralize the tax adjustment.

Proton also argues that the Department should not make a COS adjustment to FMV for the difference between home market and U.S. commodity taxes, citing the CIT decision in *Zenith Electronics Corporation* v. *United States*, 755 F. Supp. 397 (Ct. Int'l Trade, 1990) as support for its arguments. Accordingly, Proton claims that the commodity tax should be added to U.S. price without an adjustment to home market price.

Department's Position: We disagree with Zenith and Proton. In this case, we followed our practice established in prior administrative reviews regarding the calculation of commodity tax and COS adjustments for differences in actual and imputed commodity taxes. We did not "cap" or otherwise reduce the amount of imputed tax added to U.S. price as this would have been inconsistent with our efforts to make an appropriate "apples-to-apples" comparison between FMV and U.S. price. In order to avoid artificially inflating or deflating margins as a result of differences between Taiwan commodity taxes and the imputed taxes added to U.S. price, we have made a COS adjustment equal to the difference between the tax collected in Taiwan and the imputed tax calculated on the U.S. sales. *See* our response to Comments 3 and 4 in the *Fifth Taiwan CTV Review*, our response to Comment 1 in *Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review* (56 FR 12702, March 27, 1991) (*Fifth Korean CTV Review*), and our response to Comment 3 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 4: Regarding adjustments to FMV for home market selling expenses, Zenith argues that the Department has failed to take into account earnable interest on payments made after an obligation to pay is incurred. Zenith reasons that, when an obligation is paid after it is incurred, the respondent has, in effect, been granted "delayed payment terms," and the benefit from paying these obligations on a delayed basis should be taken into account when calculating the true cost of a claimed selling expense. According to Zenith, the true cost of an after-sale rebate, for example, should be measured as the amount of the paid rebate less any interest earned during the period that payment of the rebate was outstanding. Accordingly, Zenith argues that the Department should reduce the adjustment to FMV for home market selling expenses by the amount of any interest earnable as a result of delayed payment of those expenses.

Department's Position: We disagree with Zenith. We avoid imputing expenses or costs when a company quantifies or documents its actual expenses, and when the company's quantification accurately reflects the expense to the seller. Since we have determined that the respondent has accurately quantified its home market selling expenses, and that its claim accurately reflected these expenses, we have not reduced them by the amount of any imputed "savings" realized as a result of delayed payment. See our response to Comment 6 in the *Fifth Taiwan CTV Review, our response to Comment 2 in Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review* (56 FR 56189, November 1, 1991) *(Tenth Japanese TV Review)*, and our response to Comment 4 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 5: Zenith argues that the Department should deduct antidumping-related legal expenses from exporter's sales price (ESP). Zenith notes that under 19 U.S.C. 1677a(e)(2), the Department shall remove from ESP "the amount, if any, of expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise." According to Zenith, antidumping-related legal expenses are selling expenses because they are incurred as a result of a respondent selling the merchandise under review in the United States at prices below FMV. Moreover, Zenith argues that there is no basis for retaining in ESP legal expenses incurred as a result of an antidumping proceeding when all other legal expenses incurred by a foreign company's U.S. subsidiary are deducted from ESP.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this order, the antidumping duty order on color television receivers from the Republic of Korea, and the antidumping finding on color television receivers, monochrome and color, from Japan, we do not consider legal expenses incurred in defending against an allegation of dumping to be expenses incurred in selling the merchandise in the United States. As a result, we have not deducted these expenses from ESP in these final results. Moreover this position was recently affirmed in *Zenith II*. See our response to Comment 3 in the *Tenth Japanese TV Review*, our response to Comment 5 in the *Fifth Korean CTV Review*, and our response to Comment 5 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 6: Zenith argues that the Department should deduct from U.S. price payments of estimated antidumping duties and any expenses related to such payments. According to Zenith, these items should be deducted from U.S. price, along with the estimated ordinary duties paid, because 19 U.S.C. 1677a(d)(2)(A) specifically requires that "United States import duties" and charges "incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States" be deducted from U.S. price.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this order, we believe that deducting estimated amounts of antidumping duties in our calculations would result in inaccurate margins. We do not consider payments of estimated antidumping duties to be expenses related to the sales of the merchandise under consideration for this review period. Further, given the possibility that these estimated duties could vary significantly from duties that may be assessed, we do not consider them to be "expenses" within the meaning of section 772(d)(2)(A) of the Tariff Act for the purpose of determining U.S. price. Finally, estimated duties and duties assessed are paid by the importer which, in some cases, is unrelated to the party whose sales are under review. As a result, we have not deducted them from U.S. price in these final results. See our response to comment 4 in the *Tenth Japanese TV Review*, our response to Comment 6 in the *Fifth Korean CTV Review*, and our response to Comment 6 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 7: Zenith contends that the Department erroneously treated selling commissions in the United States as though they consisted entirely of indirect selling expenses. Zenith argues that commissions compensate the recipient for both direct and indirect selling expenses incurred on behalf of the respondent. Zenith argues that, since FMV has already been adjusted for direct selling expenses, an offset to FMV comprised of indirect selling expenses up to the full amount of the U.S. commission overcompensates for the indirect portion of the commission and effectively negates the deduction from U.S. price of the direct expense portion of the commission. Accordingly, Zenith claims that commissions should be broken down into their direct and indirect expense components, and that the offset to FMV should be capped at the level of the indirect expense portion.

Zenith also argues that all indirect selling expenses incurred in the home market on commissioned U.S. sales should be deducted from U.S. price. Zenith is concerned that unless this adjustment is made, such expenses may be commingled with home market indirect expenses included in offsets to FMV.

Department's Position: We disagree with Zenith. Section 353.56(b)(1) of our regulations requires us to make an adjustment for situations in which a commission is paid in one market but not in the other market. That adjustment is limited to "the amount of the other selling expenses" allowed in the other market. We do not interpret this regulation as requiring us to limit the offset to a specific portion of the expenses of the commissionaire. Indeed, it is not necessary to examine how the recipient of the commissions spends the money because, to the seller, such monies represent direct expenses incurred as a result of that particular sale. As a result, we have offset the full amount of the U.S. commissions in these final results. *See* our response to Comment 4 in *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review* (56 FR 37339, August 6, 1991), our response to Comment 9 in the *Fifth Taiwan CTV Review*, and our response to Comment 7 in the *Fourth and Sixth Taiwan CTV Review*.

Regarding Zenith's concern over the possible existence of home market expenses that might be associated with commissioned U.S. sales, we find nothing in the record to suggest that such indirect expenses exist, and Zenith has not pointed to evidence in the record to indicate to the contrary. See our response to Comment 9 in the *Fifth Taiwan CTV Review*, our response to Comment 7 in the *Fifth Korean CTV Review*, and our response to Comment 7 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 8: Zenith contends that, where CV is relied upon as the basis for FMV, the Department should include in its calculation of CV both home market inland freight and Taiwan home market taxes. According to Zenith, these items must be included among the "general expenses" component of CV because 19 U.S.C. 1677b(e)(1)(B) requires that general expenses encompass what is "usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration." Zenith argues that since a home market price-based FMV relies upon delivered prices, CV general expenses must include home market inland freight, which is "usually reflected" in the home market sales price. Also, Zenith argues that, in view of the Department's insistence that differences between home market taxes and imputed taxes added to U.S. price are subject to COS adjustments, which are limited to selling expenses adjustments under 19 CFR 353.56, the Taiwan commodity tax and VAT must be included as a general expense in calculating CV.

In addition, citing the CIT's decision in *Zenith II*, Zenith argues that, with regard to COS adjustments made to CV, the Department should ensure that these adjustments are not allowed to reduce the amount of general expenses and profit included in CV so that it falls below the minimum levels required by the statute.

Department's Position: For these final results of review, the Department did not use CV as the basis of FMV. In cases where the U.S. model had no identical or most similar match in the home market at the same level of trade, we compared the U.S. model to the identical or most similar home market model, as appropriate, at a different level of trade. Therefore, we need not address Zenith's comments on this issue.

Comment 9: Zenith contends that the Department's method of calculating the cash deposit rate as a percentage of Proton's statutory U.S. price of the reviewed entries understates the best estimate of ultimate liability on future entries. Zenith notes that the U.S. Customs Service (Customs) uses the entered value as the value against which the cash deposit rate is applied, while the Department determines cash deposit rates on the basis of U.S. price. Zenith argues that, because the entered value is often lower than the U.S. price, especially when, as in this case, a large amount is added to U.S. price for tax adjustments, the dollar amount of the cash deposit is less than it would be if the Department used the entered value to calculate the cash deposit.

Department's Position: In this review, we have followed our practice as explained in previous reviews. See, *e.g.*, our response to Comment 10 in the *Fifth Taiwan CTV Review* and our response to Comment 9 in the *Fourth and Sixth Taiwan CTV Review*. Use of this practice was affirmed by the CIT in Zenith II. Section 736(a)(1) of the Traiff Act requires the Department to instruct Customs to "assess an antidumping duty equal to the amount by which the FMV of the merchandise exceeds the United States price of the merchandise." Thus,

we are required to calculate an assessment rate based upon the reviewed entries' statutory U.S. price, not upon the entered value of the merchandise.

The actual assessment rate also serves as the best estimate for cash deposit purposes for all subsequent entries not yet subject to review. We use this rate because at the time the merchandise is entered, its U.S. price has yet to be determined. Insofar as cash deposits must be made at time of entry, we instruct Customs to determine the amount of the required deposits by basing it upon a percentage of the only value available, *i.e.*, the entered value. However, if it is determined after a subsequent review that the amount of estimated duties deposited on these entries is less than the actual amount to be assessed, we will collect the difference together with interest.

Comment 10: Proton argues that the Department should not have deducted from home market price expenses incurred with respect to home market sales, and should not have deducted from USP those expenses incurred with respect to U.S. sales. It argues that such COS adjustments should be made only to FMV. Proton cites 19 U.S.C. 1677b(a)(4) of the statute and the CIT's decision in *Timken Compony* v. *United Stotes*, 673 F. Supp. 495, 509–12 (CIT 1987) (*Timken*) as support for its argument.

Department's Position: We disagree with Proton. Proton cites to 19 U.S.C. 1677b(a)(4) of the statute and *Timken* for its claim that COS adjustments should only be made to FMV. However, as stated in previous administrative reviews, we are not following the CIT's decision in *Timken*. We continue to maintain that 19 U.S.C. 1677b does not prohibit us from deducting selling expenses from ESP, and that our adjustments to ESP are in accordance with 19 U.S.C. 1677a(e)(2), which states that ESP shall be adjusted by deducting from it the amount of "expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise." Accordingly, we made appropriate adjustments to ESP for warranties, guarantees and servicing, credit, direct advertising and promotion, royalties, and commissions. *See* our response to Comment 12 in the *Fifth Toiwon CTV Review*, our response to Comment 19 in *Television Receivers, Monochrome and Color, from Jopan; Final Results of Antidumping Duty Administrative Review* (56 FR 38417, August 13, 1991), and our response to Comment 10 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 11: Proton contends that the Department erred in using a negative cost for difmer between U.S. Model VT–331 and home market model VT–330. It argues that the home market model is more costly than the U.S. model and, therefore, that the FMV should be reduced rather than increased by the amount of the difmer.

Deportment's Position: We agree with Proton, and have made the appropriate corrections to the computer program for these final results.

Final Results of the Review

As a result of comments received, we have revised our preliminary results and we determine the following margin exists for the period April 1, 1989 through Marcy 31, 1990:

Manufacturer/exporter	Margin (percent)
Proton Electronic Industrial Co., Ltd	1.32

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of color television receivers, except for video monitors, from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act, and will remain in effect until the final results of the next administrative review: (1) The cash deposit rate for Proton will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; and (3) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews or the original less-than-fair-value investigation, and who are unrelated to the reviewed firms or any previously reviewed firm, will be 2.57 percent. This rate is the most current non-best information available rate for any firm in this proceeding. (*See Fourth and Sixth Toiwan CTV Review.*)

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1990).

Dated: January 22, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–2382 Filed 1–30–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–056]

Melamine From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on melamine from Japan. Interested parties who object to this revocation must submit their comments in writing no later than February 29, 1992.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, the Department of Treasury published an antidumping finding on melamine from Japan (42 FR 6366). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than February 29, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the

Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by February 29, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: January 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2303 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by the petitioner, the American Chain Association, the Department of Commerce has conducted administrative reviews of the anitdumping finding on roller chain, other than bicycle, from Japan. The reviews cover one firm, Sugiyama Chain Co., Ltd., and various Japanese exporters of Sugiyama products to the United States for the periods April 1, 1981, through March 31, 1983; April 1 1983, through March 31, 1985; April 1, 1985, through March 31, 1986; April 1, 1986 through March 31, 1987; and April 1, 1989, through March 31, 1990. These reviews indicate the existence of dumping margins during the periods. As a result of these reviews, the Department of Commerce has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Jay Camillo or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 56401) the final results of its last administrative review of the antidumping findings on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973). The American Chain Association, the petitioner, requested that we conduct these administrative reviews in accordance with 19 CFR 353.22(a). We published notices of initiation of the antidumping duty administrative reviews on May 20, 1986 (51 FR 18475), July 9, 1986 (51 FR 24883), May 20, 1987 (52 FR 18937), and June 1, 1990 (55 FR 22366). The Department has now conducted these administrative reviews with respect to Sugiyama Chain Co., Ltd. (Sugiyama) and various Japanese trading companies, in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by these reviews are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. During the review periods, roller chain, other than bicycle, was classified under various provisions of the Tariff Schedules of the United States Annotated (TSUSA), from item numbers 652.1400 through 652.3800, and is currently classifiable under Harmonized Tariff System (HTS) item numbers 7315.11.00 through 7616.90.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter of roller chain, other than bicycle, from Japan, Sugiyama Chain Co., Ltd., and various Japanese exporters of Sugiyama products to the United States for the periods April 1, 1981, through March 31, 1983; April 1, 1983, through March 31, 1985; April 1, 1985, through March 31, 1986; April 1, 1986, through March 31, 1987; and April 1, 1989, through March 31, 1990.

The Department attempted to verify the information submitted by Sugiyama for the period April 1, 1985 through March 31, 1986, but was unable to do so. Therefore, for the 1985-86 review period, the Department has resorted to use of the best information available (BIA) for assessment and cash deposit purposes. As BIA, we selected the highest non-BIA rate of any firm in a prior review period. Moreover, we limited our selection of BIA to reviews actually conducted by the Department of Commerce, and thus disregarded the rates for the reviews and LTFV investigation completed by the U.S. Department of the Treasury, because the administrative record, supporting the Commerce Department reviews are more complete. In this case, as BIA we selected the 43.29 percent rate calculated by the Department in its first completed roller chain review. (See Roller Chain, Other Than Bicycle, From Japan Results of Administrative Review of Antidumping Finding (46 FR 44488, September 4, 1981).

During the conduct of these reviews, the Department made a determination that Sugiyama and its primary home market customer were related for purposes of application of the antidumping law. On July 19, 1991, we issued a deficiency letter requesting that Sugiyama report the prices to its first unrelated customers in the home market, in view of the fact that most of its reported home market sales were now to related customers. On August 21, 1991, we received Sugiyama's response to our deficiency letter, accompanied by replacement computer tapes and printouts. In our July 19, 1991 letter, we advised Sugiyama that since this was a deficiency letter, we would not be requesting further information or additions, and we would utilize what they submitted to the extent such information was usable.

As a result of our review of the deficiency submissions, we have concluded that the new tapes submitted by Sugiyama of home market sales to unrelated customers are inadequate and incapable of use by the Department in making its dumping calculations. The submission does not detail quantities for each transaction, and only provides list prices rather than actual selling prices. Further, the submission provides no actual sales dates rather, it lists as a date of sale for each transaction, the entire review period in question, e.g. 4/1/89–3/31/90. Accordingly, it is impossible for the Department to utilize this information for purposes of making the required calculations and comparisons. Therefore, we determined to reject this submission and resort to BIA whenever we had any unmatched U.S. sales. As BIA for the unmatched sales, we have resorted to use of the 43.29 percent rate discussed above.

United States Price

In calculating United States price (USP), the Department used both purchase price and exporter's sales price (ESP), as defined in section 772(b)(c) of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based USP on purchase price. We calculated the purchase price based on packed, go-down Tokyo port, FOB Tokyo port, C&F West Coast, or CIF West Coast prices to unrelated purchasers in the United States. Where applicable, we made deductions for foreign inland freight, ocean freight, marine insurance, and brokerage and handling. No other adjustments were claimed or allowed.

Where sales to the first unrelated purchaser occurred after importation into the United States, we based USP on ESP. We calculated ESP based on the packed price. Terms of sale were FOB Japan, CIF, or C&F Tokyo port. We made deductions, where appropriate, for U.S. and foreign inland freight, U.S. and foreign brokerage and handling, ocean freight, marine insurance, and U.S. import duties. In accordance with section 772(e)(2) of the Tariff Act, we made additional deductions, where appropriate, for advertising expenses, credit expenses, and indirect selling expenses. Indirect selling expenses include U.S. and Japanese-incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Tariff Act, we also deducted commissions, where applicable. No other adjustments were claimed or allowed.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Tariff Act, we calculated foreign market value (FMV) based on packed delivered prices to unrelated customers in Japan. In calculating FMV, we used home market prices when sufficient quantities of identical or similar merchandise were sold in Japan. For each category of similar merchandise where there were insufficient sales in the home market, we calculated FMV on the basis of constructed value information, if provided, in accordance with section 773(a)(2) of the Tariff Act. We calculated constructed value as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing.

For comparisons involving purchase price sales, where applicable, we made deductions for inland freight, advertising, and direct selling expenses. We made circumstance-of-sale adjustments for differences in credit expenses pursuant to 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs. Also, where applicable, we adjusted FMV for differences in merchandise. No other adjustments were claimed or allowed.

For comparisons involving ESP sales, we made deductions from FMV, where appropriate, for foreign inland freight, credit expenses, and advertising. We deducted home market indirect selling expenses, including inventory carrying costs, product liability expenses, quality control expenses, and other indirect selling expenses. The deduction of home market indirect selling expenses was limited to the amount of indirect selling expenses and commissions incurred on behalf of sales in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs. Also, where applicable, we adjusted FMV for difference sin merchandise. No other adjustments were claimed or allowed.

For U.S. sales that could not be matched with contemporaneous home market sales of such or similar merchandise, we used BIA because Sugiyama did not provide the Department with the information necessary to calculate FMVs based upon either home market prices of such or similar merchandise or constructed value. As BIA we used the highest non-BIA rate for any firm in a prior review period.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following weighted-average margins exist:

Company	Review period	Margin percent
Sugiyama/I&OC	4/1/81–3/31/82	2.87
Sugiyama/Harima Enterprises/San Fernando	4/1/81–3/31/82	[1]0
Sugiyama/Hokoku	4/1/81–3/31/82	1.25
Sugiyama/I&OC	4/1/82–3/31/83	14.21
Sugiyama/Harima Enterprises/San Fernando	4/1/82–3/31/83	[1]0
Sugiyama/Hokoku	4/1/82–3/31/83	3.23
Sugiyama/I&OC	4/1/83–3/31/84	28.58
Sugiyama/Harima Enterprises/San Fernando	4/1/83–3/31/84	[1]0
Sugiyama/Hokoku	4/1/83–3/31/84	0.005
Sugiyama/I&OC	4/1/84–3/31/85	0
Sugiyama/Harima Enterprises/San Fernando	4/1/84–3/31/85	[1]0
Sugiyama/Hokoku	4/1/84–3/31/85	0
Sugiyama	4/1/85–3/31/86	43.29
Sugiyama/Fugi Lumber	4/1/85–3/31/86	43.29
Sugiyama/San Fernando (Japan)	4/1/85–3/31/86	43.29
Sugiyama/I&OC	4/1/85–3/31/86	43.29
Sugiyama/Hokoku	4/1/85–3/31/86	43.29
Sugiyama	4/1/86–3/31/87	18.16
Sugiyama/I&OC	4/1/89–3/31/90	43.29
Sugiyama/Harima Enterprises/San Fernando	4/1/89–3/31/90	[1]0
Sugiyama/Hokoku	4/1/89–3/31/90	1.32

[1] No shipments during the period; rate is from the last period in which there were shipments.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request disclosure within 5 days of publication, and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not later than 14 days before the date of the hearing. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 7 days after the submission of the case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of roller chain, other than bicycle, from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of the review for the 1989–90 period; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, earlier reviews, or the original investigation, whichever is the most recent; (4) the cash deposit rate for any future entries from all other manufacturers or exporters, who are not covered in these or prior administrative reviews and who are unrelated to the reviewed firms or any previously reviewed firm, will be 1.32 percent. This is the most current non-BIA rate for any firm in this proceeding.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a(a) (1985).

Dated: January 27, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–2383 Filed 1–30–92; 8:45 am]

BILLING CODE 3510–DS–M

USAF Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 91–041. *Applicant:* USAF Medical Center, Building 0468, 5th Street, Kessler AFB, MS 39534. *Instrument:* Automated Karyotyping System, Model Cytoscan RK2. *Manufacturer:* Image Recognition System, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* September 5, 1991.

Docket Number: 91–098. *Applicant:* Princeton University, Molecular Biology Department, Lewis Thomas Labs, Washington Road, Princeton, NJ 08544. *Instrument:* 60 SM1 Stereo-microscopes with Filter Sets. *Manufacturer:* Oriental Scientific Instruments, China. *Date of Denial Without Prejudice to Resubmission:* October 9, 1991.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–2304 Filed 1–30–92; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 911219–1319]

RIN 0693–AA97

Proposed Federal Information Processing Standard for Secure Hash Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: A Federal Information Processing Standard (FIPS) for Secure Hash Standard (SHS) is being proposed. This proposed standard specifies a Secure Hash Algorithm (SHA) for use with the proposed Digital Signature Standard (DSS) announced in the Federal Register (56 FR 42980 dated August 30, 1991). Additionally, for applications not requiring a digital signature, the SHA is to be used whenever a secure hash algorithm is required for Federal applications.

The hash standard provides a formula for providing a numeric value (called a "message digest") of a message (or more generically, any digital information). The formula is devised so that virtually any change to the message will result in a change to the message digest. Thus, at any time the message digest can be recalculated and compared to the original. If they are not identical, then the information has changed. This provides a mechanism to check the integrity of data.

The DSS proposed a public-key based Digital Signature Algorithm (DSA) for use in verifying to a recipient the integrity of data and the identity of the sender of the data. At the time that the DSS was proposed, NIST stated that it was reviewing candidate hashing functions for use with the DSA.

The purpose of this notice is to solicit views from the public, manufacturers, and Federal, state, and local government users prior to submission of this proposed standard to the Secretary of Commerce for review and approval.

The proposed standard contains two sections: (1) an announcement, which provides information concerning the applicability, implementation and maintenance of the standard; and (2) specifications which deal with the technical aspects of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications section from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, room B–64, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATES: Comments on this proposed standard must be received on or before (April 30, 1992.)

ADDRESSES: Written comments concerning the proposed standard should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed FIPS for Secure Hash Standard (SHS), Technology Building, room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2938.

SUPPLEMENTARY INFORMATION: NIST has been notified that Department of Defense authorities have approved the use of the SHS with the DSS to sign unclassified data processed by "Warner Amendment" systems (10 U.S.C. 2315

and 44 U.S.C. 3502(2)) as well as classified data in selected applications.

Dated: January 27, 1992.

John W. Lyons,

Director.

FIPS PUB YY

Federal Information Processing Standards Publication YY—Draft—1992 January 22 Announcing a Secure Hash Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Standard: Secure Hash Standard.

Category of Standard: ADP Operations, Computer Security.

Explanation: This Standard specifies a Secure Hash Algorithm (SHA), which is necessary to ensure the security of the Digital Signature Algorithm (DSA). When a message of any length $< 2^{64}$ bits is input, the SHA produces a 160-bit output called a message digest. The message digest is then input to the DSA which computes the signature for the message. Signing the message digest rather than the message often improves the efficiency of the process, because the message digest is usually much smaller than the message. The same message digest should be obtained by the verifier of the signature when the received version of the message is used as input to the SHA. The SHA is called secure because it is designed to be computationally infeasible to recover a message corresponding to a given message digest, or to find two different messages which produce the same message digest. Any change to a message in transit will, with very high probability, result in a different message digest, and the signature will fail to verify. The SHA is based on principles similar to those used by Professor Ronald L. Rivest of MIT when designing the MD4 message digest algorithm [1], and is closely modelled after that algorithm.

Approving Authority: Secretary of Commerce.

Maintenance Agency: Computer Systems Laboratory, National Institute of Standards and Technology.

Applicability: This standard is applicable to all Federal departments and agencies for the protection of unclassified information that is not subject to section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code. This standard is required for use with the Digital Signature Standard and whenever a secure hash algorithm is required for federal applications. Private and commercial organizations are encouraged to adopt and use this standard.

Applications: The SHA is appropriate for use with the Digital Signature Standard, which in turn may be used in electronic mail, electronic funds transfer, software distribution, data storage, and other applications which require data integrity assurance and data origin authentication. The SHA can also be used whenever it is necessary to generate a condensed version of a message.

Implementations: The SHA may be implemented in software, firmware, hardware, or any combination thereof. Only implementations of the SHA that are validated by NIST will be considered as complying with this standard. Information about the requirements for validating implementations of this standard can be obtained from the National Institute of Standards and Technology, Computer Systems Laboratory, Attn: SHS Validation, Gaithersburg, MD 20899.

Export Control: Implementations of this standard are subject to Federal Government export controls as specified in title 15, Code of Federal Regulations, parts 768 through 799. Exporters are advised to contact the Department of Commerce, Bureau of Export Administration for more information.

Patents: Implementations of the SHA in this standard may be covered by U.S. and foreign patents.

Implementation Schedule: This standard becomes effective six months after the publication date of this FIPS PUB.

Specifications: Federal Information Processing Standard (FIPS YY) Secure Hash Standard (affixed).

Cross Index

a. FIPS PUB 46–1, Data Encryption Standard.
b. FIPS PUB 73, Guidelines for Security of Computer Applications.
c. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.
d. FIPS PUB XX, Digital Signature Standard.

Qualifications: While it is the intent of this standard to specify a secure hash algorithm, conformance to this standard does not assure that a particular implementation is secure. The responsible authority in each agency or department shall assure that an overall implementation provides an acceptable level of security. This standard will be reviewed every five years in order to assess its adequacy.

Waiver Procedure: Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Waiver shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or
b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the **FEDERAL REGISTER.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletions as the

[1] "The MD4 Message Digest Algorithm," Advances in Cryptology-CRYPTO '90 Proceedings, Springer-Verlag, 1991, pp. 303–311.

agency is authorized and decides to make under 5 United States Code section 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies of the Standard: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication YY (FIPS PUB YY), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 92-2380 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-CN-M

National Technical Information Service Advisory Board; Open Meeting

SUMMARY: The Advisory Board was established by statute (Public Law 100-519) on October 24, 1988, and received its charter on September 15, 1989. Its function is to advise the Secretary of Commerce and the Director of the National Technical Information Service on the general policies and operations of the National Technical Information Service (NTIS), including policies in connection with fees and charges for its services.

TIME AND PLACE: February 6, 1992 from 9 a.m. to 5 p.m. and February 7, 1992 from 9 a.m. to 5 p.m. The meeting will take place at the Department of Commerce, Hebert C. Hoover Building, 14th St. & Constitution Ave., NW., room 1412, Washington, DC 20230.

AGENDA:

Time	Item	Responsible
	Thursday, February 6	
9:00	1. Opening	
	1.1. Welcome by Dr. Donald Johnson, Acting Director of NTIS.	Johnson.
	1.2. Adoption of the Agenda.	Carpenter.
	1.3. Adoption of the Report of the Fourth Meeting.	
9:30	2. New Developments at NTIS.	Johnson.
11:00	3. Total Quality Management Program at NTIS.	Clark, Francis.
1:30	4. Technology Transfer/ Intellectual Property Issues (followup to Advisory Board's fourth meeting).	Johnson.
2:30	5. Role of academic, public, government, industry and school libraries in enhancing access to NTIS information.	Shill.
4:30	Public Participation	Carpenter.
5	Adjournment.	
	Friday, February 7	
9	6. An R&D laboratory for information science at NTIS.	Freeman.
10	7. NSF study of the U.S. scientific and technical information system: review and discussion of implications for NTIS.	King, Griffiths, or Carroll.
1:30	8. Advice and Recommendations by the Board.	Carpenter.
	8.1. NTIS 1991 Annual Report.	
	8.2. NTIS in the FY 1993 Budget.	
3:30	Public Participation.	
4	9. Closing	Carpenter.
	9.1. Chairman's Summary.	
	9.2. Plan for Rotation of Board Membership.	
	9.3. Planning for Future Meetings.	
	9.4. Adjournment.	

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Approximately twenty seats will be available for the public including five seats reserved for the media. Seats will be available on a first-come first-serve basis. Any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT: Dottie MacEoin, Public Affairs Officer, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: (703) 487-4778; Fax: (703) 487-4009.

Dated: January 27, 1992.

Donald R. Johnson,

Acting Director, National Technical Information Service.

[FR Doc. 92-2388 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

[Docket No. 920123-2023]

International Great Lakes Datum (1985): A New Vertical Datum Reference for the Vertical Control Network in the Great Lakes

AGENCY: Ocean and Lake Levels Division, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given of the establishment of a new vertical datum to which the height (elevation) values for the Great Lakes Vertical Control Network will be referenced. The new Datum will be known as the "International Great Lakes Datum (1985)", and will be referred to as "IGLD (1985)". The International Great Lakes Datum (1985) will replace the present Datum which is known as "International Great Lakes Datum (1955)"; and referred to as "IGLD (1955)".

The Ocean and Lake Levels Division, National Ocean Service, NOAA, in conjunction with the Canadian Hydrographic Service, Department of Fisheries and Oceans, Canada, is in the process of defining the new Datum and readjusting the Vertical Control Network in the Great Lakes to this new datum. The end result will be improved height values for published vertical control points (bench marks). Low water datum for each lake will be adjusted to the new datum. Completion is scheduled for 1992. Until then, the published height values will continue to be referenced to IGLD (1955).

FOR FURTHER INFORMATION CONTACT:

Bench Marks and Lake Levels

Chief, Great Lakes Section, Ocean and Lake Levels Division, National Ocean Service, NOAA, Rockville, Maryland 20852, Telephone (301) 443-8047.

Charting

Chief, Nautical Charting Division, Coast and Geodetic Survey, National Ocean Service, NOAA, Rockville, Maryland 20852, Telephone (301) 443-8660.

[FR Doc. 92-2322 Filed 1-30-92 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 2, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 20, September 13, November 1 and December 2, 1991 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 42985, 46602, 56199/200, and 61234) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities or services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities or services.

3. The action will result in authorizing small entities to furnish the commodities or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities or services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Shirt, Woman's,
8410–01–229–9436 thru
8410–01–229–9503
Pancake Mix,
8920–00–782–6353
8920–01–250–9522

Services

Food Service Attendant,
Travis Air Force Base, California.
Janitorial/Custodial,
Naval Complex,
Pensacola, Florida.
Janitorial/Custodial,
IRS Philadelphia Service Center,
11631 Caroline Road,
Philadelphia, Pennsylvania.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92–2360 Filed 1–30–92; 8:45 am]
BILLING CODE 6820–33–M

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 2, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List:

Skid, Wood
3990–00–NSH–0065
(Requirements of the Government Printing Office, Washington, DC only).
Short-Run Printing, Books and Pamphlets
7690–00–NSH–0024
(Requirements for Fairchild Air Force Base, WA only).
Short-Run Printing, Flat Forms
7690–00–NSH–0025
(Requirements for Fairchild Air Force Base, WA only).
Scraper, Ice
7920–01–323–0793
Badge, Qualification
8455–01–113—2631

Deletions

It is proposed to delete the following commodities from the Procurement List:

Portfolio, Plastic
7510–00–558–1572
7510–00–558–1573
Paper, Teletypewriter Roll
7530–00–019–7837
7530–00–019–7850

7530-00-019-8810
7530-00-019-7463
7530-00-019-7849
7530-00-019-8608
7530-00-272-9811
7530-00-285-3054
7530-00-019-6931
7530-00-286-7766
Clothes Stop
8465-00-377-5701

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-2361 Filed 1-30-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Task Force on the Future of American Nuclear Forces

AGENCY: Notice of Task Force meeting.

SUMMARY: The Defense Policy Board Task Force on the Future of American Nuclear Forces will meet in closed session on 13-14 February 1992 from 0800 to 1700 at the RDA Logicon Facility located at 6053 West Century Blvd., Los Angeles, California. The mission of the Task Force is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning matters relating to U.S. nuclear force policy. At the meeting the Task Force will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982), it has been determined that this Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: January 27, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-2342 Filed 1-30-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Invitation for Proposals From States for Projects Designed to Hasten or Increase the Adoption, in a Market Environment, of Energy Efficiency and Renewable Energy Technologies and Practices

AGENCY: Department of Energy.

ACTION: Notice of Program Interest.

SUMMARY: The U.S. Department of Energy (DOE) is interested in obtaining unsolicited proposals from States under 10 CFR 600.15. DOE may award grants or cooperative agreements to States, to fund (in whole or in part) cooperative or joint ventures to promote the wide-scale adoption of certain energy efficiency and renewable energy technologies and practices. In addition to State and DOE participation, a project may involve other partners, e.g., private or non-profit sector parties, utilities, or local governments. States which propose projects in response to this notice are encouraged to include other such participants in their project proposals. Proposers will be expected to provide at least 50 percent of a project's funding.

DATES: To guarantee consideration, proposals must be received by June 30, 1992, except for NICE ^{3} proposals which are due April 30, 1992. Proposals shall be considered as meeting the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date and received in time for submission to the review panel. Applications which do not meet the deadline will be considered late applications and may not be considered. Proposals should be submitted to the appropriate DOE regional Support Office. Addresses are listed under the next heading.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information as well as project proposals should be directed to the following.

Region 1: Mr. Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, 1 Congress Street, room 1101, Boston, MA 02114-2021.

Region 2: Mr. Charles Baxter, Director, New York Support Office, U.S. Department of Energy, 26 Federal Plaza, room 3437, New York, NY 10278.

Region 3: Mr. Christopher G. McGowan, Director, Philadelphia Support Office, U.S. Department of Energy, 1421 Cherry Street, Philadelphia, PA 19102.

Region 4: Mr. Buddy L. Jackson, Director, Atlanta Support Office, U.S. Department of Energy, 730 Peachtree Street, NE., Suite 876, Atlanta, GA 30308.

Region 5: Mr. Kenneth G. Johnson, Director, Chicago Support Office, U.S. Department of Energy, 9800 South Cass Avenue, Building 201, Argonne, IL 60439.

Region 6: Mr. Curtis E. Carlson, Jr., Director, Dallas Support Office, U.S. Department of Energy, 1440 West Mockingbird Lane, Suite 305, Dallas, TX 75247.

Region 7: Mr. Ronald J. Brown, Director, Kansas City Support Office, U.S. Department of Energy, 911 Walnut Street, 14th Floor, Kansas City, MO 64106.

Region 8: Mr. Al Hymer, Director, Denver Support Office, U.S. Department of Energy, 1075 South Yukon Street, P.O. Box 26274-Belmar Branch, Lakewood, CO 80226.

Region 9: Ms. Martha Dixon, Director, San Francisco Support Office, U.S. Department of Energy, 1333 Broadway, Oakland, CA 94612.

Region 10: Ms. Kathy M. Vega, Director, Seattle Support Office, U.S. Department of Energy, 800 Fifth Avenue, suite 3950, Seattle, WA 98104.

SUPPLEMENTARY INFORMATION: DOE has identified the following broad areas as those in which it is most interested in receiving proposals from States: (1) Alternative Vehicle Fuels and Technologies; (2) Energy Efficient Electric Motors and Drives; (3) Municipal and Industrial Waste Minimization; (4) Renewable Energy Electric Technologies; (5) Building Energy Efficiency; and (6) proposals to host the national conferences for the following DOE State grant programs: Weatherization Assistance Program; State Energy Conservation Program; and Institutional Conservation Program. Other topics may be considered, e.g., strategies/approaches for incorporating renewable energy and energy efficiency technologies into Clean Air Act implementation plans. Prior to developing and submitting proposals in areas outside the enumerated categories, however, States should consult the DOE Support Office contacts listed above.

The first five areas of interest enumerated above have been chosen because: (1) RD&D results and technologies appear cost competitive and are ready for broader market penetration; (2) potential energy, environmental, and economic benefits exist; and (3) they represent areas in which States are in a unique position to undertake or broker demonstrations, outreach activities, or to overcome institutional and other barriers. The national conferences are a primary means of providing for training needs and for technology and information transfer between DOE and the States and among the States.

In addition DOE and the Environmental Protection Agency may jointly award matching grants to several States under the National Industrial competitiveness through Environment, Energy and Economics (NICE ^{3}) program. NICE ^{3} proposals are limited to those from large industrial States where industry is both energy-intensive and generates substantial amounts of waste.

Purpose

The primary purpose of the energy efficiency and renewable energy demonstration grants is to promote innovative or promising approaches, by States and others, to increase the market penetration of cost-effective technologies and practices in the areas outlined above and to provide a process whereby States may formally express interest and submit proposals for hosting of certain national program conferences.

Availability of Funds

Approximately $25 million may be available in FY 1992 and 1993 funds for new and renewal projects. Approximately 30 awards may be made. Awards, if any, will be based on a combination of DOE need and project merit within each category. In most instances, cost sharing, on at least a dollar for dollar basis will be required.

All projects submitted by the published deadline will be reviewed by December 31, 1992. Any awards, thereafter, will be on a schedule to be agreed to by DOE and the awardee. Budget and project periods may be negotiated to fit the needs of particular projects. Award may be by means of amendment to an existing grant or by separate grant or cooperative or joint venture agreement.

Eligible Applicants

States (as defined in statute and regulation governing the State Energy Conservation, Institutional Conservation, or Weatherization Assistance Programs) and entities which are agencies of States are eligible to apply. Applicants are encouraged, where appropriate, to propose cooperative projects or joint ventures in partnership with local government, private and non-profit sector organizations, and others.

Additional information, including program announcements and application format, on NICE [3] as well as the other, more general, categories in which DOE has expressed interest may be obtained from the Support Office contact listed above.

Evaluation Criteria

All proposals submitted under this Notice of Program Interest will be evaluated in accordance with 10 CFR 600.14. Selection will be based on criteria set forth in 10 CFR 600.14, including: overall merit, objectives and probability of achieving them, proposer's facilities, and qualifications of critical project personnel. In addition, proposals, other than those related to the hosting of national conferences, will be evaluated for their uniqueness or innovation of concept; replicability; funding or other resources either provided by the proposer or leveraged from non-governmental sources (proposers will be expected to provide at least 50 percent of a project's funding); and potential for increasing energy technology market penetration.

Review Process

The first tier evaluation will be at the Support Office level. Subsequent to first tier evaluation, proposals selected for further consideration may be reviewed, within each of the six categories, by representatives of the Deputy Assistant Secretaries for Technical and Financial Assistance, Building Technologies, Utility Technologies, Industrial Technologies, and/or Transportation Technologies. Final selection will be made by the Deputy Assistant Secretary for Technical and Financial Assistance.

After the first tier evaluation, NICE [3] proposals will be reviewed by a panel comprised of members representing DOE's Office of Conservation and Renewable Energy, the Environmental Protection Agency and the Department of Commerce.

DOE reserves the right to fund, in whole or in part, any, all, or none of the proposals submitted in response to this notice.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-2374 Filed 1-30-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF92-68-000]

Kimmon Quartz Ltd.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 24, 1992.

On January 17, 1992, Kimmon Quartz Ltd. (Applicant), of 785 Freeman Road, Hoffman Estates, Illinois 60195, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Fort Worth, Texas, and will include two cogeneration modules each with a synchronous generator. Thermal energy recovered from the facility will include uses such as space heating and cooling, and lighting. The electric power production capacity of the facility will be 550 Kw. The primary fuel will be natural gas. Construction of the facility will begin July 20, 1992.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such motions or protests must be filed within 30 days after the date of publication of this notice in the Federal Register and must be served on the Applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2326 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5192-002 California]

Lind and Associates; Availability of Environmental Assessment

January 24, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486. 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Upper Rock Creek Project, to be located on Upper Rock Creek in El Dorado County, near Placerville, California, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's office at

941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2325 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER92-64-000 and ER92-66-000]

Northeast Utilities Service Co. and Western Massachusetts Electric Co.; Filing

January 27, 1992.

Take notice that on January 21, 1992, Northeast Utilities Service Company and Western Massachusetts Electric Company tendered their responses to the deficiency letter issued in the above two dockets.

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 February 3, 1992. 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. 92-2323 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR92-3-000]

Sinclair Oil Corp v. Amoco Pipeline Co; Complaint

January 24, 1992.

Take notice that on January 3, 1992, pursuant to Section 13(1) of the Interstate Commerce Act (ICA) (49 U.S.C. 13(1) (1991) and rules 206 and 212 of the Rules of Practice and Procedure, Sinclair Oil Corporation (Sinclair) filed a complaint against Amoco Pipeline Company (APL) alleging that APL has engaged in unduly discriminatory and unreasonably preferential practices affecting the transportation service provided by APL to Sinclair.

Sinclair requests that the Commission institute an investigation into APL's refusal to respond to Sinclair's repeated requests for a pipeline interconnection and APL's practices and policy concerning the establishment of shipper interconnections. Sinclair asks that the Commission: (1) Require APL to file its connection policy with the Commission; (2) require APL to fully disclose all facts and circumstances surrounding its application of that policy to Sinclair and others; (3) consolidate this investigation with APL's rate proceeding currently pending in Docket No. IS90-30-000; (4) find that APL's denial of a pipeline interconnect to Sinclair is an unjust and unreasonable practice violative of Section 1(6) of the ICA, is unjustly preferential under section 3(1) of the ICA, and produces unduly discriminatory rates in violation of section 2 of the ICA; and (5) utilize such authority under the ICA as may be appropriate to remedy the foregoing unlawful actions of APL.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before February 24, 1992. 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. Answers to this complaint shall be due on or before February 24, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2324 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4098-7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5073 OR (202) 260-5075.

Availability of Environmental Impact Statements Filed January 20, 1992 Through January 24, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920021, Draft EIS, AFS, CA, North Fork Kern/South Fork Kern Wild and Scenic Rivers Management Plan, Implementation, Sequoia and Inyo National Forests, Tulare and Kern Counties, CA, Due: March 31, 1992, Contact: David M. Freeland (619) 376-3781.

EIS No. 920022, Draft EIS, AFS, CA, CASA-Guard Timber Sale, Implementation, Sequoia National Forest, Cannell Meadow Ranger District, Tulare and Kern Counties, CA, Due: March 16, 1992, Contact: Susan Porter (209) 784-1500.

EIS No. 920023, Draft EIS, AFS, CA, Cottonwood and Golf Timber Sales, Implementation, Timber Harvesting in the Breckenridge Compartment, Sequoia National Forest, Greenhorn Ranger District, Kern County, CA, Due: March 16, 1992, Contact: Linda Brett (209) 784-1500.

EIS No. 920024, Draft EIS, FRC, NB, Kingsley, Dam Project (FERC. No. 1417) and North Platte/Keystone Diversion Dam (FERC. No. 1835) Hydroelectric Project, Application for Licenses, Near the confluence of the North/South Platte, Keith, Lincoln, Garden, Dawson and Gasper Counties, NB, Due: March 31, 1992, Contact: S. Ronald McKitrick (202) 219-2783.

EIS No. 920025, Draft EIS, SFW, IA, Brushy Creek State Recreation Area (BCSRA) Dam and Lake Project, Implementation, Funding, NPDES Permit and Section 404 Permit, Des Moines River, Several Counties, IA, Due: March 17, 1992, Contact: David Pederson (612) 725-3596.

EIS No. 920026, Final EIS, FHW, WI, WI-TH 67/Oconomowoc Bypass Corridor Improvement and Relocation, Summit Avenue to existing WI-TH-67 near Lang Road, Funding and Section 404 Permit, City of Oconomowoc, Waukesha County, WI, Due: March 02, 1992, Contact: Robert W. Cooper (608) 264-5940.

EIS No. 920027, Final EIS, AFS, CA, WA, OR, Nothern Spotted Owl Management Plan in the National Forests, Implementation, CA, OR and WA, Due: March 02, 1992, Contact: Jerald N. Hutchins (503) 326-7460.

EIS No. 920028, Draft EIS, FHW, UT, UT-35/Utah Forest Highway 5 and Wolf Creek Road, Improvement, North Fork Provo River Bridge to Stockmore, Funding and Section 404 Permit, Duchesne, Wasatch and Summit Counties, UT, Due: March 16, 1992, Contact: William Bud (303) 236-3410.

EIS No. 920029, Final EIS, COE, CA, Hanson Dam Flood Control and Recreation Project, Construction, Operation, and Maintenance, San Gabriel Rivers, Los Angeles County, CA, Due: March 02, 1992, Contact: Ed Louie (213) 894-0240.

EIS No. 920030, Third Draft Supplem, UMT, CA, Los Angeles Metro Rail Rapid Transit Project, Updated Information and Change in the Designation of the Locally Preferred Alternative to the Pico/San Vincente Alternative, Stations at Olympic/Crenshaw and Pico/San Vicente, Funding, Los Angeles County, CA, Due: March 16, 1992, Contact: Ms. Portia Palmer (202) 366–0096.

Amended Notices

EIS No. 910429, Draft EIS, AFS, OR, Canyon Integrated Resource Project, Resource Management Plan, Implementation, Siskiyou National Forest, Illinois Valley Ranger District, Josephine County, OR, Due: February 11, 1992, Contact: William J. Gasow (503) 479–5301. Published FR—01-31-92 Review period extended.

EIS No. 920011, Draft EIS, BLM, WY, West Rocky Butte (WRB) Track Coal Lease Application (WYW122586) combined with the existing Rocky Butte Tract (WYW78633) Logical Mining Unit (LMU) Mine Leasing and Land Acquisition, Powder River Basin, Campbell County, WY, Due: March 16, 1992, Contact: Roger Wickstrom (307) 775–6106. Published FR 01–17–92—Title Correction and Telephone.

Dated: January 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–2385 Filed 1–30–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4098–8]

Environmental Impact Statements and Regulations: Availability of EPA Comments

Availability of EPA comments prepared January 13, 1992 Through January 17, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D–AFS–J65184–UT Rating EC2, Uinta National Forest Plan Amendment, Rangeland Ecosystem Management Plan, Implementation, Utah-Wasatch, Utah, Toole and Juab Counties, UT.

Summary: EPA believes additional discussion on why the alternative for management of vegetative communities was eliminated from detailed analysis is needed.

ERP No. D–AFS–J65186–MT Rating Lo1, Bent Flat Timber Sale, Timber Harvest, Road Construction/Reconstruction, Implementation, Flathead National Forest, Spotted Bear Range District, Flathead County, MT.

Summary: EPA has no objections to the Flathead National Forest's preferred alternative.

ERP No. D–NOA–L90023–WA Rating EC2, Olympic Coast National Marine Sanctuary, Management Plan, Site Designation, NPDES Permit and COE Permit, Olympic Peninsula, WA.

Summary: EPA expressed environmental concerns based on the potential for adverse effects from unregulated commercial vessel traffic and bombing practices at Sealion rock. EPA is providing information on EPA's regulatory authority to help the National Oceanic and Atmospheric Administration (NOAA) clarify some of their discussion on ocean dumping. Additional information is needed to describe the decision process for hydrocarbon activities and the trophic relationships of the marine biota described in the Environmental Setting Discussion.

ERP No. DS–AFS–J67009–MT Rating EC2, Montanore Mine/Mill Project, Construction and Operation, Additional Information and Modifications, Permit Approval, section 404 Permit, Special Use Permit, Kootenia National Forest, Lincoln and Sanders Counties, MT.

Summary: EPA appreciates the Forest Service's efforts to address the major environmental issues associated with the Montanore project and looks forward to working through remaining air and water quality concerns with the Service.

Final EISs

ERP No. F–MMS–A02233–00 1992 Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Sales 139 and 141. Lease Offering.

Summary: EPA objects to proposed unrestricted leasing without inclusion of protective environmental stipulations. EPA is encouraged by the effort that MMS has undertaken to conduct air quality monitoring and ozone modelling studies. EPA will formally request comments on new information pertaining the Gulf of Mexico's NPSDES general permit.

EPR No. F–VAD–L99002–WA Seattle-Tacoma Area National Cemetery Construction Alternative Site Selection, Illahee Site in Kitsap County, Sultan site in Snohomish County and Seatac and Tacoma Sites in King County, WA.

Summary: EPA believes that the issues were adequately addressed.

Other

ERP No. S–DOD–A10063–00, Proposed Action to Conduct Research and Development Activities Which Would Give the United States the Capability to Produce and Deploy an Integrated, Comprehensive Theater Missile Theater (TMD) (56 FR 56634).

Summary: EPA reviewed the Notice of Intent and provided generic comments to the Department of Defense.

Dated: January 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–2386 Filed 1–30–92; 8:45 am]

BILLING CODE 6565–50–M

[OPP–00316; FRL–4045–5]

FIFRA Scientific Advisory Panel Subpanel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Subpanel to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an experimental use permit (EUP) for field testing of a cotton plant that has been genetically engineered to express an insecticidal *Bacillus thuringiensis* delta endotoxin. There will also be an oral informational presentation by Dr. George Hallberg (Iowa Department of Natural Resources, Geological Bureau), co-ordinator of the FIFRA Scientific Advisory Panel Subpanel, on the National Survey of Pesticides in Drinking Water Wells. Dr. Hallberg will summarize the Subpanel's findings/review of the Agency's National Pesticide Survey Phase II Report released January 9, 1992. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, February 25, 1992, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at: Crystal Mall Building Number 2, Fishbowl Conference Room, 1921 Jefferson Davis Highway, Arlington, VA, 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (H7509C), Office of Pesticide Programs, U.S. Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 821C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369/5244.

Copies of documents relating to this review process for the EUP may be obtained by contacting: By mail: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6434.

SUPPLEMENTARY INFORMATION: The Subpanel is to meet in order to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an EUP to allow the field testing of several forms of the *Bacillus thuringiensis* var. *kurstaki* (B.t.k.) insect control protein as expressed in cotton. Monsanto is requesting larger scale testing in order to further evaluate the performance of the expressed proteins against lepidopteran pests in the various geographical areas in which cotton is commercially produced. Five different experiments are proposed: Economic Threshold Evaluations, Gene Evaluations, Population Dynamics and Threshold Treatment Determinations.

The Subpanel will be chaired by Dr. Edward Bresnick, a member of the SAP. The members of the Subpanel are: Dr. Glenn Galau, University of Georgia; Dr. Kathleen Keeler, University of Nebraska - Lincoln; Dr. George Kennedy, North Carolina State University; Dr. William McCarthy, Penn State University; and Dr. Rick Wetzier, Tufts University.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Subpanel's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice to the Designated Federal Official, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Subpanel, but oral statements before the Subpanel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in room 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Subpanel.

Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit ten copies of a summary no later than February 10, 1992, in order to ensure appropriate consideration by the Subpanel.

Inquiries concerning the availability of copies of the National Pesticide Survey Phase II Report should be directed to the National Technical Information Service (NTIS), telephone 1–800–336–4700, or write to NTIS, Order Desk, 5285 Port Royal Road, Springfield, VA 22161. Request the *National Pesticide Survey Phase II Report*, EPA 570/09–91–020, PB 92–120831. Questions about the survey may be directed to the Safe Drinking Water Hotline at 1–800–426–4791 from 8:30 a.m. to 4:30 p.m., Monday through Friday, except federal holidays.

Copies of the Subpanel's report of their recommendations will be available 5–10 working days after the meeting and may be obtained by contacting the Public Response and Program Resources Branch at the address or telephone number given above.

Dated: January 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc 92–2368 Filed 1–30–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30000/29C; 4010–9]

Inorganic Arsenicals; Extension of the Comment Period for Preliminary Determination to Cancel Registration of Pesticide Products Containing Inorganic Arsenicals Registered for Non-Wood Preservative Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On October 7, 1991, EPA issued a preliminary determination to cancel the registration of arsenic acid, which is used as a desiccant on cotton. In response to several requests, EPA is reopening the comment period, which expired December 6, 1991, and extending the deadline to submit comments to June 5, 1992.

DATES: Written comments, identified by the document control number 30000/29B, must be received by EPA on or before June 5, 1992.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone number (703) 305–5805.

Information submitted in any comment concerning this Notice may be claimed confidential by marking any part or all of that information "Confidential Business Information" (CBI). Information so marked will not be disclosed to the public except in accordance with the procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked CBI may be disclosed to the public by the EPA without prior notice to the submitter. The inorganic arsenicals public docket, which contains all the non-CBI written comments and the corresponding index, will be available for public inspection and photocopying in room 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Lisa Engstrom, Special Review Branch (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 2N6, Westfield Building, 2800 Crystal Drive, Arlington, VA (703) 308–8031.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 7, 1991 (56 FR 50576), EPA issued a proposed decision to cancel the registration of arsenic acid. That document allowed a 60–day comment period, to close on December 6, 1991. Arsenic acid is used as a desiccant on cotton in parts of Texas and Oklahoma. EPA based its proposed decision on cancer risks to workers exposed to arsenic acid estimated to be as high as 2×10^{-2}.

Several organizations which represent cotton producers in the affected areas, most notably the National Cotton Council of America and the Texas Farm

Bureau, requested additional time to develop data needed to address specific information gaps noted in the October 7, 1991 proposed decision. In addition to compiling information and data, the organizations noted that during the 6–month extension they would be developing an exposure mitigation program. They assert, and EPA agrees, that risk to workers during the extended comment period would be negligible since concerns associated with arsenic acid exposure occur with long term exposure to arsenic acid. Other groups have pointed out that the comment period occurred during the cotton harvest season in the affected areas. Thus, growers were not in a position to provide timely comments.

The October 6, 1991 proposed decision invited commenters to submit information to assist EPA in developing risk and benefit analyses. EPA believes the proponents of the extension are likely to be those in the best position to supply this information. Thus, EPA is granting a 6–month extension of the comment period for the Inorganic Arsenic Preliminary Determination, which will now close June 5, 1992.

Dated: January 21, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92–2279 Filed 1–30–92; 8:45 am]
BILLING CODE 6560–50–F

[OPPTS–62115; FRL–4046–6]

Model Worker Training Course for Lead Abatement Professionals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for preproposals.

SUMMARY: As a part of the development and implementation of a national accreditation plan for lead abatement professionals, EPA is sponsoring the development of role-specific model training courses. Despite ongoing lead abatement activities in many States, few have lead training programs. EPA is concerned about safety issues surrounding untrained workers involved in lead abatement activity, which includes potentially adverse effects on abatement workers and residents, especially young children. Thus it is crucial that quality training becomes available without delay. EPA is responding to this need by developing model training materials, of which the Model Worker Training Course is a component. The model course will then be distributed to labor training organizations and other training entities such as the Regional Lead Training Centers in an effort to assure course quality and availability. This notice describes the eligibility and criteria for the selection of preproposals for model course development.

DATES: All preproposals must be submitted to EPA by February 28, 1992.

ADDRESSES: Preproposals should be sent to the following address: John Heisler (TS–799), Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Heisler at the address listed under the ADDRESSES unit or by telephone at (202) 260–7269.

SUPPLEMENTARY INFORMATION: The FY 1992 House Appropriations language mandates EPA to administer the development of a model worker training course for lead abatement workers. The purpose of this notice is to announce the availability of funds for the development of a worker training course. A cooperative agreement will be formed between EPA and a nonprofit organization, familiar with lead-based paint abatement activities, that can demonstrate experience in the development and delivery of hands-on training programs for workers engaged in lead-based paint abatement activities.

Any nonprofit organization which is not an agency of a State or local government is eligible to apply. For the purposes of eligibility for this cooperative agreement, State or local governments do not include State or local government supported institutions of higher education.

I. Administrative Requirements

The award recipient who develops curricula and/or educational materials with award funds will provide copies of these materials to EPA by the end of the project period.

The award program will be administered in compliance with 41 CFR parts 29–70 and OMB Circulars A–110, A–133 and A–21 or A–122. All applicants will be required to certify to a drug-free workplace in accordance with 20 CFR part 98 and to comply with the New Restrictions on Lobbying published at 29 CFR part 93.

The award is subject to matching share requirements. The recipient is responsible for providing a matching share of 5 percent.

II. Evaluation Process and Criteria

Preproposals submitted for the cooperative agreement solicited in this notice will be evaluated on a competitive basis by EPA staff. The following factors, which are not listed in the order of importance, will be considered in the evaluations of the preproposals.

A. Program Design

The course should be approximately 3 days long, focusing on teaching abatement workers the fundamentals of protecting themselves and the residents from lead exposure hazards associated with abatement. The course should effectively convey the seriousness of the health hazards associated with lead exposures. The abatement techniques and the importance of careful cleanup and personal protection should be stressed.

Considering the variable levels of education associated with the worker population, the curriculum should not be exclusively based on lecture material, it should strive to hold the interest of the students. It is imperative that the safety message is effectively presented, so the course should be based on a multimedia format such as videos, hands-on experience and site visits. The curriculum should be flexible enough to effectively train students with limited educational experience. Multi or bilingual editions of course materials and presentations may also be considered in developing a curriculum.

B. Program Experience

The applicant must include the following information on the organization:

a. Experience with lead-related issues with an emphasis on lead-based paint.

b. Experience with the development of adult education courses with emphasis on training individuals with limited educational experience.

c. Experience with providing hands-on training.

d. A summary of any lead-related courses already being taught and a description of the materials being used to teach those courses.

e. Qualifications of key personnel.

C. Budget

A detailed budget should be included that will describe the amount of money used in all aspects of course development, in addition to the amount that is to be the non-Federal share.

III. Application Procedures and Notification of Selection

Preproposals are due by February 28, 1992. Preproposals should be approximately 10 pages in length. Notice of selection as a possible award recipient will not constitute approval of the final proposal as submitted. Prior to the actual awarding of the cooperative agreement, representatives of the potential recipient and EPA will begin negotiations concerning various components of the program, such as funding levels and course materials. The project budget is anticipated to be approximately $120,000. All preproposals must be received no later than 4:30 p.m., on February 28, 1992.

Dated: January 27, 1992.

Joseph A. Cara,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-2369 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4099-2]

Bayou Aux Carpes Site, LA; Superfund; Response and Remedial Actions, Proposed Settlements, etc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of request for amendment of section 404(c) determination and request for comment.

SUMMARY: Notice is hereby given that Shell Pipe Line Corporation (Shell) has petitioned the Environmental Protection Agency (EPA) for reconsideration of exceptions identified in EPA's October 16, 1985 Final Determination concerning the Bayou Aux Carpes site in Jefferson Parish, Louisiana pursuant to section 404(c) of the Clean Water Act. Shell has requested this amendment in order to (1) temporarily discharge dredged or fill material associated with performing emergency work on an existing pipeline located in (underneath) the restricted section 404(c) area; and (2) except from the Bayou Aux Carpes section 404(c) restriction future discharges associated with routine operation and maintenance of this pipeline.

EPA is requesting comments on Shell's proposal for reconsideration of exceptions. In particular, EPA is interested in determining whether the proposed pipe relocation procedure or the proposed routine operation and maintenance activities on the pipeline will result in unacceptable adverse effects under section 404(c). In addition, EPA is interested in determining whether activities proposed by Shell are comparable in terms of potential impacts to those currently excepted in the October 16, 1985 Bayou Aux Carpes Final Determination.

DATES: Written comments concerning this request for amendment must be submitted to EPA on or before February 18, 1992.

ADDRESSES: Copies of the request and supporting documentation are available for public inspection upon request at the following location: U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds, Wetlands Division, 499 South Capitol Street, SW., Fairchild Building, room 723, Washington, DC 20009.

Comments must be submitted in writing to: William S. Garvey, Chief, Elevated Cases Section, Mail Code (A-104F), U.S. EPA, 401 M Street SW., Washington, DC 20460. Written comments may also be sent by facsimile to Mr. Garvey at (202) 260-7546.

FOR FURTHER INFORMATION CONTACT: Specific details are available from Mr. Joseph P. DaVia (EPA) at (202) 260-1602.

SUPPLEMENTARY INFORMATION: On December 18, 1991, Shell Pipe Line Corporation (Shell) formally applied to the U.S. Environmental Protection Agency (EPA) for reconsideration of the October 16, 1985 Final Determination of the U.S. Environmental Protection Agency's Assistant Administrator for External Affairs concerning the Bayou Aux Carpes site in Jefferson Parish, Louisiana pursuant to section 404(c) of the Clean Water Act. Additional information supporting this request was received by EPA Headquarters on January 17, 1992 and January 21, 1992. Specifically, Shell has requested permission to temporarily discharge dredged or fill material associated with performing work to relocate an existing pipeline in the section 404(c) restricted Bayou Aux Carpes site. A vertical relocation of this pipeline is necessary to allow completion of a Federal hurricane protection levee adjacent to the section 404(c) restricted area. In addition, Shell has further requested in a January 10, 1992 letter to EPA to except from its section 404(c) restriction future discharges associated with routine operation and maintenance of this Shell pipeline located in the section 404(c) restricted site.

The October 16, 1985 Bayou Aux Carpes Final Determination restricts the use of the Bayou Aux Carpes site for any discharges of dredged or fill material, including those associated with the original Harvey Canal-Bayou Barataria Levee Project. However, this restriction specifically excepts: (1) Discharges necessary for completion of the modified Harvey Canal-Bayou Barataria Levee Project, as described in the Wilson Order of November 16, 1976 (replacement of the closure at the confluence of Bayou Aux Carpes and Bayou Barataria with floodgates is a necessary element of such completion); (2) discharges associated with the routine operation and maintenance of the Southern Natural Gas Pipeline Company pipeline as long as dredged or fill material is placed in piles with breaks in between to allow inundation of adjacent wetlands and as long as pre-maintenance contours are restored and; (3) discharges associated with projects with the sole purpose of habitat enhancement specifically approved by EPA. Discharges associated with these three classes of activities may take place provided they are authorized by a Corps of Engineers section 404 permit.

The Bayou Aux Carpes Final Determination states that based on the current record, only the three specifically identified exceptions to the section 404(c) restriction are justified. The Final Determination also states that should the landowners in the future identify any other specific activities which would require some discharge or dredged or fill material and which would have only minor impacts, they may, of course, apply to EPA for reconsideration of the October 16, 1985 decision with respect to those particular activities.

Currently, Shell has in place a temporary six inch by-pass pipeline which does not impact the section 404(c) restricted area. Shell has stated that, due to unstable soil conditions, this pipeline configuration is not practicable as a permanent replacement for the existing ten inch pipeline. Shell has stated that they are presented with an emergency situation because the existing temporary by-pass pipeline joints have repeatedly failed and accidental releases of gaseous raw mix have occurred.

Proposed Activities

Shell has provided documentation to EPA with the following description of the proposed pipeline relocation activity. The preferred technique is to vertically relocate the pipeline by directional drilling under both the canal and levee (horizontal drilling underneath the canal and levee). The general pipeline alignment will not change; however, the depth at which the pipe is buried will increase. Directionally controlled horizontal drilling is a "trenchless" construction method used for the installation of buried pipelines. Excavation from the surface is not required when this

method is utilized except to open a small temporary trench to facilitate drill entry and final fitting of pipe joints.

The existing Shell pipeline traverses under the Westwego-Harvey Canal Westbank Hurricane Protection Levee (V-levee) in an east-west direction, into and through the section 404(c) restricted area. For the proposed V-levee replacement crossing, the horizontal drilling rig would be positioned on the east end of the drilled segment approximately 100 feet into the Bayou Aux Carpes section 404(c) area. A pilot hole would be drilled and reamed under the levee and canal to an exit point outside of the restricted section 404(c) area. When the drill penetrates the surface at the exit point opposite the horizontal drill rig, the pilot hole is complete. Enlarging the pilot hole is accomplished using either pre-reaming passes prior to pipe pull back or simultaneously during pull back. Drilling fluid (mud) would be used in pilot hole drilling and ream and pull back operations. The primary component of the drilling fluid would be fresh water existing at the site. If the subsurface materials encountered consist chiefly of sands and silt, Shell proposes to add bentonite to the water to increase its viscosity, stabilize the drilled hole and provide lubrication during pull back. Shell expects that less than 20 cubic yards of dry bulk bentonite would be required for subject installation. This amount would be reduced if clay is present in the subsurface. Fluid returning to the rig location would be contained and reused. Pipe fabrication will take place on the existing right of way to the west of the drilled segment outside of the section 404(c) area. The drilled segment will be designed to provide a minimum of five feet of cover beneath the borrow canal adjacent to the newly constructed hurricane protection levee. A new six inch temporary by-pass pipeline would be placed across the surface of the section 404(c) restricted area and extend to the westerly end of the project to allow the pipeline to remain in service during the work.

Trenched excavation would be required for the installation of six inch stopple fittings for a new temporary by-pass pipeline, 10 inch stopple fittings for the permanent pipeline, and working space to tie-in the existing 10 inch pipeline with the new 10 inch drilled crossing pipe. The dimensions of the open trenched excavation area on a worst case basis would measure 10 feet wide, 150 feet long, and 5 feet in depth. Spoil material from each excavation would be temporarily placed adjacent to the excavation until completion of the drilled crossing when the spoil would be returned to the trench. Total volume of excavated material would be approximately 300 cubic yards, which includes excavation of the drilling fluid return pit. This return pit would measure approximately 10 feet x 10 feet x 5 feet (depth). Shell equipment and materials onsite would include: Drill rig, control van, power skid, rig ramp, crane, mud tank, mud pump, and drill pipe storage. The drilling rig and related equipment would be supported on timber mats covering an area approximately 50 feet wide and 100 feet in length. Access to the drill site would be across a timber plank road running from the levee to the drill site. The plank road would be approximately 25 feet wide and 120 feet long.

The total surface impact to the section 404(c) restricted area for all proposed activities as described above, would be confined to an area 75 feet wide and 250 feet in length, or approximately 0.43 acres.

Upon completion of the proposed drilling project, the equipment and timber mat would be removed from the site. All excess drilling fluid remaining at the drilling rig location would be recovered and disposed of at an appropriate location outside of the section 404(c) restricted area. All excavated material would be returned and the impacted area restored to pre-project conditions. If necessary, organic materials from the borrow canal would be used to return the impacted area to pre-project elevations. Shell estimates that drilling operations would be completed in one week from start up time, with an additional one week for cleanup and site restoration. Upon approval of the requested amendment from EPA and authorization by the Corps of Engineers, and in accordance with other applicable regulations, Shell would commence work immediately.

In addition to the proposed pipeline relocation as described above, Shell further requests reconsideration of the Bayou Aux Carpes Final Determination by having EPA except from its section 404(c) restrictions future discharges associated with routine operation and maintenance of Shell's Ysclosky-Norco 10 inch products pipeline as long as dredged or fill material is placed in piles with breaks in between to allow inundation of adjacent wetlands and as long as pre-maintenance contours are restored. This second request is identical to the exception described in the October 16, 1985 Bayou Aux Carpes Final Determination for routine operation and maintenance activities of the existing Southern Natural Gas Pipeline Company's pipeline located within the area restricted by EPA's action under section 404(c).

EPA believes that a 15 day public comment period is appropriate for this action due to potential public safety concerns associated with technical complications that Shell has experienced. To date, Shell has experienced problems with the existing six inch temporary by-pass pipeline including failure of pipeline joints and subsequent minor accidental release of gaseous raw mix.

Dated: January 24, 1992.

Robert H. Wayland,

Director, Office of Wetlands, Oceans, and Watersheds.

[FR Doc. 92-2370 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

January 23, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contract Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0457.

Title: Amendment of part 22 of the Commission's Rules to Establish Standards for Conducting Comparative Cellular Renewal Proceedings (Report and Order, CC Docket No. 90-358).

Action: Revised collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 90 responses; 3.44 hours average burden per response; 310 hours total annual burden.

Needs and Uses: The Commission through a notice of proposed rulemaking

(NPRM) released 9/19/90 solicited public comment to establish the standards for conducting comparative renewal proceedings between an applicant seeking renewal of its license in the Domestic Public Cellular Radio Telecommunications Service and challengers filing competing applications. Twenty-eight parties filed comments in response to the NPRM and nineteen parties filed reply comments. The majority of the commentors supported most of the tentative conclusions. With certain modifications, the attached Report and Order adopts all of the tentative conclusions, except the proposal for a bifurcated renewal hearing procedure. The Commission decided to adopt a rebuttable presumption of a renewal expectancy preference to those renewal applicants who demonstrate a *prima facie* case under the standards set forth in the attached rules. The information is used by FCC staff to conduct comparative renewal proceedings for preventing possible abuses by speculative applicants who might file competing applications against renewal applications solely to extract payments from the existing licenses. With these rules we intend to deter the filing of speculative applications by thinly or non-capitalized entities having little interest in providing cellular service and maximize the utilization of the Commission's resources.

OMB Number: 3060–0095.

Title: Annual Employment Report—Cable Television.

Form Number: FCC Form 395–A/395–AS.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Annually.

Estimated Annual Burden: 2,605 responses; 1.52 hours average burden per response; 3,960 hours total annual burden.

Needs and Uses: The Annual Employment Report—Cable Television (FCC Form 395–A) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color and/or national origin in nine major job categories. Every cable entity with 6 or more employees and all Satellite Master Antenna Television Systems serving 50 or more subscribers and having 6 or more employees must file annually a full FCC Form 395–A. However, cable entities with 5 or fewer employees must only file sections I, II and VII of the FCC Form 395–A and thereafter need not file again unless its employment increases. In addition, cable entities with 6 or more employees will file a Supplemental Investigation Sheet (FCC Form 395–AS) once every 5 years. The data is used by FCC staff to monitor a cable unit's efforts to afford equal employment opportunity in employment. The data is also used to assess industry trends.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–2308 Filed 1–30–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting.

Name: Mine Health Research Advisory Committee (MHRAC).

Times and Dates: 9 a.m.–5 p.m., February 19, 1992. 9 a.m.–12 noon, February 20, 1992.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research. Additionally, the Committee assesses mine health research needs and advises on the conduct of mine health research.

Matters to be Discussed: The agenda will include the NIOSH Director's remarks and charge to the Committee; an overview of NIOSH mining-related research; a report from the MHRAC Planning Subcommittee; the current status of the National Occupational Health Survey—Mining; and a summary of current NIOSH musculoskeletal disorder research. Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Betty H. Dryden, Committee Management Specialist, Office of the Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D–28, Atlanta, Georgia 30333, telephone 4040/639–1530 or FTS 236–1530.

Dated: January 23, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–2337 Filed 1–30–92; 8:45 am]

BILLING CODE 4160–18–M

Centers for Disease Control

National Institute for Occupational Safety and Health; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: "Frontline Health-Care Workers: A National Conference of Device-Mediated Bloodborne Infections," sponsored by CDC, the Food and Drug Administration, and the Occupational Safety and Health Administration.

Times and Dates: 8 a.m.–6 p.m., August 17–18, 1992. 8:30 a.m.–3:30 p.m., August 19, 1992.

Place: Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: The purposes of this meeting are:

- To focus attention on sharps injuries and performance safety of medical devices and instruments.
- To bring together device manufacturers and users/purchasers to facilitate understanding of needs and interventions pertaining to device-mediated infections.
- To facilitate private sector initiatives for technology advancement, including the development of infection prevention devices and strategies.

Contract Person for Additional Information: Laura Timperio, PACE Enterprises, Inc., 17 Executive Park Drive, NE, Suite 200, Atlanta, Georgia 30329, telephone 404/633–8610 or Fax 404/633–8745.

Dated: January 27, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–2338 Filed 1–30–92; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long Term Care Statistics: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

Federal Register Citation of Previous Announcement: 57 FR 1747, January 15, 1992.

Previously Announced Time and Date: 10 a.m.–4:30 p.m., February 4, 1992.

Change in the Meeting: This meeting has been cancelled.

Contact Person for More Information: Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, National Center for Health Statistics, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: January 28, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-2458 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Commission on Childhood Vaccines

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC; or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443-6593.

Dated: January 27, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-2340 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following request have been submitted to OMB since the list was last published on Friday, January 10, 1992.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Evaluation of Health Promotion Activities in Southern Rural Communities—New—Public and private organizations are developing and implementing community health promotion programs (CHPS) in the rural south. Little is known about the implementation process in communities with few resources. The role played by community health centers and other primary care-providers who serve low-income populations will be evaluated. Respondents: Individuals or households; State or local governments; Non-profit institutions.

	Number of respondents	Number of responses per respondent	Average burden per response
In-person interviews with program staff	100	1	1 hr.
Telephone interviews with key community leaders	120	1	.5 hr.

Estimated Total Annual Burden—160 hours.

2. Grantee Reporting Requirements for the Ryan White Comprehensive AIDS Resources and Emergency Act of 1990 Title III, part B—new—section 2664 of the Ryan White CARE Act requires reporting on the number of individuals to whom the grantee provides early intervention services pursuant to the grant, epidemiological and demographic data on the population of such individuals, the average cost of providing each category of early intervention services, and the aggregate amounts expended for each category. Respondents: State or local governments; Non-profit institutions; Number of Respondents: 120; Number of Responses per Respondent: 2; Average Burden per Response: 28 hours; Estimated Annual Burden: 6,720 hours.

3. Follow-up of Tuberculosis Patients Exposed to Multiple Chest Fluoroscopies—New—Former tuberculosis patients who were irradiated during their treatment will be asked to respond to a telephone questionnaire which assesses information about cancer and its risk factors, in order to estimate radiation risks. This is the fourth follow-up of patients hospitalized for tuberculosis between 1930 and 1954. Respondents: Individuals or households; Number of Respondents: 3,500; Number of Responses per Respondent: 1; Average Burden per Response: .167 hours.; Estimated Annual Burden: 585 hours.

OMB Desk Officer: Shannah Koss-McCallum

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC. 20503.

Dated: January 17, 1992.

Sandra K. Mahkorn,

Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 92-1887 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3384]

Submission of Proposed Information Collection to OMB Forms Required for the Comprehensive Grant Program

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

ACTION: Notice.

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 proposal. Comments should refer to the proposal by name and should be sent to:

Jennie Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

David Cristy, Reports Management Officer, Department of HUD, 451 Seventh Street, SW, room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4176, Washington, DC 20410, telephone (202) 708–0050. This is not a toll–free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing, an information collection package with respect to the forms required for the Comprehensive Grant Program (CGP). The CGP was authorized by section 14 of the U.S. Housing Act of 1937, as amended by section 119 of the Housing and Community Development (HCD) Act of 1987 and section 509 of the Cranston-Gonzales National Affordable Housing Act (NAHA). It is also requested that OMB complete its review within seven days.

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);

(1) *Title of the information collection proposal:* Forms Required for the Comprehensive Grant Program.

(2) *Office of the agency to collect the information:* Office of the Assistant Secretary for Public and Indian Housing.

(3) *Description of the need for the information and its proposed use:* The data that will be collected on the forms is necessary for HUD to determine that a PHA/IHA has complied with applicable statutory and regulatory requirements relative to planning, implementing, and monitoring the CGP. HUD will use the information to approve a PHA's/IHA's Comprehensive Plan, reserve its formula share of the national allocation for the CGP, and to monitor its performance.

(4) *Agency form numbers:* Form HUD–52831; Form HUD–52832; Form HUD–52833; Form HUD–52834; Form HUD–52835; Form HUD–52836; Form HUD–52837; Form HUD–52839; Form HUD–52840; Form HUD–52842.

(5) *Members of the public who will be affected by the proposal:* Public and Indian Housing Authorities.

(6) *How frequently information submissions will be required:* Varies.

(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:* See the enclosed charts.

(8) *Type of request:* New.

(9) *The names and telephone numbers of an agency official familiar with the proposal:* Janice D. Rattley, Office of Public and Indian Housing, (202) 708–1800.

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: January 23, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Forms Required for the Comprehensive Grant Program.

Office: Office of Public and Indian Housing.

Description of the need for the information and its proposed use: This new information collection is required by the Comprehensive Grant Program which will be implemented for PHAs/IHAs with 500 units or more in FY 1992 and for PHAs/IHAs with 250 or more units beginning in FY 1993. The information is necessary to determine that a PHA/IHA has complied with applicable statutory and regulatory requirements relative to planning, implementing, and monitoring the CGP. HUD will use the information to approve a PHA's/IHA's Comprehensive Plan, reserve its formula share of the national allocation for the CGP, and to monitor its performance.

Form Numbers: Form HUD–52831; Form HUD–52832; Form HUD–52833; Form HUD–52834; Form HUD–52835; Form HUD–52836; Form HUD–52837; Form HUD–52839; Form HUD–52840 Form HUD–52842;

Respondents: Public and Indian Housing Authorities;

Frequency of submission: The first two years of the Comprehensive Grant Program will be an anomaly because a PHA/IHA is required to submit a Comprehensive Plan in its first year of participation in the program and HUD will phase in two groups. (i.e. PHAs/IHAs over 500 units in FY 1992 and PHAs/IHAs 250–499 units in FY 1993). This submission requires the PHA/IHA to thoroughly analyze all physical and management needs which necessitates burden hours and paperwork requirements that will not be required on an annual basis. Refer to the enclosed charts for specific details.

Total Estimated Burden Hours—1st Year—188,237.5

Total Estimated Burden Hours—2nd Year—177,277

Total Estimated Burden Hours—3rd Year—53,352

Status: New.

Contact: Janice D. Rattley; HUD (202) 708–1800, Jennie Main, OMB (202) 395–6880.

Date: January 23, 1992.

Supporting Statement for Request for OMB Approval of Forms Required for the Comprehensive Grant Program

A. Justification

1. Section 14 of the U.S. Housing Act of 1937, as amended by Section 119 of the Housing and Community Development (HCD) Act of 1987 established the Comprehensive Grant Program (CGP), which provides for the allocation of modernization funds to larger Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) on the basis of a formula. Section 509 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) established the formula allocation methodology for the program.

Beginning in FY 1992, PHAs/IHAs that own or operate 500 or more dwelling units will participate in the CGP. Beginning in FY 1993, PHAs/IHAs that own or operate 250 or more dwelling units will participate in the CGP. PHAs/IHAs below the threshold for participation in the CGP will remain in the competitive Comprehensive Improvement Assistance Program (CIAP).

The Department of Housing and Urban Development (HUD) published a proposed rule on the CGP in the **Federal Register** on April 26, 1991, and a final rule was transmitted to the Office of Management and Budget on December 24, 1991.

The enclosed draft forms reflect the information collection requirements set forth in the final rule. These forms will be included as appendices in a CGP Handbook that provides instructions, guidance and processing procedures for implementing the program. We are in the process of finalizing the Handbook and would greatly appreciate expedited clearance of the forms to allow us time to complete the Handbook for a series of

ten training sessions that begin the week of February 3, 1992.

The forms are consistent with the requirements of the HCD Act of 1987 and the NAHA. The forms for which we are requesting expedited clearance are as follows:

a. Form HUD–52831—Executive Summary of Preliminary Estimated Costs—This form will be prepared as part of the submission of the original Comprehensive Plan and every sixth year thereafter when the Plan is updated. This form summarizes the estimated cost for physical improvements at each of the PHA's/IHA's developments, for improving the PHA's/IHA's management operations, for providing for nondwelling structures and equipment, and administrative and other costs. This form provides a summary of the cost of the overall needs of the PHA/IHA and allows for a quick comparison of cost among developments.

b. Form HUD–52832—Physical Needs Assessment—This form will be submitted as part of the submission of the original Comprehensive Plan, every sixth year thereafter when the Plan is updated, and/or when the needs identified therein change significantly. This form will provide a description of all unfunded physical improvement needs at each of the PHA/IHA developments and the estimated cost. The physical improvement will be described in broad work categories, e.g., kitchens, bathroom, etc. and the PHA will provide a total preliminary estimated cost for each development. The form will also provide the PHA's/IHA's assessment of the development's viability.

c. Form HUD–52833—Management Needs Assessment—This form will be submitted as part of the submission of the original Comprehensive Plan, every sixth year thereafter when the Plan is updated, and/or when the needs identified therein change significantly. This form will identify all unfunded management improvements needed to upgrade the management and operation of the PHA/IHA, either PHA/IHA-wide or by specific development, and the estimated cost. The management improvements will be described in broad categories, e.g., rent collection, security, etc. and the PHA will provide a preliminary estimated PHA/IHA-wide cost for each broad category.

d. Form HUD–52834—Five Year Action Plan—This form will be submitted as part of the submission of the original Comprehensive Plan. This form has a rolling base, i.e., an updated form will be submitted annually that eliminates the activities in year one (which were chosen by the PHA/IHA to be funded the previous year) and adds a new fifth year. This form delineates the physical and management improvements identified in the Needs Assessments (Form HUD–52832 and Form HUD–52833) that the PHA intends to fund over a five-year period and the estimated cost. The improvements that will be funded in each of the five years will be described in broad work categories, e.g., kitchens, bathrooms, security, etc., with an estimated cost for each broad work category.

e. Form HUD–52835—Local Government Statement—This form will be submitted as part of the submission of the original Comprehensive Plan and thereafter submitted annually with the Annual Statement. This form provides certification by the local government relative to resident consultation, consistency with its low-income housing needs and coordination of drug elimination activities.

f. Form HUD–52836—PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement—This form will be submitted as part of the submission of the original Comprehensive Plan and thereafter submitted annually. This form provides certification by the governing body of the PHA/IHA, i.e., the Board of Commissioners, relative to compliance with statutory and regulatory requirements, and HUD policies and procedures.

g. Form HUD–52837, Annual Statement/Performance and Evaluation Report—(a combined form)

(1) This form will be submitted annually prior to the reservation of funds to describe the activities that the PHA/IHA plans to undertake with the current year's funds, and on an as needed basis when major changes require that the Annual Statement be amended. This form will provide a detailed description of the proposed physical and/or management improvement items, e.g., replace kitchen cabinets, repair bathroom floors, provide training to resident security force, and the estimated cost of each item for developments that will be funded for modernization work.

(2) This form will be submitted annually after the end of the program year to report on the PHA/IHA's actual progress in implementing the annual grant. This form will provide the cumulative amount of the funds obligated and expended on an annual basis until all funds have been expended.

h. Form HUD 52839—Actual Comprehensive Grant Cost Certificate—This form will be submitted one time for each annual grant that is completed or terminated. This form provide an accounting of the funds actually expended from each approved annual grant.

i. Form HUD–52840—Comprehensive Grant Program Amendment—This form will be prepared annually by HUD and utilized as the document that obligates the current year's funds for a PHA/IHA. A separate amendment will be prepared for a PHA's/IHA's formula share of CGP funds and/or a grant allocation from the set-aside for emergencies or natural disasters. The PHA/IHA will be required to sign and return the document to HUD.

j. Form HUD–52842—Annual Statement/Performance and Evaluation Report on Replacement Reserve—If a PHA/IHA has used CGP funds to fund a replacement reserve, it will annually submit this form until all funds in the replacement reserve have been expended. This form provides a description of funds held in a replacement reserve account, interest accrued on the account, and the expenditure of funds from this account on approved CGP activities.

2. The information must be collected to satisfy statutory requirements for providing funding to PHAs/IHAs on a formula basis and to monitor program implementation.

3. We do not know of any improved information technology to reduce burden.

4. All required information was closely examined to avoid duplication.

5. To the extent possible, a PHA that has an approved Comprehensive Plan for Modernization (CPM) developed under the CIAP, it may modify the CPM to meet the requirements for a Comprehensive Plan under the CGP.

6. The collection of this information does not involve small businesses. Beginning in FY 1992, smaller PHAs/IHAs, which own or operate less than 500 dwelling units, will continue to compete for assistance under CIAP, as set forth in 24 CFR Part 968, Subpart B. Beginning in FY 1993, PHAs/IHAs which own or operate less than 250 dwelling units will continue to compete for assistance under CIAP.

7. The information collection cannot be collected less frequently.

8. There are no special circumstances that require the collection to be conducted in a manner which is inconsistent with the guidelines in 5 CFR 1320.6.

9. Interest Groups and PHA/IHA representatives were consulted extensively during preparation of the proposed and final rules. The public

comments received in response to the paperwork requirements outlined in the proposed rule resulted in changes which have been incorporated into the final rule and the paperwork requirements described above.

10. There is no assurance of confidentiality provided to PHAs/IHAs. All information collections are subject to resident and local government consultation requirements and are available for inspection by the public.

11. There is no personal or sensitive information included in the information collection.

12. There is no additional cost to the Federal Government or the respondents.

13. See attached Summary of Burden Hours.

14. The burden hours associated with this request are totally attributable to information required for implementing a new program.

15. Not applicable. There are no plans to publish the information collection for statistical use.

B. Collection of Information Employing Statistical Methods

Not applicable.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 1ST YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Executive summary of preliminary estimated costs form HUD–52831	968.320(d)(1) 905.672(d)(1)	407	1	407	10	4,070
Physical needs assessment form HUD–52832	968.320(d)(2) 905.672(d)(2)	407	1	407	252	102,564
Management needs assessment form HUD–52833	968.320(d)(3) 905.672(d)(3)	407	1	407	110	44,770
Five-year action plan form HUD 52834	968.320(d)(5) 905.672(d)(5)	407	1	407	40	16,280
Local government statement-form HUD 52835	968.320(d)(6) 905.672(d)(6)	407	1	407	0.5	203.5
PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836 [1].	968.320(d)(7) 905.672(d)(7)	407	1	407		
Annual statement/performance evaluation report form HUD–52837:						
a. Prior to fund reservation	968.330(a) 905.678(a)		1	407	50	20,350
b. End of program year	968.340(b) 905.684(b)					
Actual comprehensive grant cost certificate form HUD–52839	968.335(e) 905.681(e)					
Comprehensive grant program amendment form HUD–52840 [2]	968.330(j) 905.678(j)	407	1	407		
Annual statement performance and evaluation report of replacement review for form HUD–52842.	968.340(b) 905.684(b)					
Total annual paperwork burden hours			188,237.5			

[1] Forms are completed by HUD for PHA/IHA Representative's signature.
[2] During the First year, the approval of the Comprehensive Plan and fund reservation will not occur until September. Therefore, there will be no activity in these categories during the initial year.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 2ND YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Executive summary of preliminary estimated costs form HUD–52831	968.320(d)(1) 905.672(d)(1)	447	1	447	10	4,470
Physical needs assessment form HUD–52832	968.320(d)(2) 905.672(d)(2)	447	1	447	170	75,990
Management needs assessment form HUD–52833	968.320(d)(3) 905.672(d)(3)	447	1	447	100	44,700
Five-year action plan form HUD 52834	968.320(d)(5) 905.672(d)(5)	854	1	407 447	10 20	4,070 8,940
Local government statement-form HUD 52835	968.320(d)(6) 905.672(d)(6)	854	1	854	0.5	427
PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836 [1].	968.320(d)(7) 905.672(d)(7)	854	1	854		
Annual statement/performance evaluation report form HUD–52837:						
a. Prior to fund reservation	968.330(a) 905.678(a)	854	1	407 447	50 20	20,350 8,940
b. End of program year	968.340(b) 905.684(b)	407	1	407	20	8,140
Actual comprehensive grant cost certificate form HUD–52839	968.335(e) 905.681(e)	200	1	200	5	1,000
Comprehensive grant program amendment form HUD–52840 [1]	968.330(j) 905.678(j)	854	1	854		
Annual statement performance and evaluation report of replacement review for form HUD–52842.	968.340(b) 905.684(b)	50	1	50	5	250
Total annual paperwork burden hours						177,277

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 3RD YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Five-year action plan form HUD 52834	968.320(d)(5)	854	1	407	10	4,020
	905.872(d)(5)			447	5	2,235
Local government statement—form HUD 52835	968.320(d)(6)	854	1	854	0.5	427
	905.672(d)(6)					
*PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836..	968.320(d)(7)	854	1	854		
	905.672(d)(7)					
Annual statement/performance evaluation report form HUD–52837:						
a. Prior to fund reservation	968.330(a)	854	1	407	50	20,350
	905.678(a)			447	20	8,940
b. End of program year	968.340(b)	854	1	407	20	8.140
	905.684(b)			447	10	4,470
Actual comprehensive grant cost certificate form HUD–52839	968.335(e)	854	1	854	5	4,270
	905.681(e)					
*Comprehensive grant program amendment form HUD–52840	968.330(j)	854	1	854		
	905.878(j)					
Annual statement/performance and evaluation report of replacement review for form HUD–52842.	968.340(b)	100	1	100	5	500
	905.684(b)					
Total annual paperwork burden hours						53,352

Attachments

BILLING CODE 4210–33–M

Executive Summary of Preliminary Estimated Costs

Physical and Management/ Operations Needs

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

PHA/IHA Name

Federal Fiscal Year

Development Number/ Name	Total Current Units	Total Preliminary Estimated Hard Cost	Per Unit Hard Cost	Exceeds Reasonable Cost	Percentage of Vacant Units

Total Preliminary Estimated Hard Cost for Physical Needs	$
Total Preliminary Estimated Cost for PHA -Wide Management/Operations Needs	$
Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment	$
Total Preliminary Estimated Cost for PHA-Wide Administration	$
Total Preliminary Estimated Cost for PHA-Wide Other	$
Grand Total of PHA Needs	$
Signature of Executive Director X	Date

form HUD-52831 (12/31/91)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52831—Executive Summary of Preliminary Estimated Costs for Physical and Management/Operations Needs

Report Submission: Prepare one form HUD-52831 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of particlpation in the CGP and every sixth year when a complete revision of the Comprehensive Plan is required. Use as many pages of this form as necessary to cover all developments within the PHA's/IHA's inventory.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Federal Fiscal Year—Enter the FFY in which the Comprehensive Plan is being submitted.

Column Instructions:

Development Number/Name—Enter the State abbreviation, the PHA number and the development number, which may be abbreviated as VA 30-1. Also enter the development name, if any.

Total Current Units—For each development, enter the total number of current units as identified in the ACC.

Total Preliminary Estimated Hard Cost—For each development, enter the Total Preliminary Estimated Hard Cost for Needed Physical Improvements from Form HUD-52832, Physical Needs Assessment.

Per Unit Hard Cost—For each development, enter the Per Unit Hard Cost from form HUD-52832, Physical Needs Assessment.

Exceeds Reasonable Cost—For each development, enter Yes or No as to whether the hard cost exceeds 90% of TDC from form HUD-52832, Physical Needs Assessment.

Percentage of Vacant Units—For each development, enter the percentage of vacant units from form HUD-52832, Physical Needs Assessment.

Total Preliminary Estimated Hard Cost for Physical Needs—Enter the total for all amounts entered in the column, Total Preminary Estimated Hard Cost.

Total Preliminary Estimated Cost for PHA-Wide Management/Operations Needs—Enter the Total Preliminary Estimated PHA-Wide Cost from form HUD-52833, Management Needs Assessment.

Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment—Enter the total preliminary estimated cost for PHA-wide nondwelling structures and equipment that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Administration—Enter the total preminary estimated cost for PHA-wide administration that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Other -- Enter the total preliminary estimated cost for PHA-wide other costs that are currently needed and will be needed within the next five years.

Grand Total of PHA Needs—Enter the sum of preliminary estimated costs for Physical Needs, PHA-wide Management/ Operations Needs, PHA-Wide Nondwelling Structures and Equipment, PHA-Wide Administration and PHA-Wide Other.

Physical Needs Assessment

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 210.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name

☐ Original

☐ Revision Number _____

Development Number	Development Name	DOFA Date

Development Type:	Occupancy Type:	Structure Type:	Number of Buildings	Vacant Units
Rental ☐	Family ☐	Detached/ Semi-Detached ☐		Number _____
Turnkey III ☐	Elderly ☐	Row ☐	Current Bedroom Distribution	%
Mutual Help ☐	Mixed ☐	Walk-Up ☐	0 ____ 1 ____ 2 ____	Total Current Units
Section 23, Bond Financed ☐		Elevator ☐	3 ____ 4 ____ 5 ____	
			5+ ____	

General Description of Needed Physical Improvements	Urgency of Need (1-5)

Total Preliminary Estimated Hard Cost for Needed Physical Improvements	$	
Per Unit Hard Cost	$	
Hard Cost Exceed 90% of TDC (If Yes, attach viability analysis.)	Yes ☐	No ☐
Development Has Long-Term Physical and Social Viability	Yes ☐	No ☐

Development Will Meet Modernization and Energy Conservation Standards in FFY _____ Date Assessment Prepared: _____

Source(s) of Information

form HUD-52832 (12/31/91)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52832—Physical Needs Assessment

Report Submission: Prepare a separate form HUD-52832 for each development in the PHA's/IHA's inventory, which is eligible for Comprehensive Grant Program (CGP) funding. Submit these forms to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the physical needs assessment is required. On an as-needed basis, submit a revised form for any development whose physical needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include these needs in the Action Plan. Use only one page per development or development group. Developments which are contiguous and treated as one development for management purposes may be grouped together.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Original or Revision Number -- Self-explanatory. Every sixth year a new original is prepared.

Development Number—Enter an 11-digit alpha numeric code as follows: two-digit State code (alpha); two-digit Field Office code (numeric); P for public housing or B for Indian Housing; three-digit PHA/IHA number (numeric); and three-digit development number (numeric). For example, VA36P05OO01.

Development Name—Enter the name of the development, if any.

DOFA Date—Enter the Date of Full Availability (DOFA).

Check the appropriate box that describes the type of development, the type of occupancy, and the type of structure. Also enter the number of buildings.

Current Bedroom Distribution—Enter the current number of units for each bedroom size and the total number of current units in the development as identified in the ACC.

Vacant Units—Enter the number of vacant units as of the date this form is prepared and the percentage of vacant units to the total number of units in the development.

Column Instructions:

General Description of Needed Physical Improvements:

Enter a general description of all unfunded physical improvements that must be undertaken to bring the development (dwelling and nondwelling structures, dwelling and nondwelling equipment, and site) up to a level at least equal to the modernization and energy conservation standards and to comply with other program requirements. Include any replacements of equipment, systems and structural elements that will be needed, assuming routine and timely maintenance, within the next five years. Exclude any physical improvement needs for PHA-wide non-dwelling structures and equipment. Enter only physical improvements that are eligible for CGP funding. Do not enter any physical improvements already funded by CIAP or other sources which the PHA/IHA plans to complete.

Describe the proposed improvements in broad categories, such as kitchens, bathrooms, roofs, electrical systems, heating systems, landscaping, non-dwelling structures, lead-based paint testing, lead-based paint abatement, physical accessibility, etc. Include all broad categories of needed work without regard to the availability of funds.

If there are no current needs and the PHA/IHA does not anticipate any replacement needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

If the development is a Turnkey III, indicate the number of vacant or non-homebuyer-occupied units planned for substantial rehabilitation.

If the development is a Mutual Help and will be at least 10 years old during the next five years, indicate the number of units that are planned for one-time substantial rehabilitation.

Urgency of Need:

For each broad category of work identified under the General Description of Needed Physical Improvements, enter a number that corresponds to the urgency of the need at that development relative to other developments, with "1" reflecting the most urgent need and "5" reflecting the least urgent need. In determining the urgency of need, assign a "1" to activities required to correct emergency conditions and to meet statutory or other legally mandated requirements, such as lead-based paint testing.

Total Preliminary Estimated Hard Cost for Needed Physical Improvements:

Enter the total preliminary estimated hard cost for the broad work categories listed in the General Description of Needed Physical Improvements, excluding any management improvements, administration, architectural/engineering fees, relocation or other soft costs, and any hard costs for PHA/IHA-wide nondwelling structures and equipment.

Per Unit Hard Cost:

Divide the Total Preliminary Estimated Hard Cost for Needed Physical Improvements by the total number of current units in the development and enter the per unit hard cost.

Hard Cost Exceed 90% of TDC:

Check Yes or No as to whether the Total Preliminary Estimated Hard Cost for Needed Physical Improvements exceeds 90% of computed Total Development Cost (TDC) for the development. **Note:** If Yes is checked, the PHA/IHA may not include work categories/items, except for emergency work, in its Action Plan or Annual Statement unless it submits, and HUD approves, a request to exceed 90% of TDC. **Note:** If Yes is checked, attach the viability analysis.

Development Has Long-Term Physical and Social Viability:

Check Yes or No as to whether the PHA/IHA has determined that the development has long-term physical and social viability. **Note:** If No is checked, attach the viability analysis and an explanation of what actions are proposed regarding the nonviable development.

Development Will Meet Modernization and Energy Conservation Standards in FFY:

Estimate the FFY in which it is anticipated that the development will meet the modernization and energy conservation standards.

Source(s) of Information:

Identify the source(s) of information used to develop the General Description of Needed Physical Improvements. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Management Needs Assessment

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 100.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name

☐ Original

☐ Revision Number _____

General Description of Management/Operations Needs	Urgency of Need (1-5)	Preliminary Estimated PHA-Wide Cost

Total Preliminary Estimated PHA-Wide Cost $

All Identified Management Needs will be met in FFY _____ Date Assessment Prepared _____

Source(s) of Information

form HUD-52833 (12/31/91)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52833—Management Needs Assessment

Report Submission: Prepare one form HUD-52833 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP) and every sixth year when a complete revision of the management needs assessment is required. On an as-needed basis, submit a revised form whenever management needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include those needs in the Action Plan.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) Name.

Original or Revision Number -- Self-explanatory. Every sixth year a new original is prepared.

Column Instructions:

General Description of Management/Operations Needs:

Enter a general description of all unfunded improvements needed to upgrade the management and operation of the PHA/IHA and of each viable development so that decent, safe and sanitary living conditions will be provided. Enter only management improvements that are eligible for CGP funding.

Do not enter any management improvements already funded by CIAP or other sources which the PHA/IHA plans to complete.

Identify all current needs related to the mandatory areas set forth in the CGP Handbook 7485.3. To the extent that any of these needs are addressed in an existing document, cross-reference that document. For PHAs, an existing document includes a HUD-approved action plan based on a HUD monitoring review conducted before implementation of the Public Housing Management Assessment Program (PHMAP), a Memorandum of Agreement (MOA) or an Improvement Plan (IP). For IHAs, an existing document includes a HUD-approved Management Improvement Plan (MIP) based on the Administrative Capability Assessment (ACA) or Field Office monitoring. For example, improve rent collection—see MOA.

In addition, at the PHA's/IHA's option, include other management and operations needs identified through a self-assessment or identified under the PHMAP for PHAs, but not set forth in an MOA or IP.

Describe the needs in broad categories, such as rent collection, preventive maintenance, security, etc. Include all broad categories of needs without regard to the availability of funds.

If there are no current needs and the PHA/IHA does not anticipate any management needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need:

For each broad category of need identified under the General Description of Management/Operations Needs, enter a number that corresponds to the relative urgency of the need, with "1" reflecting the most urgent need and "5" reflecting the least urgent need.

Preliminary Estimated PHA-Wide Cost:

Enter the preliminary estimated PHA-wide cost for each broad category of need described in the General Description of Management/Operations Needs and the total.

All Identified Management Needs will be met in FFY: -- Estimate the FFY in which it is anticipated that all identified management needs will be met.

Source(s) of Information:

Identify the source(s) of information used to develop the General Description of Management/Operations Needs. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Five-Year Action Plan
Part I: Summary
Comprehensive Grant Program (CGP)

U.S. Department of
and Urban Develop
Office of Public and Inc

Public Reporting Burden for this collection of information is estimated to average 30.0 hours per response, inc
the data needed, and completing and reviewing the collection of information. Send comments regarding this b
this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department
and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this comple

PHA/IHA Name	Locality (City/County & State)

A. Development Number/Name/ Physical Improvement	Year 1 FFY:___	Year 2 FFY:___	
	See Annual Statement		
B. Physical Improvements Subtotal			
C. Management Improvements			
D. PHA-wide Nondwelling Structures and Equipment			
E. Administration			
F. Other			
G. Replacement Reserve			
H. Total CGP Funds			
I. Total Non-CGP Funds			
J. Grand Total			

Signature of Executive Director	Date	S

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OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

se, including the time for reviewing instructions, searching existing data sources, gathering and maintaining
this burden estimate or any other aspect of this collection of information, including suggestions for reducing
rtment of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management
completed form to either of these addresses.

☐ Original ☐ Revision No. ____

	Year 3 FFY:___	Year 4 FFY:___	Year 5 FFY:___
	Signature of Field Office Manager (Regional Administrator in co-located office)		Date

___ of ___

form HUD-52834 (12/30/91)
ref Handbook XXXX.X

Five-Year Action Plan

Part I: Summary (Continuation)
Comprehensive Grant Program (CGP)

U.S. Depart
and Urban
Office of Publ

A. Development Number/Name/ Physical Improvement	Year 1 FFY:___	Year 2 FFY:___
	See Annual Statement	

Department of Housing
Urban Development
of Public and Indian Housing

___	Year 3 FFY:___	Year 4 FFY:___	Year 5 FFY:___

Five-Year Action Plan

Part II: Supporting Pages

Physical Needs

Comprehensive Grant Program (CGP)

U.S. Department of Hou
and Urban Developmen
Office of Public and Indian H

Year 1 FFY:___	Year 2 FFY:____			Year 3 FFY:____		
	Development Number/Name	Major Work Category	Estimated Cost	Development Number/Name	Major Work Category	Estimated Cost
See Annual Statement						
	Subtotal of Estimated Cost					

Housing
ment
dian Housing

d	Year 4 FFY:___			Year 5 FFY:___		
	Development Number/Name	Major Work Category	Estimated Cost	Development Number/Name	Major Work Category	Estimated Cost

of ___

form HUD-52834

Five-Year Action Plan
Part III: Supporting Pages
Management Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housin
and Urban Development
Office of Public and Indian Hous

Year 1 FFY:___	Year 2 FFY:____		Year 3 FFY:_____		
	Major Work Category*	Estimated Cost	Major Work Category*	Estimated Cost	
See Annual Statement					
	Subtotal of Estimated Cost				

*Asterisk any work planned that is development specific and show the development no. in parenthesis.

using
nt
Housing

Year 4 FFY:___		Year 5 FFY:___	
Major Work Category*	Estimated Cost	Major Work Category*	Estimated Cost

form HUD-52834

Instructions for Preparation of Form HUD-52834—Five-Year Action Plan

Report Submission: Prepare one form HUD-52834 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP). Thereafter, submit annually an updated form to eliminate the previous year and to add a new fifth year so that the form always covers the present five-year period beginning with the current year. Use as many pages of this form as necessasry to cover all proposed work.

Part I: Summary

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Locality (City/County & State)—Enter the City/County and State where the PHA/IHA Central Office is located.

Original/Revision No.—Check the appropriate box. If a revision, enter the revision number, e.g., #1, #2, etc.

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

A. Development Number/Name/Physical Improvements:

Enter the number and name, if any, of each development that will be allocated funding for physical improvements during the five-year period covered by this Action Plan.

Years 2 through 5

For each development entered in A., enter the estimated amount of CGP funds to be allocated for physical improvements (development accounts 1450 through 1475) during each year of years 2 through 5. If the PHA is submitting an Annual Statement covering all or a portion of year 2, the PHA should so indicate in the column for year 2.

B. Physical Improvements Subtotal:

Enter the estimated subtotal amount of CGP funds to be allocated for physical improvements during each year of years 2 through 5.

C. Management Improvements:

Enter the estimated amount of CGP funds to be allocated for management improvements, including those that are PHA-wide and/or development-specific, (development account 1408) during each year of years 2 through 5. **Note:** The estimated amount may not exceed 10% of the annual grant.

D. PHA-wide Nondwelling Structures and Equipment: Enter the estimated amount of CGP funds to be allocated for PHA-wide nondwelling structures and equipment during each year of years 2 through 5.

E. Administration:

Enter the estimated amount of CGP funds to be allocated for administrative expenses (development account 1410) during each year of years 2 through 5. Note: The estimated amount may not exceed 7% of the annual grant; up to 9% with prior HUD approval.

F. Other: Enter the estimated amount of CGP funds to be allocated for other expenses (development accounts 1411, 1415, 1430, 1440, 1495,) during each year of years 2 through 5.

G. Replacement Reserve:

Enter the estimated amount of CGP funds to be allocated to the replacement reserve (development account 1490) in accordance with the requirements of Handbook 7485.3.

H. Total CGP Funds:

Enter the total amount of CGP funds that is estimated to be made available for each year of years 2 through 5. This is the sum of A through G.

I. Total Non-CGP Funds: Enter the estimated amount of non-CGP funds (e.g., Community Development Block Grant funds, CIAP funds being reprogrammed for use under the CGP, etc.) to be allocated in support of the CGP during each year of years 2 through 5.

J. Grand Total: Enter the total of H and I.

Part II: Supporting Pages—Physical Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Development Number/Name:

Enter the development number (e.g., 1 - 5) and name, if any, of each development which will be funded in each year of years 2 through 5. Enter "PHA-wide" if PHA-wide nondwelling structures and equipment will be funded.

Major Work Category:

For each development entered or for PHA-wide, enter the major work categories for which CGP funding will be allocated in each year of years 2 through 5. The work categories should be descried in broad terms, such as kitchens, bathrooms, electrical, site, etc. A work category may encompass various components, e.g., the major work category of kitchens may include ranges, refrigerators, cabinets, floors, range hoods, etc. List the major work categories in priority order, taking into consideration the relative urgency of need, as identified on form HUD-52832, Physical Needs Assessment.

Estimated Cost:

For each major work category entered, enter the estimated hard cost that will be allocated in each year of years 2 through 5. Enter the subtotal for each year of years 2 through 5. This subtotal should not exceed the total of B and D on the Part I: Summary for each year of Years 2 through 5.

Part III: Supporting Pages—Management Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Major Work Category:

Enter the major work categories for which CGP funding will be allocated, including work identified through the Public Housing Management Assessment Program (PHMAP) for PHAs or the Administrative Capability Assessment (ACA) for IHAs, or through audits, HUD monitoring reviews or PHA self-assessments, in each year of years 2 through 5. The work categories should be described in broad terms, such as improve rent collection. A work category may encompass various components, e.g., staff training, hiring a consultant to develop a rent collection policy, automation, etc. List the major work categories in priority order, taking into consideration the relative urgency of need, as identified on form HUD-52833, Management Needs Assessment. If a particular work category is targeted to a specific development, e.g., conduct study to determine the feasibility of resident management, denote by an asterisk and enter the development number in parenthesis.

Estimated Cost:

For each major work category entered, enter the estimated cost that will be allocated in each year of years 2 through 5. Enter the subtotal for each year of years 2 through 5. This subtotal should not exceed the total of C on the Part I: Summary for each year of Years 2 through 5.

Local Government Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

As Chief Executive Officer of the unit of general local government/Indian tribe

known as _____.

in which the (name of Public Housing Agency (PHA) or Indian Housing Authority (IHA)) _____

_____ operates,

I certify to the following:

1. The PHA/IHA developed the Comprehensive Plan/Annual Statement in consultation with local government officials/Indian tribal officials and with residents of the developments covered by the Comprehensive Plan/Annual Statement, in accordance with the requirements of the Comprehensive Grant Program;

2a. For PHAs, the Comprehensive Plan/Annual Statement is consistent with the unit of general local government's assessment of its low-income housing needs (as evidenced by its Comprehensive Housing Affordability Strategy (CHAS) under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services; or

2b. For IHAs, the Comprehensive Plan/Annual Statement is consistent with the appropriate governing body's assessment of its low-income housing needs and that the appropriate governing body will cooperate in providing resident programs and services; and

3. The PHA's/IHA's proposed drug elimination activities are coordinated with and supportive of local drug elimination strategies and neighborhood improvement programs, if applicable. Where additional on-duty police are being funded under the Comprehensive Grant Program, such police will only provide additional security and protective services over and above those for which the local/tribal government is contractually obligated to provide under the Cooperation Agreement.

Note: The Comprehensive Plan includes the Action Plan.

Name of Chief Executive Officer:	Signature of Chief Executive Officer and Date:
	X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

form HUD-52835 (12/31/91)
ref Handbook 7485.3

PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Acting on behalf of the Board of Commissioners of the below-named Public Housing Agency (PHA)/Indian Housing Authority (IHA), as its Chairman, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

☐ Comprehensive Plan Submitted on _____

☐ Amendments to Comprehensive Plan Submitted on _____

☐ Action Plan / Annual Statement Submitted on _____

☐ Amendments to Action Plan / Annual Statement Submitted on _____

I certify on behalf of the: (PHA/IHA Name) _____ that:

1. The PHA/IHA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;
2. The PHA/IHA has established controls to ensure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity;
3. The PHA/IHA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;
4. The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 968.115 or 24 CFR 905.603;
5. The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the PHA/IHA;
6. The PHA/IHA will comply with applicable civil rights requirements under 24 CFR 968.110(a) or 24 CFR 905.115, and, where applicable, will carry out the Comprehensive Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973;
7. The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the modernization contracts, to be awarded during subsequent FFYs, to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises under 24 CFR 968.110(b); or the IHA will, to the greatest extent feasible, give preference to the award of modernization contracts to Indian organizations and Indian-owned economic enterprises under 24 CFR 905.165;
8. The PHA/IHA has provided HUD with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 968.110(c), (d) and (m) or 24 CFR 905.120(a), (b), and (j), and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the PHA/IHA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;
9. The PHA/IHA will comply with the wage rate requirements under 24 CFR 968.110(e) and (f) or 24 CFR 905.120(c) and (d);
10. The PHA/IHA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 968.110(g) or 24 CFR 905.120(e);
11. The PHA/IHA will comply with the requirements for physical accessibility under 24 CFR 968.110(h) or 24 CFR 905.120(f);
12. The PHA/IHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i) or 24 CFR 905.120(g);
13. The PHA/IHA will comply with the uniform administrative requirements under 24 CFR 968.110(j) or 24 CFR 905.120(h);
14. The PHA/IHA will comply with lead-based paint testing and abatement requirements under 24 CFR 968.110(k) or 24 CFR 905.120(i);
15. The PHA/IHA has complied with the requirements governing local/tribal government and resident participation in accordance with 24 CFR 968.320(b) and (c), 968.330(d) and 968.340 or 24 CFR 905.672(b), (c), and 905.678(d), and 905.684, and has given full consideration to the priorities and concerns of local/tribal government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;
16. The PHA/IHA will comply with the special requirements of 24 CFR 968.310(d) or 24 CFR 905.666(d) with respect to a homeownership development; and
17. The PHA will comply with the special requirements of 24 CFR 968.235 with respect to a Section 23 leased housing bond-financed development.

Attested By: Board Chairman's Name:	(Seal)
Board Chairman's Signature & Date: X	

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

form HUD-52836 (12/31/91)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report

Part I: Summary

Comprehensive Grant Program (CGP)

U.S. Department of H
and Urban Developm
Office of Public and India

PHA/IHA Name

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☐ Revised Annual Statement/Revisi

Line No.	Summary by Development Account	Original	Total
1	Total Non-CGP Funds		
2	1408 Management Improvements 1/		
3	1410 Administration 2/		
4	1411 Audit		
5	1415 Liquidated Damages		
6	1430 Fees and Costs		
7	1440 Site Acquisition		
8	1450 Site Improvement		
9	1460 Dwelling Structures		
10	1465.1 Dwelling Equipment—Nonexpendable		
11	1470 Nondwelling Structures		
12	1475 Nondwelling Equipment		
13	1495.1 Relocation Costs		
14	1490 Replacement Reserve		
15	Amount of Annual Grant (Sum of lines 2-14)		
16	Amount of line 15 Related to LBP Testing		
17	Amount of line 15 Related to LBP Abatement		
18	Amount of line 15 Related to Section 504 Compliance		

1/ Management Improvement cost may not exceed 10% of line 15.

2/ Administrative cost may not exceed 7% of line 15 (or 9% of line 15 for PHAs/IHAs having an unusually large geographic

Signature of Executive Director and Date	Signat
X	X

nt of Housing
elopment
d Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

, including the time for reviewing instructions, searching existing data sources, gathering and maintaining
is burden estimate or any other aspect of this collection of information, including suggestions for reducing
ent of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management
mpleted form to either of these addresses.

	Comprehensive Grant Number	FFY of Grant Approval

Revision Number _____ ☐ Performance and Evaluation Report for Program Year Ending _____

Total Estimated Cost		Actual Cost*	
	Revised	Obligated	Expended

graphic area). *to be completed at the end of each program

Signature of Field Office Manager (or Regional Administrator in co-located office) and Date

X

form HUD-52837 (12/31/91)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report

Part II: Supporting Pages
Comprehensive Grant Program (CGP)

U.S. Department of
and Urban Develop
Office of Public and Indi

Development Number/ Name or PHA-Wide	General Description of Proposed Work Items	Development Account Number	E
			Original

*To be completed at the end of the program year.

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velopment
nd Indian Housing

Estimated Cost			Funds	Funds	
al	Revised *	Difference *	Obligated *	Expended *	Status of Proposed Work *

e ___ of ___

form HUD-52837

Annual Statement/Performance and Evaluation Report

Part III: Implementation Schedule Comprehensive Grant Program (CGP)

U.S. Departm
and Urban De
Office of Public

Development Number/ Name or PHA-Wide	Implementation Schedule				
	Funds Obligated			Funds Ex	
	Original	Revised *	Actual *	Original	Revis

*To be completed at the end of the program year

partment of Housing
ban Development
Public and Indian Housing

unds Expended		Reasons for Revised Target Dates
Revised *	Actual *	

Page ___ of ___

form HUD-52837

Actual Comprehensive Grant Cost Certificate

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-XXXX (Exp. MM/DD/YY)

PHA/IHA Name	Comprehensive Grant Number
	FFY of Grant Approval

The PHA/IHA hereby certifies to the Department of Housing and Urban Development as follows:

1. That the total amount of Modernization Cost (herein called the "Actual Modernization Cost") of the Comprehensive Grant, is as shown below:

A. Original Funds Approved	$
B. Revised Funds Approved	$
C. Funds Advanced	$
D. Funds Expended (Actual Modernization Cost)	$
E. Amount to be Recaptured (A–D)	$
F. Excess of Funds Advanced (C–D)	$

2. That all modernization work in connection with the Comprehensive Grant has been completed;

3. That the entire Actual Modernization Cost or liabilities therefor incurred by the PHA/IHA have been fully paid;

4. That there are no undischarged mechanics', laborers', contractors', or material-men's liens against such modernization work on file in any public office where the same should be filed in order to be valid against such modernization work; and

5. That the time in which such liens could be filed has expired.

Signature of Executive Director	Date
X	

For HUD Use Only

The Cost Certificate is approved for audit.

Approved for Audit (Director, Public Housing Division)	Date
X	

The audited costs agree with the costs shown above.

Verified (Director, Public Housing Division)	Date
X	
Approved (Field Office Manager or, in co-located office, Regional Administrator)	Date
X	

Previous Edition is Obsolete

form HUD-52839 (12/31/91)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52839—Actual Comprehensive Grant Cost Certificate

General Instructions:

Prepare and submit to the HUD Field Office an original and one copy of Form HUD-52839 for each terminated or completed annual grant under the Comprehensive Grant Program (CGP).

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Comprehensive Grant Number—Enter the unique Comprehensive Grant Number for the grant for which this form is being submitted. This number is the same number as on Form HUD-52837, Annual Statement, for the same grant.

Federal Fiscal Year of Grant Approval—Enter the FFY in which the annual grant was originally approved.

Line Instructions:

Line 1A, Original Funds Approved—For the identified grant, enter the total CGP funds originally approved by HUD through a CGP Amendment to the Consolidated Annual Contributions Contract(s).

Line 1B, Revised Funds Approved—For the identified grant, enter the total revised CGP funds approved by HUD. This amount will generally be the same as the amount on Line 1A. This amount will be less than the amount on Line 1A where HUD is terminating the grant or otherwise recapturing grant funds.

Line 1C, Funds Advanced—For the identified grant, enter the total funds advanced by HUD. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1D, Funds Expended—For the identified grant, enter the total funds expended (total cash disbursed) by the PHA/ IHA. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1E, Amount To Be Recaptured (A minus D)—For the identified grant, enter the amount to be recaptured by subtracting Line 1D from Line 1A.

Line 1F, Excess of Funds Advanced (C minus D)—For the identified grant, enter the excess of funds advanced by subtracting Line 1D from Line 1C; this is the amount to be remitted by the PHA/IHA to HUD. If Line 1D is greater than Line 1C, enter the figure in brackets; this is the amount of funds owed by HUD to the PHA/IHA.

Comprehensive Grant Program (CGP) Amendment

To Consolidated Annual Contributions Contract or
To Mutual Help Consolidated Annual Contributions Contract

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Whereas, (Public Housing Agency / Indian Housing Authority) _____

_____ (herein called the "PHA/IHA")

and the United States of America, Secretary of Housing and Urban Development (herein called "HUD") entered into Consolidated

Annual Contributions Contract(s) (ACC) Number(s) _____

_____,

dated _____; and/or Mutual Help Consolidated ACC(s) Number(s) _____

_____,

dated _____ (herein called the "ACCs");

Whereas, HUD has agreed to provide comprehensive grant assistance, upon execution of this Amendment, to the PHA/IHA in the amount to be specified below for the purpose of assisting the PHA/IHA in financing improvements to the physical condition of existing public/Indian housing developments and upgrades to the management and operation of such developments in order to ensure that such developments continue to be available to serve low-income families:

$ _____ for Fiscal Year 19 _____
(the amount of comprehensive grant funds now being approved for this fiscal year);

$ _____ for Fiscal Year 19 _____ for a combined
(the amount of comprehensive grant funds now being approved from prior fiscal years);

total of $ _____ ; to be referred to under Comprehensive Grant

Number _____, plus funds previously provided during this

fiscal year of $ _____ for a combined

grand total of $ _____ .

Whereas, HUD and the PHA/IHA are entering into this Comprehensive Grant Program Amendment Number _____.

Now Therefore, the ACCs are amended as follows:

1. The ACCs are amended to provide comprehensive grant assistance in the amounts specified above for modernization of PHA/IHA developments (including section 23 leased-housing bond financed, Mutual Help and Turnkey III). This amendment is a part of the ACCs.
2. The modernization work shall be carried out in accordance with all HUD regulations and other requirements applicable to the Comprehensive Grant Program.
3. In accordance with the HUD regulations, the Comprehensive Plan has been adopted by the PHA/IHA and approved by HUD, and may be amended from time to time. The modernization work shall be carried out as described in the Comprehensive Plan, including the Action Plan.
4. Subject to the provisions of Part II of the ACCs, and to assist in the modernization, HUD agrees to disburse to the PHA/IHA from time to time as needed, up to the amount of funding assistance specified above.
5. The PHA/IHA shall continue to operate each development (for section 23 leased-housing bond financed, after the expiration of the respective lease terms, the PHA shall continue to operate each development) as low-income housing in compliance with the ACCs, as amended, the United States Housing Act of 1937 (the "Act") and all HUD regulations and requirements for a period of twenty years after the last disbursement of comprehensive grant assistance. However, the provisions of Section 308(B) and (C) of the ACC (Article 14.2 of the Mutual Help Consolidated ACC) shall remain in effect for so long as HUD determines there is any outstanding indebtedness of the PHA/IHA to HUD which arose in connection with any development(s) under the ACCs and which is not eligible for forgiveness, and provided further that, for a period of ten years following the last payment of operating subsidy to the PHA/IHA, no disposition of any development covered by this amendment shall occur unless approved by HUD.
6. Section 404 of Part II of the ACC (Article 4.2 of the Mutual Help Consolidated ACC) shall not be applicable to the Comprehensive Grant.

form HUD-52840 (12/31/91)
ref Handbook 7485.3

7. If the PHA/IHA does not comply with any of its obligations under this Amendment, HUD may direct the PHA/IHA to terminate all work described in the Annual Statement. In such case, the PHA/IHA shall only incur additional costs with HUD approval.

8. Implementation or use of funding assistance provided under this Amendment is subject to attached corrective action order(s)
(mark one): ☐ Yes ☐ No

9. The Grantee acknowledges its responsibility for adherence to this Amendment by subgrantees to which it makes funding assistance hereunder available.

The parties have caused this Amendment to be effective as of the date of execution on behalf of the United States, as stated below.

U.S. Department of Housing and Urban Development By: Date:

Title:

PHA/IHA Executive Director By: Date:

Title:

Annual Statement/Performance and Evaluation Report on Replacement Reserve

Comprehensive Grant Program (CGP)

U. S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. xxxx-xxxx (exp.mm/dd/yy)

Public reporting burden for this collection of information is estimated to average 5.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (**must be the same as the OMB No.**), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Part I: Summary

PHA/IHA Name:	Submission: (mark one) ☐ Original Annual Statement ☐ Revised Annual Statement ☐ Performance & Evaluation for Program Year ending:

Section 1: Replacement Reserve Status Must be completed each year there is balance in the replacement reserve.	Estimated	Actual
1. Current Year Replacement Reserve Interest Earned (account 6200/1420.7)		
2. Current Year Replacement Reserve Withdrawal (equals line 13 of section 2, below)		
3. Net Impact on Replacement Reserve (line 1 minus line 2; equals line 15 of section 2, below)		
4. Current Year Funding for Replacement Reserve (line 14 of form HUD-52837)		
5. Replacement Reserve Balance at End of Previous Program Year (account 2830)		
6. Replacement Reserve Balance at End of Current Program Year (line 4 + line 5 + (or -) line 3) (account 2830)		

Section 2: Replacement Reserve Withdrawal Report Complete this section if there is Withdrawal/Expenditure activity.	Current Program Year Estimated Cost		Current Program Year Actual Cost
Summary by Account (6200 subaccount)	Column 1 Original	Column 2 Revised	Column 3 Expended
1. Reserved			
2. 1408 Management Improvements			
3. 1410 Administration			
4. 1415 Liquidated Damages			
5. 1430 Fees & Costs			
6. 1440 Site Acquisition			
7. 1450 Sites Improvements			
8. 1460 Dwelling Structures			
9. 1465 Dwelling Structures/Equipment			
10. 1470 Nondwelling Structures			
11. 1475 Nondwelling Equipment			
12. 1495 Relocation Costs			
13. Replacement Reserve Withdrawal (sum of lines 2 -12)			
14. 1420.7 Replacement Reserve Interest Income	( )	( )	( )
15. Net Withdrawal from Replacement Reserve (lines 13 - 14)			
16. Amount of line 13 related to LBP Testing			
17. Amount of line 13 related to LBP Abatement			
18. Amount of line 13 related to Section 504 Compliance			
19. Amount of line 13 related to Emergencies			

Signature of the Executive Director & Date:	Signature of the Field Office Manager & Date: (or, in co-located offices, the Regional Administrator)
X	X

Instructions
Annual Statement/Performance and Evaluation Report on Replacement Reserve

For the Annual Statement:

Prepare form HUD-52842 once the CGP replacement reserve has been established by the PHA and funded by HUD. Submit one form HUD-52842 annually with form HUD-52837, Annual Statement/Performance and Evaluation Report, as long as the PHA/IHA maintains a balance in the replacement reserve or has withdrawal/expenditure activity from the replacement reserve.

Form HUD-52482 is divided into two parts. Section 1 of Part I (Replacement Reserve Status) provides a report of the current year interest earned, current year withdrawals, current year funding of the replacement reserve, and ending balance of the replacement reserve. Section 2 of Part I (Replacement Reserve Withdrawal Report) is only completed if the PHA has withdrawn from the replacement reserve and has expenditure activity. Part II is the same format as Part II of form HUD-52837 and provides a current year report by development account of the use of the replacement reserve withdrawal(s).

For the Performance and Evaluation Report:

At the end of each program year, complete the actual columns for Part I and Part II, where there has been expenditure activity.

Part I: Summary

PHA/IHA Name - Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Type of Submission - Check the appropriate box to indicate whether the submission is the Original Annual Statement, the Revised Annual Statement (and revision number), or the Performance and Evaluation Report for Program Year Ending (enter date; e.g., 6/30/93).

Section 1 - Replacement Reserve Status:

Line 1 - Current Year Replacement Reserve Interest Earned (Account 6200/1420.7) - Enter the estimated amount of interest to be earned on the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 14, Column 1 (or 2, if applicable) of Section 2. At the end of the program year, enter the actual interest earned in the "Actual" column. This amount must equal Line 14, Column 3 of Section 2.

Line 2 - Current Year Replacement Reserve Withdrawal - Enter the estimated amount to be withdrawn from the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 13, Column 1 (or 2, if applicable) of Part II. At the end of the program year, enter the actual withdrawal amount in the "Actual" column. This amount must equal Line 13, Column 3 of Section 2.

Line 3 - Net Impact on Replacement Reserve - Enter the difference between Line 1 and Line 2. This amount must equal Line 15 of Section 2.

Line 4 - Current Year Funding for Replacement Reserve - Enter the amount of the increase to the replacement reserve in the appropriate column. This amount must equal Line 14 of Part I of form HUD-52837.

Line 5 - Replacement Reserve Balance at End of Previous Program Year - Enter the replacement reserve balance from the previous program year (Account 2830). This amount will be the same for the "Estimated" and "Actual" columns.

Line 6 - Replacement Reserve Balance at End of Current Program Year - Enter the sum of Lines 4 and 5, plus or minus Line 3. For the "Actual" column, the number entered must agree with the year end closing balance of the replacement reserve.

Section II - Replacement Reserve Withdrawal Report

(Must be completed if replacement reserve funds have been withdrawn in current year.)

Line 1 - Reserved - Do not use at this time.

Lines 2 - 12 - Summary by Account

Column 1 - Original Current Program Year Estimated Cost - For each line, enter the original current program year estimated cost for all work to be undertaken in a particular development account as a result of the current year withdrawal of funds from the replacement reserve.

Column 2 - Revised Current Program Year Estimated Cost - For each line, enter any current program year cost decrease or increase after initial approval by HUD.

Column 3 - Expended Current Program Year Actual Cost - For each Line, enter the actual amount of funds expended as of the end of the current program year.

Note: If the amount expended in Column 3 is less than the budgeted amount in Column 1 (or 2, if applicable), then the PHA shall include the unexpended amount in the subsequent years estimate or provide an explanation for the change in the estimate.

Line 13 - Replacement Reserve Withdrawal - Enter the sum of lines 2 through 12. The amount in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 2 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 2 of Section 1.

Line 14 - Replacement Reserve Interest Income - Enter the interest income earned on replacement reserve (bracketed). The amount entered in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 1 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 1 of Section 1.

Line 15 - Net Withdrawal from Replacement Reserve - Subtract from Line 13, the amount inside the brackets on Line 14 and enter on Line 15. The amount in Column 1 (or 2, if applicable) must equal the estimated amount of Line 3 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 3 of Section 1.

Sample:

Line 13 - Replacement Reserve Withdrawal. $10,000
Line 14 - Replacement Reserve Interest Income.....(500)
Line 15 - Net Withdrawal from Replacement Reserve..$ 9,500

Line 16 - Amount of Line 13 Related to Lead-Based Paint (LBP) Testing - Enter the amount of line 13 related to LBP testing in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Line 17 - Amount of Line 13 Related to LBP Abatement - Enter the amount of line 13 related to LBP abatement in Column 1 (or 2, if applicable). For example, if windows are being replaced, estimate the portion of the funding which is directly related to LBP abatement. At the end of the program year, enter the actual amount in column 3.

Line 18 - Amount of Line 13 Related to Section 504 Compliance - Enter the amount of line 13 related to Section 504 compliance in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Line 19 - The PHA/IHA shall exhaust its replacement reserve before being eligible to apply for funding for emergencies from the $75 million reserve. Where applicable, enter the amount of the replacement reserve to be used for emergencies in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Part II: Supporting Pages

Development Number/Name or PHA-wide - Enter the 11-digit alpha numeric code of the development (e.g., VA36P030-001) or the abbreviated code (e.g., VA-30-1) where the work items will be undertaken. PHA-wide activity, enter "PHA-wide" and a short title of the activity (e.g., PHA-wide rent collection).

General Description of Proposed Work Items - For each development entered, enter a general description of all work items (physical or management, as applicable) that will be undertaken at that development with the available funding before listing work items to be undertaken at other developments. After listing all work items for all developments being funded, enter a general description of PHA-wide activities, such as management improvements, administrative costs, equipment, etc. When work items are subsequently deleted, draw a line through the General Description, Development Account Number, and Estimated Cost. When work items are subsequently added, enter the new work item under the appropriate development number. Enter the quantity of the work item as a percentage or whole number. Do not specify the per unit cost or quality of materials.

Development Account Number - For work items that will be funded from replacement reserves funds, enter the appropriate development account which corresponds to the work item described under the General Description of Proposed Work Items column. For appropriate development accounts, refer to Appendix 4:1 of Handbook 7485.3, as revised.

Estimated Cost - For each work item described, enter the Original Estimated Cost. Then enter a subtotal for each development. Also, enter the Original Estimated Cost for each PHA-wide activity and a grand total for Part II. Where the estimated cost is revised, enter a Revised Estimated Cost as appropriate. Enter the difference between the Original and Revised Estimated Costs.

Status of Proposed Work - At the end of each program year, complete this section and submit to HUD for the Performance and Evaluation Report. For each work item listed, prepare a brief description of the status of the item, e.g., work completed, contract awarded on 5/2/93, etc. Explain the addition, deletion or modification of any work items, such as the addition of any emergency work.

[FR Doc. 92-2299 Filed 1-30-92; 8:45 am]
BILLING CODE 4210-33-C

Office of Administration

[Docket No. N-92-3383]

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.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, 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 Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the Agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 17, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Proposal: HUD Acquisition Regulation (FR–2473).

Office: Administration.

Description of the need for the information and its proposed use: The HUD Acquisition Regulation was issued to implement and supplement the Federal Acquisition Regulation. The information collection required of the public is solely in connection with the procurement process.

Form number: HUD–770, HUD–444.1, and HUD–661.1.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of submission: On Occasion.

Reporting burden:

Information Collection	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Preparation of Consolidated Supply Program Bid	300		1		8		2,400
Organizational Conflict of Interest Certification	300		1		.02		6
Organization Conflicts of Interest Clause	5		1		.5		2.5
Proposal Content Outline	300		1		195		58,500
Determination of Award Fee Earned	8		1		2		16
Key Personnel	30		1		4		120
Clearance of Personnel	5		1		5		25
Project Management System	600		1		8		4,800
Contract Employee Travel	50		1		.5		25
Report of Inventions and Subcontracts	1		1		.2		.2
Contractor's Release and Assignment of Rebates	150		1		.5		75
Certification	300		1		.1		30
Proposal Preparation	80		1		1		80
Subcontracting Plan	50		1		.5		25
Security Information	80		1		1		80

Total Estimated Burden Hours: 66,185.

Status: Revision.

Contact: Robert Lloyd, HUD, (202) 708–0294; Jennifer Main, OMB, (202) 395–6880.

Date: January 17, 1992.

Proposal: Comments on the Title V/ Surplus Property Program (FR-2620).

Office: Community Planning and Development.

Description of the need for the information and its proposed use: This one-time survey will determine what potential users know of the program, and give the Department guidance on how to improve the dissemination of information.

Form number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of submission: One-time.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	100		1		1		100

Total estimated burden hours: 100.
Status: New.
Contact: William A. Molster, HUD, (202) 708–4300; Jennifer Main, OMB, (202) 395–6880.

Date: January 17, 1992.

Proposal: Requisition for Development or Modernization Funds.

Office: Public and Indian Housing.
Description of the need for the information and its proposed use: The 1937 Housing Act, as amended, authorizes the Department to assist Public Housing Agencies (PHAs) and Indian Housing Agencies (IHAs) in developing and rehabilitating lower income housing. The Form HUD–5402A is submitted by PHA/IHA to obtain financial assistance.
Form number: HUD-5402A.
Respondents: State or Local Governments.
Frequency of submission: Other.
Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-5402A	2,300		25		.333		19,147

Total estimated burden hours: 19,147.
Status: Reinstatement.
Contact: William Thorson, HUD, (202) 708–4703; Jennifer Main, OMB, (202) 395–6880.

Date: January 17, 1992.

[FR Doc. 92–2318 Filed 1–30–92; 8:45 am]
BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–2934–N–63]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Steward B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

All properties in this week's Notice are located on Air Force bases that are being closed pursuant to the 1988 Base Closure and Realignment Act. The Department of the Air Force is the landholding and disposal agency. For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact: U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 693–0674; (This is not a toll-free number.)

Dated: January 24, 1992.

Paul Roitman Bardack,
Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 01/31/92

Arkansas—Eaker Air Force Base

Eaker Air Force Base is located in Blytheville, Arkansas 72317–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,700 acres and contains 928 housing units and 199 government-owned buildings. The properties that HUD has determined suitable and which are available include various types of housing; office and administration buildings; indoor and outdoor recreational facilities; warehouses and multi-use buildings; child care centers; maintenance, storage and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210040–199210042
Type Facility: Housing—818 duplex units with two, three and four bedrooms; wood with brick veneer fronts; 10 single family houses with four and five bedrooms; and 25–4 unit buildings with two story four bedroom units; four playgrounds.

Property Number: 199210045
Type Facility: Office/administration—30 buildings; 188 to 49,000 sq. ft.; one and two story; concrete block, metal, shingle or masonry construction.

Property Numbers: 199210046–199210047
Type Facility: Recreation—20 outdoor areas which includes athletic fields (track, softball, baseball), swimming pools, golf courses, volleyball court, basketball courts, tennis court. Eight indoor facilities which includes gym, theatre, library, bowling, youth and recreation centers, hobby shop; concrete block, masonry or metal/brick construction.

Property Numbers: 199210048–199210055
Type Facility: Temporary living quarters and dorms—8 buildings; 3,414 to 41,000 sq. ft.; one and two story; wood/brick veneer and brick masonry buildings.

Property Numbers: 199210056, 199210072
Type Facility: Warehouses/multi-use buildings—39; metal, concrete block, shingle, wood or plywood frame; one and two story; 64 to 45,960 sq. ft.; includes cold storage facilities, maintenance shops, traffic management facility, storage shed, thrift shops and other specialty type facilities.

Property Numbers: 199210057–199210059
Type Facility: Hospitals—3 buildings; one story concrete block; 1,084 sq. ft. animal clinic; 5,249 sq. ft. dental clinic; and 54,089 sq. ft. composite medical bldg.

Property Numbers: 199210060–199210062
Type Facility: Child care centers—3 buildings; 2,098 to 8,365 sq. ft.; brick, concrete block and hadite block construction.

Property Numbers: 199210063–199210065, 199210073
Type Facility: Stores and services—4 buildings; 4,299 sq. ft. exchange service station; 32,925 sq. ft., one story concrete block exchange sales store; 3,370 sq. ft., one story wood frame packaging store; 38,575 sq. ft., one story concrete block/metal commissary.

Property Number: 199210066
Type Facility: Airfield related buildings—14; 96 to 49,000 sq. ft.; shingle, metal or concrete block structures, e.g. hangars, aircraft general purpose bldgs., jet engine maintenance shops, control centers.

Property Number: 199210068
Type Facility: Vehicle maintenance facilities—3; 2,032 to 29,350 sq. ft.; one story metal frame buildings.

Property Number: 199210069
Type Facility: Fuels/related storage facilities—40 buildings; steel, fiberglass and porcelain type; e.g. service stations, diesel storage, pump stations, jet fuel storage.

Property Number: 199210070
Type Facility: Hazardous storage buildings—6; 96 to 3,000 sq. ft.; one story metal structures.

Property Number: 199210071
Type Facility: Munitions facilities—21 buildings; 412 to 4,864 sq. ft.; concrete block; storage igloos and magazines.

Property Number: 199210074
Type Facility: Fire Station—Building 100; 15,717 sq. ft.; concrete masonry/asbestos cement shingles frame.

Property Number: 199210075
Type Facility: Chapel—Building 525; 17,602 sq. ft.; one story frame with brick veneer.

Property Numbers: 199210076–199210077
Type Facility: Laboratories—2 buildings; 4,200 sq. ft. precision measurement equipment lab; and 3,775 sq. ft. audio-visual photo lab.

Property Number: 199210078
Type Facility: Bank; 2,367 sq. ft.; one story concrete block; lease restrictions.

Property Number: 199210079
Type Facility: Land; 1,962 acres; restrictive agricultural lease.

Unsuitable Properties

Property Number: 199210067
Type Facility: Detached latrines—3; 264 sq. ft. concrete block structures.

Property Number: 199210043
Type Facility: Housing—23 buildings; cracked foundations, therefore, structural deficiencies.

Louisiana—England Air Force Base

England Air Force Base is located in Alexandria, Louisiana 71311–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,282 acres and contains 294 housing units and 193 government-owned buildings. The properties that HUD has determined suitable and which are available include one and two story family housing; office and administration buildings; recreational facilities and areas; educational, business and commercial buildings; maintenance, storage and other specialized structures.

Suitable/Available Properties

Property Numbers: 199210080–199210081
Type Facility: Housing—294 buildings with 598 dwelling units; one and two story; wood or masonry frame; 1,190 to 6,701 sq. ft.

Property Number: 199210082
Type Facility: Office and administration—28 buildings; 228 to 40,006 sq. ft.; one and two story; wood, brick, block or masonry frame; presence of asbestos in several structures.

Property Numbers: 199210083–199210084
Type Facility: Recreation—18 facilities and 10 parcels of land; i.e. swimming pools, gym, theatre, riding stables, bowling, library, golf course, arts and crafts center, baseball, soccer, and softball fields, track and tennis court; presence of asbestos in some structures.

Property Number: 199210085
Type Facility: Dorms and dining areas—14 buildings; 3,902 to 25,715 sq. ft.; brick or masonry frame; one, two, and three story; presence of asbestos in some structures; includes dorms, officers club, NCO club and dining hall.

Property Number: 199210086

Type Facility: Educational/training—14 buildings; 740 to 45,716 sq. ft.; wood or masonry frame; one and two story; presence of asbestos in a few structures; includes classrooms, child care center, school, education office and field training facility.

Property Number: 199210087
Type Facility: Hospitals—3 related buildings—medical storage, hospital and bio environment; metal or masonry frame; presence of asbestos in hospital.

Property Number: 199210088
Type Facility: Business and Commercial—6 buildings; 1,925 to 34,326 sq. ft.; masonry frame and possible asbestos in the commissary; other structures include mini mall, photo lab, post office, service station and base package store.

Property Number: 199210089
Type Facility: Storage/Warehouses—38 buildings, including igloos, supply and equipment warehouses, records storage, commissary warehouse, retail exchange warehouse, cold storage and open storage facilities; 225 to 60,960 sq. ft.; one story; wood, block, metal, brick or concrete construction; presence of asbestos in several structures.

Property Number: 199210090
Type Facility: Maintenance shops—20 buildings; 228 to 34,176 sq. ft.; one story; block, metal or steel construction; presence of asbestos in several structures.

Property Number: 199210091
Type Facility: Airfield related facilities—36 buildings including vehicle fuel station, petroleum operations building, aircraft general purpose, control center, shop avionics, air freight terminal, etc.; 240 to 79,537 sq. ft.; block, metal, wood, concrete or masonry frame; presence of asbestos in some structures.

Property Number: 199210092
Type Facility: Fire facility—Building 500; 13,658 sq. ft.; one story masonry frame; presence of asbestos.

Property Number: 199210093
Type Facility: Chapel—Building 1801; 11,484 sq. ft.; one story masonry frame.

Property Number: 199210094
Type Facility: Land, airfield, runways—25 parcels; 10 to 398,099 square yards; concrete or asphalt.

Unsuitable Properties

Property Number: 199210095
Type Facility: Fuel storage containers—14 hazardous storage containers.

California—Mather Air Force Base

Mather Air Force Base is located in Sacramento County, California, 95655–5000. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 5715 acres, 315 Government-owned buildings and 1271 housing units that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210017–199210020
Type Facility: Housing—207 buildings/414 units Wherry duplexes (two to three bedrooms); 857 family houses (one to four bedrooms); buildings have reinforced concrete block, wood and stucco frame construction; presence of asbestos.

Property Number: 199210021
Type Facility: Temporary Living Quarters—18 buildings; one, two, and three story wood, concrete block and stucco structures; presence of asbestos.

Property Number: 199210022
Type Facility: Office/Administration—60 buildings; one, two and three story structures; presence of asbestos.

Property Number: 199210023
Type Facility: Recreation—32 facilities including theater, gymnasium, library, bowling alley, recreation center, arts and crafts center, youth center, pools, bath houses, museum buildings; presence of asbestos.

Property Number: 199210024
Type Facility: Aircraft and Airport Related Facilities—33 buildings; one to two story structures including hangars, storage facilities and maintenance shops; presence of asbestos.

Property Number: 199210025
Type Facility: Maintenance and Engineering Facilities—36 buildings; one story structures including storage, shop and maintenance buildings; presence of asbestos.

Property Number: 199210026
Type Facility: Training Facilities—15 buildings; one to two story concrete, wood and metal classroom/education buildings; presence of asbestos.

Property Number: 199210027
Type Facility: Stores and Services—7 buildings; one story structures including stores, service station exchange and cold storage building; presence of asbestos.

Property Number: 199210028
Type Facility: Chapels—2 buildings; one story concrete block and masonry concrete structures; presence of asbestos.

Property Number: 199210029
Type Facility: Chapels—2 fire facilities and 2 fire stations; presence of asbestos.

Property Number: 199210030
Type Facility: Audio Visual—3 buildings; one story photo lab and training aid shops; presence of asbestos.

Property Number: 199210031
Type Facility: Miscellaneous—6 buildings; one story child care centers, correction facility, dining and mess halls; presence of asbestos.

Property Number: 199210032
Type Facility: Storage Facilities—61 buildings; one story metal, steel, wood or concrete storage buildings or sheds; presence of asbestos.

Property Number: 199210033
Type Facility: Warehouses—7 buildings; one to two story structures; presence of asbestos.

Property Number: 199210034
Type Facility: Vehicle Shops—6 buildings; one story concrete block, wood, steel frame and metal shops; presence of asbestos.

Property Number: 199210035
Type Facility: Traffic Check House—1 building; two story concrete block structure.

Property Number: 199210036
Type Facility: Fuel Facilities—8 buildings; one story structures.

Property Number: 199210037
Type Facility: Explosives and Munitions Facilities—5 buildings; one story concrete or concrete block storage structures.

Property Number: 199210038
Type Facility: Hazardous Storage Facilities—11 buildings; one story metal storage structures.

Property Number: 199210039
Type Facility: Land—Recreation Areas and Airfield Properties including softball/football/soccer fields, running track, riding stables, golf course, taxiway and runways, (approximately 5716 acres).

South Carolina—Myrtle Beach Air Force Base

Myrtle Beach Air Force Base is located in Horry County, South Carolina 29579–5000. All the properties will be

excess to the needs of the Air Force on or about March 31, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers approximately 3,800 acres, 190 Government-owned buildings and 448 residential buildings with 800 units of housing that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210001
Type Facility: Housing—448 buildings with a total of 800 dwelling units; two, three, and four bedroom single family dwellings and duplexes with attached carports.

Property Number: 199210002
Type Facility: Dormitories/Quarters—13 buildings; two to three story masonry and block structures.

Property Number: 199210003
Type Facility: Miscellaneous—14 buildings; one to two story structures including a chapel, theater, recreation center, child care centers, retail sales stores and dining hall.

Property Number: 199210004
Type Facility: Hospital—1 three story base hospital and 6 one story medical support buildings.

Property Number: 199210005
Type Facility: Office/Administration—53 buildings; one to two story modular, block, wood and brick structures.

Property Numbers: 199210006–199210008
Type Facility: Recreation—15 buildings and land including bath houses, bowling center, gymnasium, golf course buildings, three soccer fields, six tennis courts, three softball fields, four youth ball fields, track, campground, golf course and driving range.

Property Number: 199210009
Type Facility: Utility Type Facilities—45 buildings; one story structures including warehouses, shops and sheds.

Property Number: 199210010
Type Facility: Security—3 police buildings; one story masonry structures including a jail.

Property Number: 199210011
Type Facility: Storage—15 buildings; one story metal, concrete and masonry ammunition storage structures.

Property Numbers: 199210012–199210013
Type Facility: Airfield and Related Properties—25 support buildings and land including hangars, maintenance shops, fire station, eight-story control tower, runways, taxiways and aprons.

Property Numbers: 199210014–199210015
Type Facility: Land—approximately 17 acres used as a mobile home park and 1678 acres of forest.

Unsuitable Properties

Property Number: 199210016
Type Facility: Small Arms building
Reason: Extensive Deterioration.

California—George Air Force Base

George Air Force Base is located in San Bernardino County, California, 92394–5000. All the properties will be excess to the needs of the Air Force on or about December 31, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base covers 5,340 acres and contains 732 individual properties that have been reviewed by HUD for suitability for use to assist the homeless. The 666 properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199120001–199120420
Type Facility: Housing—420 buildings with a total of 1,636 dwelling units; buildings have 1, 2, 3, 4, 6, or 8 units each; wood/stucco frame construction; possible asbestos

Property Numbers: 199120421–199120467, 199120470–199120473
Type Facility: Office/administration—51 buildings ranging in size from 200 sq. ft. on 1 floor to 56,600 sq. ft. on 3 floors; wood or concrete block construction; several trailers; possible asbestos

Property Numbers: 199120474–199120483, 199120485–199120505
Type Facility: Recreation—21 buildings and 10 parcels of land, including theatre, recreation center, bowling center, gym, library, craft center, shop, youth center, golf course buildings, pools, bathhouses; 7 baseball, softball, and soccer fields; track; golf course; driving range; possible asbestos

Property Numbers: 199120506–199120508, 199120511–199120520, 199120527–199120547
Type Facility: Temporary living quarters, dorms, lodges, and ancillary sheds—34 buildings; 1 and 2 story wood, concrete, and concrete block structures; 4700 sq. ft. to 25000 sq. ft. for living quarters; 380 sq. ft. to 2400 sq. ft. for sheds; possible asbestos

Property Numbers: 199120548–199120587
Type Facility: Aircraft and airport related facilities—40 structures including hangers, shops, tower, terminal, lab, docks, storage, control center, navigation station, runways; sizes up to 86,000 sq. ft.; possible asbestos

Property Numbers: 199120588–199120597, 199120599–199120608
Type Facility: Maintenance and engineering facilities—20 buildings; concrete and wood; 200 sq. ft. to 17,000 sq. ft.; possible asbestos

Property Numbers: 199120609–199120618
Type Facility: Training facilities—10 buildings; education center and 9 classroom buildings; concrete and wood; 1200 sq. ft. to 16,800 sq. ft.; possible asbestos

Property Numbers: 199120619–199120630
Type Facility: Stores and services—12 buildings; 10 stores and 2 gas stations; wood and concrete; 1800 sq. ft. to 30,700 sq. ft.; possible asbestos

Property Numbers: 199120631–199120632
Type Facility: Chapels—2 buildings; 4800 sq. ft. wood; 24,100 sq. ft. concrete; possible asbestos

Property Number: 199120633
Type Facility: Hospital—3 story, concrete block, 147,000 sq. ft.; possible asbestos

Property Numbers: 199120634–199120635
Type Facility: Fire facilities—2 buildings; fire station and command center; possible asbestos

Property Numbers: 199120636–199120638
Type Facility: Audio visual and photo lab—3 buildings; wood and concrete; 1800 sq. ft. to 2300 sq. ft.; possible asbestos

Property Numbers: 199120639–199120645
Type Facility: Vehicle shops—7 buildings; concrete; 74 sq. ft. to 33,000 sq. ft.; possible asbestos

Property Numbers: 199120646–199120655
Type Facility: Misc.—10 buildings; wood and concrete; 1 story; dining halls, mess halls, food service, child care centers; 1800 sq ft to 19,000 sq ft; possible asbestos

Property Numbers: 199120656–199120666
Type Facility: Communications/electronic—11 buildings; concrete block and wood; 1 story shops and

sheds; 106 sq ft to 10,200 sq ft; possible asbestos
Property Numbers: 199120667–199120678
Type Facility: Warehouses—12 buildings; 1124 sq. ft. to 70,000 sq. ft.; wood, concrete, and concrete block; possible asbestos

Suitable/Unavailable Properties

Property Numbers: 199120468–199120469
Type Facility: Office—2 one story wood structures; possible asbestos
Property Number: 199120484
Type Facility: Recreation—one story wood structure; possible asbestos
Property Numbers: 199120509–199120510, 199120521–199120526
Type Facility: Temporary living quarters—8 one story wood structures; possible asbestos
Property Number: 199120598
Type Facility: Maintenance and engineering—one story wood structure; possible asbestos

Unsuitable Properties

Property Number: 199120679
Type Facility: Small arms
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 199120680–199120687
Type Facility: Hazardous storage facilities—8 buildings
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 199120688–199120713
Type Facility: Explosives and munitions facilities—26 buildings
Reason: Within 2000 ft. of flammable or explosive materials
Property Numbers: 199120714–199120732
Type Facility: Fuel facilities—19 structures
Reason: Within 2000 ft. of flammable or explosive materials

Illinois—Chanute Air Force Base

Chanute Air Force Base is located in Rantoul, Champaign, County, Illinois, 61866. The 123 properties listed below were reported excess to the needs of the Air Force in 1990. They are presently vacant and available for application for use to assist the homeless. The remainder of the approximately 800 properties at the Base will be reviewed for suitability for use to assist the homeless on or about January 1992.

Suitable/Available Properties

Property Numbers: 189030224–189030301
Type Facility: Housing (Chapman Courts)—78 2-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restrictions
Property Numbers: 189030302–189030312
Type Facility: Housing (Chapman Courts)—11 4-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restriction
Property Numbers: 189030313–189030342
Type Facility: Housing (Chapman Courts)—30 1-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restriction
Property Number: 189030343
Type Facility: Housing (Chapman Courts, Bldg 5)—2707 sq. ft.; 1 story wood frame; termite damage; possible asbestos; need major rehab; possible easement restriction
Property Number: 189030344
Type Facility: Warehouse (Bldg. 732)—13336 sq. ft.; 2 story wood frame; needs structural repairs
Property Number: 189030345
Type Facility: Band facility (Bldg. 118)—3996 sq. ft.; 1 story wood frame; needs structural repairs
Property Number: 189030346
Type Facility: Cold storage (Bldg. 107)—17118 sq. ft.; 1 story wood frame; needs rehab; potential utilities

New Hampshire—Pease Air Force Base

Pease Air Force Base is located in Rockingham County, New Hampshire, 03803. The Base covers 4,257 acres and includes a hospital, theatre, bowling alley, 2 chapels, over 2,000 bachelor bed spaces, and 1,200 military multifamily housing units. The New Hampshire Air National Guard is expected to continue operations on a portion of the Base. HUD has reviewed information on 798 properties located at the Base and has found 689 to be suitable for possible use to assist the homeless. All suitable/available properties listed below are vacant.

Suitable/Available Properties

Property Number: 189040320–189040323
Type Facility: 3 open mess and 1 dining hall
Property Number: 189040324
Type Facility: Credit union building
Property Numbers: 189040325–189040326
Type Facility: 2 bachelor quarters buildings
Property Number: 189040327
Type Facility: Hospital heat plant
Property Number: 189040328
Type Facility: Hospital
Property Number: 189040329
Type Facility: Trailer (hospital office space)
Property Numbers: 189040330–198040322
Type Facility: 3 training facilities
Property Numbers: 189040333–198040334
Type Facility: 2 child care facilities
Property Number: 189040335
Type Facility: Fire station
Property Numbers: 189040059–189040319
Type Facility: 261 4-unit residences
Property Number: 189040347–189040349
Type Facility: 2 sales stores
Property Number: 189040350
Type Facility: Commissary
Property Numbers: 189040351–189040352
Type Facility: 2 chapels
Property Number: 189040383
Type Facility: Single family residence
Property Number: 189040384
Type Facility: Rod and gun club
Property Number: 189040385
Type Facility: Motor pool
Property Numbers: 189040386–189040394
Type Facility: 9 dormitories
Property Numbers: 189040395–189040404
Type Facility: 10 residences with detached garage
Property Numbers: 189040405–189040467
Type Facility: 63 2-unit residences with detached garage
Property Numbers: 189040468–189040471
Type Facility: 4 6-unit residences with attached garage
Property Numbers: 189040472–189040715
Type Facility: 244 detached housing storage sheds
Property Numbers: 189040720, 189040721, 189040726
Type Facility: 3 communications facilities
Property Numbers: 189040734–189040742
Type Facility: 9 recreational facilities, including library, bowling center, theatre, gymnasium, youth center, bath house, and automotive shop
Property Numbers: 189040743–189040751
Type Facility: 9 small concrete munitions storage buildings
Property Numbers: 189040752–189040771
Type Facility: 20 administrative facilities
Property Numbers: 189040773–189040788, 189040790–189040793, 189040795–189040805
Type Facility: 31 miscellaneous buildings used for office, administrative, educational, laboratory, traffic check, storage, maintenance, and other purposes
Property Number: 189010534
Type Facility: Bldg. 8, Newington Road
Property Number: 189010535
Type Facility: Temp. lodging facility, Bldg. 94, Rockingham Drive

Unsuitable Properties

Property Number: 189040360
Type Facility: Golf course

Reason: Within airport runway clear zone
Property Number: 189010536
Type Facility: Vehicle fuel station
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 189010537, 189010538
Type Facility: Jet fuel pumphouses
Reason: Within 2000 ft. of flammable or explosive material
Property Number: 189010539
Type Facility: Weapons storage area
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 189040336–189040346
Type Facility: Family housing, Bldgs. 369–371, 373–375, 377–380, 382
Reason: Within airport runway clear zone
Property Number: 189040348
Type Facility: Service station
Reason: Other
Property Numbers: 189040353–189040359
Type Facility: Bldgs. 398–401, 403, 405, 407
Reason: Within airport runway clear zone
Property Numbers: 189040361–189040373
Type Facility: Industrial facilities
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 189040374–189040382, 189040727–189040733
Type Facility: Aircraft operations buildings
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 189040716–189040719
Type Facility: Utility plants
Reason: Other
Property Numbers: 189040722–189040725
Type Facility: Communications facilities
Reason: Within 2000 ft. of flammable or explosive material
Property Numbers: 189040772–189040794
Type Facility: Bus shelters
Reason: Other
Property Number: 189040789
Type Facility: Utility station
Reason: Other
Property Numbers: 189040806, 189040808, 189040825–189040829
Type Facility: Sewage pump stations
Reason: Other
Property Numbers: 189040807, 189040809, 189040814, 189040819–189040820, 189040822–189040824
Type Facility: Pump stations
Reason: Other
Property Numbers: 189040810–189040813, 189040815–189040818, 189040821, 189040830–189040851
Type Facility: Power stations
Reason: Other

Maine—Loring Air Force Base

Suitable/Available Properties

Buildings

Bldgs. 1–16
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Aroostook, Zip: 04750–
Federal Register Notice Date: 01/31/92
Property Numbers: 189010590–189010605
Status: Excess
Comment: 1116 sq. ft. each; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Colorado—Lowry Air Force Base

Suitable/Available Properties

Land

NTMU—Partial Area
Lowry Air Force Base
Denver, CO, Denver, Zip: 80230–5000
Federal Register Notice Date: 01/31/92
Property Number: 189010254
Status: Excess
Location: West of Aspen Terr. housing area and South of (AFAFC) along the base boundary
Comment: Approximately 20 acres; sloping parts in the area.

[FR Doc. 92–2186 Filed 1–30–92; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–942–02–4730–12]

Idaho; Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 22, 1992.

The plat representing the dependent resurvey of portions of the subdivisional lines and 1898 meanders of the Kootenai River in section 23, and the subdivision of section 23, T. 62 N., R. 2 E., Boise Meridian, Idaho, Group No. 813, was accepted, January 15, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: January 22, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92–2305 Filed 1–30–92; 8:45 am]
BILLING CODE 4310–GG–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. The parent corporation and address of its principal office is:

Guardian Industries Corp., 43043 West Nine Mile Road, Northville, Michigan 48167

2. Guardian Transportation Corp., a wholly-owned subsidiary of Guardian Industries Corp., will provide transportation services to the Guardian Industries Corp. wholly-owned subsidiaries listed hereafter.

3. Wholly-owned subsidiaries which will participate in the operations, and their state(s) of incorporation are:

Buchim Incorporated, Incorporated in California
Cue Industries, Inc., Incorporated in Delaware
Double Seal Glass Company, Inc., Incorporated in Michigan
Falconer Glass Industries, Inc., Incorporated in Delaware
Glass Guard Industries, Inc., Incorporated in Massachusetts
Guardian Automotive Products, Inc., Incorporated in Delaware
Guardian Fiberglass, Inc., Incorporated in Delaware
Guardian Industries Distribution Center, Inc., Incorporated in Michigan
Guardian Industries Distribution Center, Inc., Incorporated in Oregon
Guardian Transportation Corp., Incorporated in Delaware
Guardian Walled Lake Fabrication Corp., Incorporated in Michigan
Guardian Fabrication, Inc., Incorporated in Delaware
Windsor Plastics, Inc., Incorporated in Nevada
Windsor Plastics, Inc., Incorporated in Texas
Guardian Glass Company, Incorporated in Ohio
Capital of Pasco, Inc., Incorporated in Delaware

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–2341 Filed 1–30–92; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Intent To Prepare Draft Environmental Impact Statement for the Construction of a Metropolitan Detention Center (MDC) in Philadelphia, Philadelphia County, PA

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare Draft Environmental Impact Statement (DEIS).

SUMMARY

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new Metropolitan Detention Center (MDC) is needed in its system. A number of options in and around downtown Philadelphia, Pennsylvania will be evaluated. This proposal calls for the construction of a 750 bed facility to house individuals in a full range of security levels (i.e., minimum, low, medium, high, maximum) who are awaiting trial or sentencing by the Federal Courts.

Additionally, the site would be used for road access, inmate housing, administration, programs and services, parking and support facilities. Enclosed and secure exercise areas would be included in the facility.

In the process of evaluating the tract of land, several aspects will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternative

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Philadelphia. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings have already been held and will be continued by representatives of the Bureau of Prisons with interested community leaders, officials and citizens.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS can be answered by: Ms. Debra J. Hood, Site Selection and Environmental Review Specialist, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, (202) 514–6462.

Dated: December 31, 1991.

Patricia K. Sledge,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 92–246 Filed 1–30–92; 8:45 am]

BILLING CODE 4410–05–M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Complex (FCC) in Elkton, OH

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that additional institutions are needed in its system. The Bureau will evaluate a proposed site located in Elkton, Ohio for the construction of these facilities.

The Federal Bureau of Prisons proposes to construct a correctional complex of four facilities. The complex could include a high security facility to house approximately 500 inmates, medium and low security federal correctional institutions to house approximately 750 and 1,000 inmates respectively, and a minimum security camp to house approximately 500 inmates.

Additionally, the site would be used for road access, inmate housing, administration, programs and services, parking and support facilities.

In the process of evaluating the tract of land, several aspects will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternatives

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Elkton. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings have already been held and will be continued by representatives of the Bureau of Prisons with interested community leaders, officials and citizens.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS can be answered by:

Debra J. Hood, Site Selection Specialist, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, (202) 514–6462.

Dated: January 22, 1992.

Patricia K. Sledge,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 92–1968 Filed 1–30–92; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the

minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR part 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume I:
Virginia..... VA91-62 (Jan. 31, 1992)..... p. All
Virginia..... VA91-74 (Jan. 31, 1992)..... p. All
Virginia..... VA91-75 (Jan. 31, 1992)..... p. All
Virginia..... VA91-76 (Jan. 31, 1992)..... p. All
Volume II:
Texas ..... TX91-31 (Jan. 31, 1992) ..... p. All
Texas ..... TX91-39 (Jan. 31, 1992) ..... p. All

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number (s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume: I:
Florida ..... FL91-1 (Feb. 22, 1991)..... p. 101, p. 102
New Jersey .. NJ91-3 (Feb. 22, 1991)..... p. 721, 724
Pennsylvania. PA91-1 (Feb. 22, 1991)..... p. 953, pp. 954, 960
Pennsylvania. PA91-2 (Feb. 22, 1991)..... p. 965, pp. 966-968, pp. 970-972
Pennsylvania. PA91-16 (Feb. 22, 1991)..... p. 1077, p. 1078
Pennsylvania. PA91-17 (Feb. 22, 1991)..... p. 1079, p. 1082
Pennsylvania. PA91-18 (Feb. 22, 1991)..... p. 1085, pp. 1086, 1088-1091
Pennsylvania. PA91-20 (Feb. 22, 1991)..... p. 1099, pp. 1100-1103
Pennsylvania. PA91-22 (Feb. 22, 1991)..... p. 1111, pp. 1115-1117
Virginia..... VA91-25 (Feb. 22, 1991)..... p. All
Volume II:
Iowa ..... IA91-2 (Feb. 22, 1991)..... p. 29, pp. 30-32
Illinois..... IL91-1 (Feb. 22, 1991) ..... p. 69, p. 73
Illinois..... IL91-8 (Feb. 22, 1991) ..... p. 145, p. 146
Illinois..... IL91-17 (Feb. 22, 1991) ..... p. 225, p. 226
Kansas..... KS91-6 (Feb. 22, 1991)..... p. 363, pp. 364-365
Louisiana..... LA91-1 (Feb. 22, 1991)..... p. 391, p. 392
Louisiana..... LA91-5 (Feb. 22, 1991)..... p. 405, pp. 406-407
Michigan..... MI91-1 (Feb. 22, 1991)..... p. 441, pp. 458, 460
Michigan..... MI91-2 (Feb. 22, 1991)..... p. 461, pp. 463-464
Michigan..... MI91-3 (Feb. 22, 1991)..... p. 477, p. 479
Michigan..... MI91-4 (Feb. 22, 1991)..... p. 491, pp. 492, 495
Michigan..... MI91-5 (Feb. 22, 1991)..... p. 499, pp. 501-503, 511

Michigan	MI91-7 (Feb. 22, 1991)	p. 515
Michigan	MI91-12 (Feb. 22, 1991)	p. 543, pp. 546-550
Oklahoma	OK91-1 (Feb. 22, 1991)	p. All
Oklahoma	OK91-20 (Feb. 22, 1991)	p. 1011, p. 1012
Texas	TX91-27 (Feb. 22, 1991)	p. All
Texas	TX91-29 (Feb. 22, 1991)	p. All
Texas	TX91-30 (Feb. 22, 1991)	p. All
Texas	TX91-38 (Feb. 22, 1991)	p. All
Texas	TX91-43 (Feb. 22, 1991)	p. All
Volume III:		
California	CA91-2 (Feb. 22, 1991)	p. All
Montana	MT91-8 (Feb. 22, 1991)	p. 279, p. 280
Washington.	WA91-1 (Feb. 22, 1991)	p. 451, pp. 452-453, 458, p. 460
Washington.	WA91-2 (Feb. 22, 1991)	p. 477, pp. 479-482, 484
Washington.	WA91-3 (Feb. 22, 1991)	p. 487, pp. 488-492
Washington.	WA91-5 (Feb. 22, 1991)	p. 495, pp. 496-497
Washington.	WA91-6 (Feb. 22, 1991)	p. 499, p. 500
Washington.	WA91-7 (Feb. 22, 1991)	p. 501, p. 502
Washington.	WA91-10 (Feb. 22, 1991)	p. 520a, p. 520b

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Singed at Washington, DC this 24 day of January 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-2173 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

ABB Power IBEW et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 10, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 10, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ABB Power IBEW	Bloomington, IN	01/21/92	01/07/92	26,743	Zinc oxide discs.
American Tourister, Inc. ILGPN	Cranston, RI	01/21/92	12/20/91	26,744	Luggage warehousing.
Blaw Knox Equipment (Wkrs)	Pittsburgh, PA	01/21/92	01/07/92	26,745	Steel mill equipment.
Bluefield Dist. Co. (Wkrs)	Bluefield, WVa	01/21/92	01/09/92	26,746	Appliances.
Borg Warner Automotive Transmission (Wkrs)	Frankfort, IL	01/21/92	01/13/92	26,747	Transmission bands.
ConAgra, Inc. AFGM	Minneapolis, MN	01/21/92	01/08/92	26,748	Oat flowr and flakes.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Devol, Inc. URW	Cranston, RI	01/21/92	01/07/92	26,749	Extrusion, molding, assembly, packaging.
Ford Motor Co—Tulsa Glass Plant (UAW)	Tulsa, OK	01/21/92	12/19/91	26,750	Auto parts for windows, backlites.
Halliburton Serv. (Wkrs)	Abilene, TX	01/21/92	01/07/92	26,751	Oil and gas.
Halliburton Services (Wkrs)	Wichita Falls, TX	01/21/92	12/30/91	26,752	Oil and gas.
Harwood Companies, Inc. (Wkrs)	Marion, VA	01/21/92	01/13/92	26,753	Bath robes, pajamas.
Howmet Corporation (Wkrs)	Whitehall, MI	01/21/92	01/09/92	26,754	Machining facility.
Prarie Wood Inc. (Wkrs)	Humptulips, WA	01/21/92	12/09/91	26,755	Shakes and shingles.
RMI Titanium Co. (OCAW)	Ashtabula, OH	01/21/92	12/31/91	26,756	Titanium sponge.
Roydon Wear, Inc. (Wkrs)	Statesboro, GA	01/21/92	01/07/92	26,757	Pants.
Santa Fe Drilling Co. (Wkrs)	Houston, TX	01/21/92	01/05/92	26,758	Oil and gas.
Tobin Hamilton Co., Inc. (Co)	Mansfield, MO	01/21/92	01/03/92	26,759	Shoes.
Unisys Corp. (Wkrs)	Flemington, NJ	01/21/92	01/10/92	26,760	Personal computers.
Vulcan Materials Co. (Wkrs)	Jacksonville, FL	01/21/92	01/04/92	26,761	Crushed limestone aggregate.

[FR Doc. 91-2332 Filed 1-30-91; 8:45 am]
BILLING CODE 4510-30

[TA-W-26,504]

Carbonaire, Inc. Palmerton, Pennsylvania; Affirmative Determination Regarding Application for Reconsideration

By letters of January 8, 1992 and January 14, 1992 both the company and the local Teamsters Union, respectively, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on December 30, 1991 and published in the **Federal Register** on January 9, 1992 (57 FR 931).

Its claimed that the Department's survey was inadequate and that one of Carbonaire's largest customers purchased imported ammonia.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this January 24, 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2330 Filed 1-30-92; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,177]

Comtek Manufacturing of Oregon, Inc.; Beaverton, OR; Negative Determination Regarding Application for Reconsideration

By an application dated October 11, 1991, a former worker requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on October 11, 1991 and published in the **Federal Register** on October 29, 1991 (56 FR 55690).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers produced sheet metal component parts for electronic devices. Investigation findings show that the facility closed in December 1991.

The former worker states that Comtek was located on Tektronix' property in Beaverton and that from 60 to 70 percent of its production was for Tektronix. Its also claimed that increased imports of oscilloscopes adversely affected the production of subparts and components.

Investigation files show the Comtek was a subsidiary and captive supplier to Tektronix with less than 25 percent of its production going to Tektronix facilities whose workers are certified eligible to apply for adjustment assistance. Further, the components formerly produced by Comtek are now being produced by other domestic firms in the area.

Although workers at Tektronix in Vancouver, Washington were certified eligible to apply for adjustment assistance (TA-W-24,925), less than a substantial amount of Comtek's production was shipped to Vancouver. Further, the Vancouver plant closed in December 1990. The major portion of Comtek's worker separations occurred when Comtek closed in December 1991.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of January 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2334 Filed 1-30-92; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,707]

Inter-City Products (USA); Red Bud, IL; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 30, 1991, in response to a worker petition which was filed on December 30, 1991, by the Sheet Metal Workers International Association, Local 459, on behalf of workers at Inter City Products (USA), Red Bud, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would

serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of January, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2333 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,544]

Northern Processors, Inc.; Traverse City, MI; Negative Determination Regarding Application for Reconsideration

By an application dated January 3, 1992, a company official requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice for petition TA-W-26,544 was signed on December 20, 1991 and published in the Federal Register on January 9, 1992 (57 FR 931).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Northern Processors, Inc., is a service firm that contracts management services to other oil and gas exploration and producing companies. Northern Processors does not produce any oil or gas on its own.

Its stated that Northern Processors has a common tie of ownership with the Preston Oil Company and works exclusively for the Preston Oil Company.

The Department's denial is based on the fact that the workers do not produce an article within the meaning of the Trade Act of 1974 nor are they corporately related to any firm that produces an article whose workers are already under certification. Workers at the Preston Oil Company are not under a worker group certification.

This issue was previously addressed in the Department's negative determination issued on December 20, 1991.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the facts or of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this January 24, 1992.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2331 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

TA-W-26,281—Shell Oil Company, Shell Offshore, Incorporated, New Orleans, Louisiana

TA-W-26,305—Shell Oil Company Administration and E&P, Houston, Texas and operating in the following States and locations:

- TA-W-26,305A—New York
- TA-W-26,305B—New Jersey
- TA-W-26,305C—Illinois
- TA-W-26,305D—Washington
- TA-W-26,305E—District of Columbia

TA-W-26,307—Shell Oil Company Development, Houston, Texas

TA-W-26,309—Shell Oil Company, Products Organization, Houston, Texas

TA-W-26,310—Shell Oil Company, Shell Western E&P, Incorporated, Headquartered in Houston, Texas and Operating at various locations in the following States:

- TA-W-26,310A—Alaska
- TA-W-26,310B—California
- TA-W-26,310C—Colorado
- TA-W-26,310D—Louisiana
- TA-W-26,310E—Michigan
- TA-W-26,310F—Montana
- TA-W-26,310G—Oklahoma
- TA-W-26,310H—Texas (except Houston)

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 13, 1991, applicable to all workers of Shell Oil Company, Shell Offshore, Inc., New Orleans, Louisiana (TA-W-26,281); Shell Oil Company, Administration and E&P, Houston, Texas (TA-W-26,305); Shell Development Company, Inc., headquartered in Houston, Texas and operating at various locations in Alaska, California, Colorado, Louisiana, Michigan, Montana, Oklahoma and Texas (except Houston). The notice was published in the Federal Register on December 27, 1991 (56 FR 67103, 67104).

New information received by the Department indicates that significant worker separations occurred at the Shell Oil Company, Administration and E&P in several States (New York, New Jersey, Illinois, and Washington) and the District of Columbia. Accordingly, the Department is amending the subject certification by including the several States where worker separations occurred at Shell Oil Company, Administration and E&P.

The amended notice applicable to TA-W-26,305 is hereby issued as follows: "All workers of Shell Oil Company, Shell Offshore, Incorporated, New Orleans, Louisiana (TA-W-26,281); Shell Oil Company, Administration and E&P, Houston, Texas (TA-W-26,305) and operating the following States and locations:

New York—TA-W-26,305A
New Jersey—TA-W-26,305B
Illinois—TA-W-26,305C
Washington—TA-W-26,305D
District of Columbia—TA-W-26,305E

Shell Development Company, Houston, Texas (TA-W-26,307); and Shell Western E&P, Incorporated, headquartered in Houston, Texas and operating at various locations in the below cited States who became totally or partially separated from employment on or after September 15, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974:"

TA-W-26,310A—Alaska
TA-W-26,310B—California
TA-W-26,310C—Colorado
TA-W-26,310D—Louisiana
TA-W-26,310E—Michigan
TA-W-26,310F—Montana
TA-W-26,310G—Oklahoma
TA-W-26,310H—Texas (except Houston)

I further determine that all workers at Shell Products Organization, headquartered in Houston, Texas (TA-W-26,309) are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC on the 17th day of Janaury 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2329 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Ocean Sciences Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Ocean Sciences Review Panel.

Date and Time: February 21, 1992; 8:30 a.m. to 5 p.m..

Place: National Science Foundation, 1800 G Street, NW., room 543, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Richard B. Lambert, Associate Program Director, Physical Oceanography Program, National Science Foundation, 1800 G Street, NW., room 609, Washington, DC 20550 Telephone: (202) 357–9614.

Purpose of Meeting: To provide advice and recommendations concerning financial support for ocean circulation research.

Agenda: Review and evaluate research 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 within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 28, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR. Doc. 92–2335 Filed 1–30–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

Public Service Company of New Hampshire; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–86 issued to the Public Service Company of New Hampshire (PSNH, the licensee) for operation of the Seabrook Station located in Rockingham County, New Hampshire.

Enviromental Assessment

Identification of Proposed Action

The proposed amendment would change the license to transfer partial ownership of Seabrook Station from PSNH to North Atlantic Energy Corporation (NAEC), a wholly-owned subsidiary of Northeast Utilities (NU).

The proposed action is in accordance with the licensee's application for amendment dated November 13, 1990, as supplemented by letters dated January 14, 1991, and August 28, 1991.

The Need for the Proposed Action

The licensee, PSNH, proposes to transfer its ownership share of Seabrook Station to NAEC. The transfer to NAEC is required to reflect the pending merger of PSNH and NU. This action would transfer only the ownership-interest of PSNH to NAEC. In a separate application, it was requested that the authority to operate Seabrook be transferred from PSNH to a separate subsidiary of NU, the North Atlantic Energy Service Company (NAESCO). The transfer of the PSNH's ownership interest to NAEC will not affect the operation of the facility or the facility's Technical Specifications.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the license. The proposed revisions would allow PSNH to transfer its ownership interest in Seabrook Station to NAEC. There will be no changes to the operation and maintenance staff, or to the facility or the environment as a result of the license amendment. No changes are being made in the types or amounts of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological or non-radiological environmental impact.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Seabrook Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and consulted with the Department of Justice regarding an anti-trust review.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

The Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 28, 1991 (56 FR 8373). A petition for leave to intervene, which was filed following this notice, was denied by the Atomic Safety and Licensing Board. The Commission's affirmance of that denial became final agency action on November 15, 1991.

For further details with respect to this action, see the application for amendment dated November 13, 1990, as supplemented by letters dated January 14, 1991, and August 28, 1991, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, Maryland, this 27th day of January 1992.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–3, Division of Reoctor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–2349 Filed 1–30–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–396]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling of Facility and Disposition of Component Parts; University of Virginia

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order authorizing the University of Virginia (UVA) to dismantle their Cooperatively Assembled Virginia Low Intensity Educational Reactor (CAVALIER) located on the licensee's campus in Charlottesville, Virginia, and to dispose of the reactor components in accordance

with the application dated February 26, 1990, as supplemented on June 17, 1991.

Environmental Assessment

Identification of Proposed Action

By application dated February 26, 1990, as supplemented, UVA requested authorization to decontaminate and dismantle the CAVALIER, to dispose of its components parts in accordance with the proposed Decommissioning Plan, and to terminate Facility Operating License No. R–123. The CAVALIER was shut down in March 1988, and has not operated since then. Following reactor shutdown, the fuel was removed from the core and transferred to the University of Virginia pool reactor (UVAR, Facility Operating License No. R–66, Docket No. 50–62) which is located in the same building.

Opportunity for hearing was afforded by a "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on April 22, 1991, (56 FR 16350). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

Need for Proposed Action

In order to terminate the facility license and transfer the area to the UVAR, the dismantling and decontamination activities proposed by the University of Virginia must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The UVA staff has calculated that the collective dose equivalent to the UVA staff and public for the project will be less than 0.5 person-rem.

The above conclusions were based on all proposed operations being carefully planned and controlled, all contaminated components being removed, packaged, and shipped offsite, or transferred to another NRC license, and that radiological control procedures will be in place that help to ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the University of Virginia CAVALIER facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

The staff has also determined that the proposed activities will not result in any significant impacts on air, water, land, or biota in the area.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain possession of the reactor. This approach would include monitoring and reporting for the duration of the safe storage period. However, the University of Virginia intends to use the area for other academic purposes.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conclude that the proposed action will not have a significant effect on the quality of the human environment.

For detailed information with respect to this proposed action, see the application for dismantling, decontamination and license termination dated February 26, 1990, as supplemented, and the Safety Evaluation prepared by the staff. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 23rd day of January 1992.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92–2302 Filed 1–30–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Auxiliary and Secondary Systems; Meeting

The Subcommittee on Auxiliary and Secondary Systems will hold a meeting on February 14, 1992, room F–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, February 14, 1992—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the proposed resolution of Generic Issue 57, "Effects of Fire Protection System Actuation on Safety Related Equipment," and other fire-related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions and representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the ACRS Staff Engineer, Mr. Thomas S. Rotella, P.E., (telephone 301/492–8972) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 23, 1992.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–2347 Filed 1–30–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-348 and 50-364]

Southern Nuclear Operating Company, Inc. Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to facility Operating License Nos. 50-348 and 50-364 issued to Southern Nuclear Operating Company, Inc. (SUNOPCO or the licensee) for operating of the Joseph M. Farley Nuclear Plant, Units 1 and 2 (Farley), located in Houston County, Alabama.

The licensee is currently required to submit their Radial Peaking Factor Limit Report 60 days before initial criticality following any refueling outage. The licensee has requested that the 60 day requirement be dropped, and that they be required to submit the Radial Peaking Factor Limit Report before entry into Mode 2 following any refueling outage. The proposed amendments would allow greater operational flexibility. The amendments request is a supplement to their amendments request dated July 15, 1991, as supplemented September 10, 1991. The original amendments request was noticed on December 26, 1991 (56 FR 66014).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments 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 amendments would not (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration.

Southern Nuclear Operating Company, Inc. has reviewed the proposed changes and has determined that the proposed amendments does not involve a significant hazards consideration since the proposed changes will not:

[Involve a significant increase in the probability or consequences of an accident previously evaluated.]

1. Since the reporting requirements are an administrative change, this change does not involve a significant increase in the probability or consequence of an accident previously evaluated in the Farley FSAR. With the exception of the reporting schedule, no other changes to the reporting requirements are made.

[Create the possibility of a new or different kind of accident from any accident previously evaluated.]

2. This administrative change in reporting requirements does not create the possibility of a new of different kind of accident from any previously evaluated in the Farley FSAR since only the time for reporting requirements has changed. Therefore, the probability of a new or different kind of accident is not created.

[Involve a significant reduction in a margin of safety.]

3. This administrative change is not safety-related and therefore does not involve any reduction in the 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 proposed to determine that the amendments request involved no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. 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 March 2, 1992, the licensee may file a request for a hearing with respect to issuance of the amendments 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 Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302. 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 Panel, 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 Panel 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 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 fifteen (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 fifteen (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 amendments 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 not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requests involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments 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 and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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 ten (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) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: 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 James H. Miller, III, Esq., Balch and Bingham, P.O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201, 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 Atomic Safety and Licensing Board Panel 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 amendments dated January 10, 1992, 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 Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 24th day of January 1992.

For the Nuclear Regulatory Commission.

Stephen T. Hoffman,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–2348 Filed 1–30–92; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Panel Meeting

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the Nuclear Waste Technical Review Board's Panel on Transportation & Systems has scheduled a meeting with the Department of Energy (DOE) for March 10 and 11, 1992. The meeting which is open to the public, will be held at the Board's Arlington, Virginia, offices, and sessions have tentatively been scheduled to begin at 9 a.m., on both days. The meeting will focus on three subjects:

System Safety and Human Factors

From its inception, the Board has underscored the need for the DOE to incorporate the precepts of system safety and human factors engineering into the waste management process. The DOE has responded to the Board's recommendations in this area by having a consultant develop a draft program plan for system safety. A portion of the March meeting will be devoted to discussing the elements of this draft plan, the features being considered for incorporation into the plan, and initial thoughts on how to implement the plan. There also will be follow-up discussion on the DOE's progress in incorporating human factors considerations into this program.

Transportation Related Facility Studies

The DOE has been conducting two studies on transportation infrastructure, facilities, and capabilities at and near utility sites. The results of these studies could affect how spent fuel may be shipped from these sites. One study, the Facility Infrastructure and Capability Assessment (FICA), examines capabilities—such as crane capacity and existence of rail spurs—at the various sites. The second study, the Near Site Transportation Infrastructure (NSTI) study, examines the modal options for transporting the fuel from each of the reactor sites. Since both studies are coming to completion, a

portion of the meeting will be devoted to discussion of the major findings.

MRS Conceptual Design

The DOE intends to build a monitored retrievable storage (MRS) facility that would provide away-from-reactor interim storage of spent fuel prior to disposal. The simplest version would offer pure storage capability. However, functions other than storage—such as accumulation and consolidation of shipment loads into larger loads—also have been considered as possible useful expansions of the MRS concept. A new conceptual design for the MRS is being completed by a member of the DOE management and operations (M&O) contractor team. The panel has requested a review of the key features of this design.

Transcripts of the March 10 and 11 meeting will be available on a library-loan basis from Victoria Reich, Board librarian, beginning April 29, 1992. For more information, contact Paula N. Alford, Director, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated: January 28, 1992.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 92–2327 Filed 1–30–92; 8:45 am]

BILLING CODE 6820-A-M

POSTAL SERVICE

International Surface AO Mail To Canada

AGENCY: Postal Service.

ACTION: Proposed changes in rate schedules for surface AO mailings to Canada.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is proposing to establish one-ounce rate increments for surface AO mailings to Canada. Included are regular printed matter, small packets, and publishers' periodicals weighing between four ounces and one pound. The Postal Service also proposes to adjust the rate levels applicable to surface mailings to Canada of publishers' periodicals weighing three ounces or less.

DATES: Comments on the proposed changes must be received on or before March 2, 1992.

ADDRESSES: Director, Offices of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268–2650.

SUPPLEMENTARY INFORMATION: Printed matter is paper on which words, letters, characters, figures, images, or any combination of them have been reproduced by any process other than handwriting or typewriting. Printed matter does not have the character of a bill or statement of account, or of actual or personal correspondence.

"Regular printed matter" includes all printed matter other than books, sheet music, and publishers' periodicals. Commercial items such as advertising matter, catalogs, and price lists are included. The maximum permitted weight for regular printed matter to Canada is four (4) pounds, except catalogs and directories which may weigh up to 11 pounds.

"Publishers' periodicals" are domestically approved second-class publications. Such periodicals must be published at a stated frequency with the intent to continue publication indefinitely. The primary purpose of publishers' periodicals must be the transmission of information. They may consist of original or reprinted articles on a single topic or variety of topics, listings, photographs, illustrations, graphs, a combination of advertising and nonadvertising matter, comic strips, legal notices, editorial material, cartoons, or other subject matter. (See Chapter 4 of the Domestic Mail Manual for a complete list of the requirements for publishers' periodicals.) Only publishers and registered news agents qualify for the publishers' periodicals rate. When mailed by individuals, this type of publication is subject to regular printed matter postage. The maximum permitted weight for publishers' periodicals to Canada is 30 pounds.

"Small packets" are another type of Other Articles (AO) mail that the Postal Service considers to be printed matter mail. The offer a convenient and economical means for sending small quantities of merchandise, commercial samples, or documents which do not have the character of current and personal correspondence. The maximum permitted weight for small packets to Canada is two (2) pounds.

As shown in the table attached, the Postal Service proposes to modify the rate schedules for surface mailings to Canada of regular printed matter, small packets, and publishers' periodicals so that uniform one-once rate increments would apply to items weighing up to one pound. The current rate schedules contain only two-ounce rate increments between four ounces and one pound. The proposed increase in the number of weight steps would result in rate schedules that more closely conform to the actual weights mailers of surface printed matter items sent to Canada. The proposal would serve the needs of mailers by simplifying rate application and, for items weighing five, seven, nine, eleven, thirteen or fifteen ounces, would mean lower postage.

Concurrent with the foregoing change, the Postal Service proposes to increase the rate for each of the first three weight steps within the publishers' periodicals rate schedule by two cents. This slight adjustment in rate levels is necessary to maintain reasonable relationships between the publishers' periodicals rate schedule and the rate schedules applicable to other mail services to Canada.

As required by the Postal Reorganization Act, the proposed changes would result in rates that (1) would not apportion the costs of the service so as to impair the overall value of the service to the users; (2) would apportion the costs of all postal operations to all users on a fair and equitable basis; (3) would be fair and reasonable; and (4) would not be unduly or unreasonably discriminatory or preferential.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed changes.

Authority: 39 U.S.C. 407, 410.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

SURFACE AO

Ounces [1]	Small packets and regular printed matter Canada (rates)	Publishers' periodical Canada (rates)
1	$0.36	$0.32
2	.58	.36
3	.80	.46
4	1.02	.54
5	1.14	.60

SURFACE AO—Continued

Ounces [1]	Small packets and regular printed matter Canada (rates)	Publishers' periodical Canada (rates)
6	1.26	.65
7	1.38	.70
8	1.50	.76
9	1.62	.81
10	1.74	.87
11	1.86	.92
12	1.98	.98
13	2.10	1.03
14	2.22	1.09
15	2.34	1.14
16	2.46	1.20

[1] Up to and including.

[FR Doc. 92-2304 Filed 1-30-92; 8:45 am]
BILLING CODE 7710-12-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; New Orleans East, Orleans Parish, LA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as New Orleans East, located in the City of New Orleans, Orleans Parish, Louisiana, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until April 30, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Gerald Cashman, Oversight Manager, Resolution Trust Corporation, Tulsa Consolidated Office, 4606 South Garnett Road, Tulsa, Oklahoma 74146, (918) 587-7600, Fax (918) 560-0258.

SUPPLEMENTARY INFORMATION: The property is located between Chef Menteur Highway on the South, Interstate Highway 10 (I-10) on the North, Maxent Levee on the East, and Michoud Boulevard on the West. The site is adjacent to the Bayou Savauge National Wildlife Refuge, and it contains wetlands and archaeological resources. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 2,809 acres of primarily undeveloped land. Included on the site are about 402 acres of wetlands, waterways, bayous, drainage lagoons, canals, and a lake. There are no man made improvements on the site, however, the property does contain approximately 20-25 acres of cultivated land. Archaeological artifacts have been discovered on the "Big and Little Oak Islands," a portion of the property which is about 18-19 acres in size. The archaeological site on the property is listed on the National Register of Historic Places.

Property size: Approximately 2,809 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before April 30, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by April 30, 1992. To Gerald Cashman at the above **ADDRESSES** and in the following form:

Notice of Serious Interest
Re: New Orleans East
Federal Register Publication
Date: _____

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: January 24, 1992.

Resolution Trust Corporation
William J. Tricarico,
Assistant Executive Secretary.

[FR Doc. 92-2328 Filed 1-30-92; 8:45 am]
BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30289; International Series No. 361; File No. SR-AMEX-91-20]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Warrants on a Basket of Ten Foreign Currencies

January 27, 1992.

On August 12, 1991, the American Stock Exchange, Inc. ("AMEX" or "Exchange") submitted to the Securities and Exchange Commission "SEC or "Commission"), pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade warrants based on a basket of ten major foreign currencies.

Notice of the proposed rule change was published for comment and appeared in the Federal Register on October 8, 1991.[3] AMEX amended the proposal on November 25, 1991,[4] and notice of the amendment appear in the Federal Register on December 12, 1991.[5] No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

The AMEX proposes to list and trade cash-settled warrants based on a basket of ten major foreign currencies ("Foreign Currency Basket Warrants"), which are weighted in accordance with the U.S. Dollar Index (Fed USDX") established and published by the Federal Reserve Board ("Fed").[6] The currencies and their

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] See Securities Exchange Act Release No. 29753 (September 27, 1991), 56 FR 50741.

[4] This amendment provides that the proposed warrants can only be settled in U.S. dollars. Originally, the proposal would have permitted settlement by means of physical delivery of the underlying currencies, at the discretion of the holder, or by payments in U.S. dollars.

[5] See Securities Exchange Act Release No. 30037 (December 5, 1991), 56 FR 64820.

[6] The U.S. Dollar Index is calculated by the Fed and is based on the change in exchange rates relative to a specified March 1973 base period. The value of this change is weighted based on each index component country's average share of multilateral world trade for the five years 1972-76. March 1973 was chosen as a base period because the world's major trading nations agreed at that time to allow their currencies to float freely in connection with international market forces. Accordingly, FED USDX is a measure of the overall international value of the dollar versus ten major foreign currencies.

weightings within the basket are as follows: (1) Deutsche Mark (20.8%); (2) Japanese Yen (13.6%); (3) French Franc (13.1%); (4) British Pound (11.9%); (5) Canadian Dollar (9.1%); (6) Italian Lira (9%); (7) Dutch Guilder (8.3%); (8) Belgian Franc (6.4%); (9) Swedish Krona (4.2%); and (10) Swiss Franc (3.6%).[7] Accordingly, the value of Foreign Currency Basket Warrants is expected to fluctuate in accordance with changes in the rate of exchange between the U.S. dollar and the individual currencies included in the Fed USDX.[8]

The Exchange proposes to trade Foreign Currency Basket Warrants under the same listing standards, suitability and disclosure requirements that apply to foreign currency warrants as specified in the Exchange's rules.[9] Consistent with the Foreign Currency Warrant Approval Orders, the AMEX represents that the Foreign Currency Basket Warrant issues will conform to existing listing guidelines.[10] Specifically, the listing guidelines of the Exchange require that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the Exchange's size and earnings requirements;[11] (2) The term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

The AMEX further proposes that the Foreign Currency Basket Warrants must be direct obligations of their issuer, subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style).[12] Cash-settlement of these instruments will be based upon the value of the Foreign Currency Basket in relation to a pre-determined base price for the Foreign Currency Basket. In particular, with a Foreign Currency Basket Warrant structured as a "put," if the value of the Foreign Currency Basket falls below a pre-determined base price, the warrant can be expected to increase in value. Conversely, a Foreign Currency Basket Warrant structured as a "call" would increase in value if the value of the Foreign Currency Basket were to rise above a pre-determined base price. As with options, warrants which are "out-of-the-money" at the end of the stated term expire worthless.

Because Foreign Currency Basket Warrants are derivative in nature and closely resemble standardized foreign currency options, the Exchange has proposed safeguards that are designed to meet the investor protection concerns raised by the trading of Foreign Currency Basket Warrants. First, pursuant to Commentary .01 to AMEX Rule 411, the Exchange recommends that the Foreign Currency Basket Warrants be sold only to investors whose accounts have been approved for options trading pursuant to AMEX Rule 921.[13] Second, pursuant to Commentary .01 of AMEX Rule 411, if a member or member organization undertakes to effect a transaction in Foreign Currency Basket Warrants for a customer whose account has not been approved for options trading, such member of member organization must make a careful determination that such warrants are suitable for the customer. Third, prior to the commencement of trading of Foreign Currency Basket Warrants, the Exchange will distribute a circular to its membership calling attention to the specific risks associated with these products.

II. Discussion

The Foreign Currency Basket Warrants are the first warrants proposed to be traded on a U.S. exchange that are based on a basket of foreign currencies. As discussed below, the Commission is satisfied that the proposal is consistent with section 6(b)(5) of the Act, in that it should help remove impediments to a free and open securities market and facilitate transactions in securities by providing investors with a means by which to hedge their exposure to fluctuations in the value of foreign currencies.[14]

While no comments were submitted questioning the legal status of the warrants, the Commission nevertheless has analyzed the Foreign Currency Basket Warrants and found them to be "securities" within the meaning of section 3(a)(10) of the Act and thus within the Commission's jurisdiction. Under section 3(a)(10) of the Act a "security" is defined as "any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency (emphasis added)." The Foreign Currency Basket Warrant "relates" to foreign currency because its value is based upon the ten foreign currencies that comprise the basket.[15] Moreover, because the Foreign Currency Basket Warrant is the economic equivalent of a long-term option, and in any event will be structured as a put or call, the Foreign Currency Basket Warrants are properly characterized as long-term puts, calls or options relating to foreign currency.[16]

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[7] World-wide, the ten countries included in the Fed USDX account for approximately one-half of all international trade. See Financial Instrument Exchange ("FINEX"), USDX Futures and Options ("USDX Report"), at 3, October 1989.

[8] See text following note 12, *infra*.

[9] See Securities Exchange Act Release Nos. 24555 (June 5, 1987), 52 FR 22570 and 26152 (October 3, 1988), 53 FR 39832 ("Foreign Currency Warrant Approval Orders").

[10] See Section 106 of the AMEX Company Guide.

[11] The creditworthiness of an individual issuer is very important because a warrant is not a standardized option backed by the Options Clearing Corporation. Accordingly, the AMEX imposes minimum earning and asset requirements that each issuer must satisfy for the purpose of ensuring that the issuer has sufficient financial means to meet its settlement obligations under the warrants. Specifically, Section 101(A) of the AMEX Company Guide at a minimum requires stockholders equity of $4 million and pre-tax income of $750,000 in the issuer's last fiscal year or in two of its last three fiscal years.

[12] Prior to expiration, a holder may exercise no fewer than 1,000 warrants at any one time. However, the Exchange has indicated that a continuous market for the warrants will be provided regardless of order size. See supra note 9.

[13] AMES Rule 921 provides that no member or member organization shall accept an options order from a customer unless that customer is approved to trade options. To approve a customer for options trading the member or member organization must exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation.

[14] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In the case of the Foreign Currency Basket Warrants, these products will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the value of the Foreign Currency Basket moves in a favorable direction within a specified time period. Thus, the trading of these warrants will provide investors with a valuable hedging vehicle that should reflect accurately the relative value of the U.S. dollar with respect to the currencies of ten major industrial nations throughout the world.

[15] While section 4c(f) of the CEA excludes from CFTC jurisdiction options "on" foreign currency rather than options that "relate" to foreign currency as under the Act, the Commission does not find this distinction to be significant. The relevant clauses in the CEA and Act were intended to divide jurisdiction pursuant to where the foreign currency options trade. In any event, the Foreign Currency Basket Warrants are "on" foreign currency.

[16] Whether or not the currency basket is a foreign currency is irrelevant because its value is established by its various foreign currencies. Therefore, warrants on a basket of foreign currencies are "securities" because they literally are puts, calls, or options that relate to foreign currency regardless of whether the underlying instrument is characterized as a basket or index. The cash-settled nature of the warrants does not change the fact that they relate to foreign currency. Indeed, several cash-settled warrants on foreign currency have been trading on national securities exchanges for

Continued

While Foreign Currency Basket Warrants are "securities," due to their derivative nature the Commission believes that these warrants only should be sold to investors capable of evaluating and bearing the risks associated with trading in these instruments, and that adequate disclosure of the risks of these products must be made to investors. In this regard, the Commission notes that the rules and procedures of the Exchange that address the special concerns attendant to the secondary trading of foreign currency warrants will be applicable to the Foreign Currency Basket Warrants. In particular, by imposing the special suitability and disclosure requirements noted above, the AMEX has addressed adequately the potential public customer concerns that could arise from the derivative nature of Foreign Currency Basket Warrants. Moreover, the Exchange plans to distribute a circular to its members calling attention to the specific risks associated with Foreign Currency Basket Warrants and, pursuant to the Exchange's listing guidelines, only substantial companies capable of meeting their warrant obligations will be eligible to issue the warrants.

In addition, the Commission notes that the Foreign Currency Basket Warrants will be subject to the same surveillance procedures as the AMEX's other foreign currency warrants.[17] Moreover, in light of the design of the Foreign Currency Basket and the developed markets for the foreign currencies included in the basket, the Commission believes that the market for Foreign Currency Basket Warrants will not be readily susceptible to manipulation.

The Commission further believes that the listing and trading of Foreign Currency Basket Warrants on the Exchange will not adversely affect the spot and/or derivative foreign currency markets. First, the Commission notes that the interbank foreign currency spot market is an extremely large, diverse market comprised of banks and other financial institutions worldwide. That market is supplemented by equally deep and liquid markets for standardized options and futures on foreign currencies and options on those futures. An active over-the-counter market also exists in options on foreign currencies. The addition of exchange-traded warrants based on FINEX's U.S. Dollar Index ("FINEX USDX")[18] available to investors should not increase the potential for manipulating the market for foreign currencies, because of the cost of carrying these warrants relative to other similar products.

Second, the Commission notes that the FINEX has traded USDX futures since November 1985 and options on USDX futures since September 1986 and that it is unaware of any market disruptions resulting from the trading of these derivative products on the USDX. In addition, changes in the value of the Foreign Currency Basket Warrants also can be expected to correlate closely with changes in the FINEX USDX. The FINEX's USDX parallels the Fed's USDX because the index calculation formula, currency composition, and relative currency weightings are the same for both indexes. The FINEX USDX is calculated and continuously updated on a 24-hour basis according to real-time currency quotations from hundreds of foreign currency market participants world-wide. The Index, in turn, is disseminated by Reuters and other information vendors.[19] The FINEX has traded USDX futures since November 1985 and options on USDX futures since September 1986.

Third, as noted above, the AMEX will apply its existing foreign currency warrant surveillance procedures to the warrants, which the Commission previously has found to be adequate to surveil for manipulation and other abuses involving the warrant market and the underlying foreign currencies.[20] Accordingly, the Commission does not believe that the introduction of Foreign Currency Basket Warrants by the Amex will have a significant adverse effect on the underlying interbank foreign currency market.

Finally, the Commission realizes that the warrants, unlike standardized options, do not contain a clearinghouse guarantee but are instead dependent upon the individual credit of the issuer. This heightens the possibility that an exerciser of warrants may not be able to receive full cash settlement upon exercise. To some extent this risk is minimized by the Exchanges' standard that warrant issuers possess at least $100,000,000 in assets. In any event, financial information regarding the issuer will be disclosed or incorporated in the prospectus accompanying the offering of the warrants.

There is a systemic concern, however, that broker-dealers or broker-dealer subsidiaries issuing index warrants or providing a hedge for the issuer will incur position exposure. This position exposure, if left partially hedged or dynamically hedged, could not only create a risk of non-performance but add a systemic risk in that the broker-dealer will have to dynamically hedge the position to minimize losses should the market turn against it. To date the warrant issuances have been so small in relation to the broker-dealer issuer's (or underwriter's) total equity positions as not to raise significant concerns. Nevertheless, the Exchange should continue to monitor this area.

For the reasons set forth above, 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, the requirements of section 6(b)(5)[21]

It therefore is ordered, Pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change (SR–AMEX–91–20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

[FR Doc. 92–2345 Filed 1–30–92; 8:45 am]

BILLING CODE 8010–01–M

almost five years. *See* letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to Robert B. Hiden, Jr., Sullivan and Cromwell, and Benjamin D. Krause, AMEX, dated April 21, 1987.

[17] Currently, the AMEX trades a variety of cash-settled warrants based on the Deutsche Mark and Japanese Yen.

[18] The FINEX is a division of the New York Cotton Exchange.

[19] Real-time quotes worldwide are collected by Reuters and then disseminated. See USDX Report, *supra* note 7, at 3.

[20] See *supra* note 9.

[21] 15 U.S.C. 78f(b)(5) (1982).

[22] 15 U.S.C. 78s(b)(2) (1982).

[23] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–30286; File No. SR–OCC–91–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Filing of Proposed Rule Change Relating to a Modification of the Margin Calculation for a Clearing Member's Customers' Account and a Firm Non-Lien Account

January 24, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 7, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify the method by which margin is calculated for positions carried in a Clearing Member's customers' account or firm non-lien account with OCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to modify the logic within OCC's Theoretical Intermarket Margin System ("TIMS") which calculates margin for positions carried in a Clearing Member's customer's account with OCC.[1] In particular, OCC proposes to eliminate the logic which reduces to zero any premium margin credit or additional margin credit for each class group comprising a given product group. Accordingly, this filing would delete paragraph (d)(3) from Rule 601 (applicable to stock options) and paragraphs (d)(3) and (d)(4) from Rule 602 (applicable to non-equity options).

1. Background

OCC requires its Clearing Members to adjust their margin deposits with OCC in the morning on every business day pursuant to calculations performed by OCC overnight. OCC imposes a margin requirement on short positions in each Clearing Member account and gives margin credit for unsegregated long positions.[2] Within TIMS, the margin requirement or credit for positions in a class group (a class group consists of all put and call options relating to the same underlying interest) [3] in a given Clearing Member account is equal to the liquidating value of those positions based on premium levels at the close of trading on the preceding trading day. Margin requirements and credits within a class group are offset against each other providing a net premium margin requirement or credit for each class group. To determine additional margin amounts, TIMS also calculates an upside variation and a downside variation for each class group.

Premium margin amounts are then totaled across all class groups within a product group (a product group consists of two or more class groups whose underlying assets exhibit a sufficient price correlation to warrant margining on a combined basis) [4] as are the upside and downside variations. Only at the product group level is premium margin combined with additional margin (*i.e.*, the greater requirement of the upside or downside variations) to arrive at a total margin amount for a given Clearing Member account.[5] Two differences exist in the TIMS methodology, however, for calculating a Clearing Member's margin requirements (or credits) for its market professionals' accounts (*i.e.*, firm accounts and market-makers' accounts) versus its customers' account. First, segregated long positions in a customers' account are not offset against short positions in the same series of options, and such long positions are not assigned any value for margin calculation purposes because OCC does not have a lien on such positions.

Second, in calculating product group margin in a customers' account, margin credits, if any, for each class group within a product group are reduced to zero.[6] That is, for a Clearing Member's customers' account, a premium margin credit for one class group cannot offset premium margin requirements for another class group or an additional margin credit for one class group cannot offset additional margin requirements for another class group. As described below, this reduction to zero affects only those long positions in a customers' account for which a Clearing Member has submitted spread instructions to OCC in accordance with Rule 611, and which are, by operation of Rule 611, deemed to be unsegregated long positions. It is this second difference that OCC would eliminate.

2. Modification to Margin Calculation for a Customers' Account

Under Rule 611, a Clearing Member may submit written instructions to OCC designating any segregated long position in its customers' account which the Clearing Member desires OCC to release from segregation. To file spread instructions, the Clearing Member must simultaneously carry in a short position an equal number of options contracts of the same class of option for the account of such customer. This is, before a Clearing Member may instruct OCC to release a long position from segregation, the long position must be spread (on a contract-for-contract basis) against a short position in the same class of option held in the account of the same customer. Once OCC releases the long position, it will be deemed unsegregated and subject to OCC's lien. Accordingly, any premium margin credit calculated for the unsegregated long position will be permitted to offset the premium margin requirement imposed on the short position but only up to the amount of the margin imposed.

For certain spreads, however, TIMS calculates a premium margin credit amount which may exceed the premium margin required for the short position. However, because TIMS reduces premium margin credits in a customers' account to zero, the excess premium margin credit amount cannot be used to offset any additional margin requirement for the short side of the spread at the product group level. Nor

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[1] This proposed modification would also impact margin calculations for firm non-lien accounts. Currently, however, no Clearing Member maintains such an account with OCC.

[2] A long position is "unsegregated" if OCC has a lien on the position (*i.e.*, has recourse to the value of the position in the event the Clearing Member does not perform an obligation to OCC). Long positions in firm accounts and market-maker accounts are unsegregated. Long positions in the Clearing Member's customers' account are unsegregated only if the Clearing Member submits instructions to that effect in accordance with Rule 611 (*i.e.*, "spread instructions").

[3] Under Rule 602, a class group also consists of market baskets, commodity options, and futures subject to margin at OCC because of a cross-margining program with a commodity exchange, and, upon the Commission's approval of File No. SR–OCC–91–5, Index Participations ("IPs") relating to the same underlying interest.

[4] All class groups of equity options form a single product group. By contrast class groups for non-equity options are organized into several product groups including such product groups as stock index options and long term Treasury options.

[5] Unlike premium margin which can either be a requirement or a credit, no margin credit is given for additional margin. Thus, additional margin is always a margin requirement or zero (*i.e.*, never a margin credit against premium margin).

[6] The reduction of margin credits to zero at the class group level is residual logic from the old margin methodologies used before TIMS. Under those old methodologies, product group margin was not calculated and, for customer accounts, class group margin credits were artificially reduced to zero so that they would not be applied against other class margin requirements. This logic was simply carried over and incorporated into TIMS during the course of its development without significant analysis. OCC nonetheless believes that retention of this logic, which results in the over-margining of positions, is incompatible with one of the purposes of TIMS, namely to reduce substantially the potential for over- or under-margining options positions.

can the premium margin credit be used to offset any premium margin requirement for another class group within the same product group. In those instances, a Clearing Member may be required to deposit margin collateral in excess of the net risk of a spread position in its customers' account even though the spread positions are not a liability to OCC. Therefore, OCC proposes to remove from TIMS the logic which reduces class group premium margin credits to zero. Currently, no margin credit would be given for "negative" upside or downside variations (*see* Rule 601(c)(1)(E) for equity options and Rule 602(c)(2)(B) for non-equity options). Except for the treatment of segregated long positions, OCC would calculate margin for a Clearing Member's customers' accounts the same as it calculates margin for a Clearing Member's market professionals' account.

This modification of TIMS does not increase OCC's risk and is consistent with the treatment of unsegregated long positions in a Clearing Member's customers' account under OCC's liquidation rules. In the event of a Clearing Member default, OCC may liquidate an unsegregated long position and, because of its lien, use the proceeds to, among other things, offset the costs of liquidating a short position whether such short position is in the same class group or another class group in the customers' account. Moreover, this modification is consistent with the TIMS' goal of calculating margin requirements based upon the risk of liquidating options positions carried by a defaulting Clearing Member.

This proposed rule change is consistent with the requirements of Section 17A of the Act because it will reduce demands on Clearing Member liquidity by eliminating the deposit of excessive margin collateral in positions carried in a customers' account without adversely affecting the securities under OCC's control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Stotement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC for the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements regarding the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–91–16 and should be submitted by February 21, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2343 Filed 1–30–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25459]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 24, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The applications(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 18, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Oklahoma (70–7929)

Public Service Company of Oklahoma ("PSC–OK"), 212 East Sixth Street, Tulsa, Oklahoma 74119, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration under section 12(d) of the Act and rule 44 thereunder.

PSC–OK proposed to sell to St. John Medical Center ("St. John") for $528,349 four three phase, 13.2/4.16 kV, step-down transformers and associated equipment and facilities (collectively, "Transformation Facilities"). The Transformation Facilities are located on St. John's premises in Tulsa, Oklahoma. PSC–OK arrived at the price through arms-length negotiation and the proposed purchase price is in excess of the Transformation Facilities book value net of depreciation as of November 30, 1991 of $302,216.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[FR Doc. 92–2344 Filed 1–30–92 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Investment Advisory Council; Meeting

Time and Date: 8:30 a.m.–5 p.m. Wednesday, January 29, 1992.

Place: The meeting will be held in Administrator's Conference Room on the seventh floor of SBA headquarters at 409 Third Street, SW., Washington, DC.

Purpose: The meeting is being held to discuss such matters concerning the Small Business Investment Company (SBIC) and Specialized Small Business Investment Company (SSBIC) programs as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, contact William Molloy, room 8500, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205–6510.

Dated: January 14, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92–2378 Filed 1–30–92; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000063]

Commonwealth Enterprise Fund, Inc.; Application for a Small Business Investment Company License

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 (1991)) by Commonwealth Enterprise Fund, Inc., 10 Post Office Square, suite 1090, Boston, MA 02109, for a license to operate as a small business investment company (SBIC) under section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended, (15 U.S.C. 661 et. seq.) and the Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Title	Percentage of ownership
Massachusetts Minority Enterprise Investment Corporation, 100 Franklin Street, Boston, Massachusetts 02110.	Sole Stockholder.	100
Ralph Sautter, State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts 02110.	Chairman/ Director.	
Milton J. Benjamin, Jr., Massachusetts Community Development Finance Corp., 10 Post Office Square, Boston, Massachusetts 02109.	Director.	
Susan Dunnagin, Shawmut Bank, One Federal Street, Boston, Massachusetts 02211.	Treasurer/ Director.	
John N. Henderson III, Midwest Paper Products Co., 12350 E. 9 Mile Road, Warren, Michigan 48089.	Director.	
Jesse Lanier, Springfield Food System, Inc., 622 State Street, Springfield, Massachusetts 01109.	Director.	
Janet Maher, Fleet Bank of Massachusetts, 28 State Street, Boston, Massachusetts 02109.	Director.	
Paul Peterson, Bay Bank, 7 New England Executive Park, Burlington, Massachusetts 01803.	Director.	
Tom Schumpert, Massachusetts Minority Enterprise Investment Corp., 100 Franklin Street, Boston, Massachusetts 02110.	President/ Director.	
Gail Snowden, Bank of Boston, P.O. Box 2016, Boston, Massachusetts 02110.	Director.	
Henry Turner, Boston University School of Management, 985 Commonwealth Avenue, Boston, Massachusetts 02215.	Director.	
Gabrielle E. Greene, Community Development Finance Corporation, 10 Post Office Square, Suite 1090, Boston, Massachusetts 02109.	Director.	

The proposed sole stockholder, Massachusetts Minority Enterprise Investment Corporation (MEIC), is a community development corporation owned by a consortium of Massachusetts-based depository institutions. Beneficial holders of 10 percent or more of the voting securities of MEIC are as follows:

Name	Percentage of ownership
Shawmut Bank, N.A., One Federal Street, Boston, Massachusetts 02211	24
Bank of Boston, P.O. Box 2016, Boston, Massachusetts 02110	24
Fleet Bank of Massachusetts, 28 State Street, P.O. Box 2097, Boston, Massachusetts 02106–2197	24
BayBanks Middlesex, 175 Federal Street, Boston, Massachusetts 02109	12
State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts 02110	10

Commonwealth Enterprise Fund, Inc. will be managed by Community Development Finance Corporation (CDFC). The Commonwealth of Massachusetts is the sole stockholder of CDFC. Gabrielle E. Greene will have primary responsibility for all the operations of Commonwealth Enterprise Fund, Inc.

As a section 301(d) Licensee, the Applicant will provide assistance solely to small business concerns which contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

The Applicant, a corporation organized under the laws of the Commonwealth of Massachusetts, will begin operations with a capitalization of $2,000,010. The applicant will conduct its activities solely within the Commonwealth of Massachusetts and will be a source of equity capital and long term funds for qualified small business concerns.

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 existing company under their management, including profitability and financial soundness in accordance with the Act and the Regulations.

Notice is further 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 Third Street, SW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 21, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92–2379 Filed 1–30–92; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 26, 1992, at 9:30 a.m..

ADDRESSES: The meeting will be held at the National Business Aircraft Association, 1200 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Designated Federal Official, Air Traffic Rules and Procedures Service, Federal Aviation Administration, telephone: 202–267–8783.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Traffic Subcommittee to be held on February 26, 1992, at the National Business Aircraft Association, 1200 19th Street, NW., Washington, DC. The agenda for this meeting will include:

- History and current status of stuck microphones.
- A report from the Mode S working Group; FAA's response to subcommittee's recommendations.
- A progress report from the Pilot Procedures at Non-Towered Airports Working Group.
- A progress report from the Unmanned Aerospace Vehicles Working Group.
- Deletion of nonparticipating members from subcommittee's roster.

Attendance is open to the interested public but will be limited to the space available. The public may present written statements to the subcommittee at any time by providing 30 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on January 27, 1992.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviotion Rulemaking Advisory Committee.

[FR Doc. 92–2366 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee, Training and Qualifications Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Training and Qualifications Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 27, 1992, at 9 a.m.

ADDRESSES: The meeting will be held at FAA Headquarters in the MacCraken Room, 10th Floor, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Training and Qualification Subcommittee to be held on February 27, 1992, at the FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591. The agenda for this meeting will include progress reports from the General Aviation Working Group, Air Carrier Working Group, and Cabin Safety Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral at any time. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Because of increased security in Federal buildings, members of the public who wish to attend are advised to arrive in sufficient time to be cleared through building security.

Issued in Washington, DC on January 27, 1992.

David R. Harrington,

Executive Director, Training and Qualificotions Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92–2365 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Aviation Security Advisory Subcommittee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Policy and Procedures subcommittee of the Aviation Security Advisory Committee.

DATES: The meeting will be held February 14, 1992, from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in room 200 at the Air Transport Association (ATA), 1709 New York Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Policy and Procedures Subcommittee of the Aviation Security Advisory Committee to be held February 14, 1992, in room 200, at the Air Transport Association, 1709 New York Ave, NW., Washington, DC.

The Policy and Procedures Subcommittee of the Aviation Security Advisory Committee is co-chaired by the Airport Association Council International (AACI), the American Association of Airport Executives (AAAE), and the Air Transport Association (ATA). The agenda for this meeting will include discussions on the FAA policy directive implementing FAR 107.29, airport security coordinators; inclusion of specified cargo-only air carriers as FAR 108 carriers for security purposes; and the criminal records background check rule. Attendance at the February 14 meeting is open to the public but limited to space available. Members of the public may address the subcommittee only with the written permission of the co-chairs, which should be arranged in advance. The chairs may entertain public comment if,

in its judgment, doing so will not disrupt he orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the subcommittee at anytime.

Persons wishing to present statements or obtain additional information should contact ATA, 1709 New York Ave., NW., Washington, DC 20006, telephone (202) 626–4000; AACI, 1220 19th St., NW., Washington, DC 20036, telephone (202) 293–8500; AAAE, 4212 King St, Alexandria, VA. 22302, telephone (703) 824–0500.

Issued in Washington, DC on January 27, 1992.

O.K. Steele,

Assistant Administrator for Civil Aviation Security.

[FR Doc. 92–2364 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Golden Triangle Regional Airport, Columbus, MS; Intent To Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose and use the revenue from a passenger facility charge (PFC) at the Golden Triangle Regional Airport, Columbus, Mississippi.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Golden Triangle 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 14 CFR part 158.

On January 17, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Golden Triangle Regional 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 May 8, 1992.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. R. E. Smith, Executive Director of the Golden Triangle Regional Airport Authority at the following address: 2080 Airport Road, Columbus, Mississippi 39701.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Golden Triangle Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1992.

Proposed charge expiration date: March 1, 2007.

Total estimated PFC revenue: $480,000.00.

Brief description of proposed project(s): Renovate terminal building; seal taxiway and aprons; security equipment; overlay and groove runway.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Golden Triangle Regional Airport Authority.

Issued in Atlanta, Georgia, on January 17, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92–2363 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Blair County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Blair County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John A. Gerner, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone: (717) 782–3411; G. Edward Stoltz, District Liaison Engineer, Pennsylvania Department of Transportation, 1620 North Juniata Street, Hollidaysburg, PA 16648, Telephone: (814) 696–7170.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement (EIS) for improvement of a portion of U.S. Route 22 between U.S. Route 220 and Short Mountain. The proposed project will begin at the interchange of U.S. Route 22 with U.S. Route 220 approximately 2 miles west of the Borough of Hollidaysburg, Pennsylvania and will end approximately 10 miles east of the Borough of Hollidaysburg at the intersection of U.S. Route 22 and PA 866 near the base of Short Mountain. Approximate length of the proposed study area would be 12 miles. Improvements in the study area are considered necessary to adequately provide for a safe and efficient transportation system to serve the existing and future transportation needs of the area.

A phased approach will be utilized to complete the preliminary design studies for this proposed highway project. Included in the first phase of the preliminary engineering and environmental studies will be a detailed needs analysis, an environmental overview, and a preliminary alternatives analysis. The second and final phase will include a detailed alternatives analysis, technical studies, and the preparation of an Environmental Impact Statement.

Alternatives under consideration will include, but are not limited to: (1) Taking no action; (2) Transportation System Management (TSM) improvement to existing U.S. Route 22; (3) constructing a four-lane limited access highway on a new location (either north or south of Hollidaysburg, Pennsylvania). Additional alternatives may be evaluated based on the findings and recommendations of the Phase 1 studies and public and agency involvement process. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

During the preparation of the EIS, the following subject areas will be investigated: Traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains; groundwater; soils and geology; wetlands; vegetation and wildlife; endangered species; agricultural lands assessment; visual; socioeconomics and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic and

archaeological structures and sites; section 4(f) evaluation; wild and scenic rivers; natural and wild areas and national natural landmarks.

Information describing the proposed action and study process (EIS Plan of Study) will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have an interest in this project to solicit comments. A series of public meetings will be held in the area during the winter of 1992; summer of 1992; and summer of 1993.

Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. The Draft EIS will be available for agency and public review and comment prior to the public hearing. Public involvement and interagency coordination will be maintained throughout both phases of the study process. A formal scoping meeting will be held upon request.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to PennDOT at the address provided above.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 23, 1992.

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 92-2307 Filed 1-30-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0054.

Form Number: IRS Form 1000.

Type of Review: Revision.

Title: Ownership Certificate.

Description: Form 1000 is used by citizens, resident individuals, fiduciaries, and partnerships and nonresident partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

Respondents: Individuals or households, businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 1,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hours, 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 4,740 hours.

OMB Number: 1545-1161.

Regulation ID Number: CO-8-90 NPRM and Temporary.

Type of Review: Extension.

Title: Consolidated Return Regulations—Modification of Rules Relating to Intercompany Transactions and Distributions of Property.

Description: This regulation requires a statement to be attached to a consolidated Federal income tax return by those groups which entered into certain intercompany transactions before the effective date of the temporary regulation (March 15, 1990), and that the treatment of these transactions will be different than that of transactions entered into after March 15, 1990.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (One Time Only).

Estimated Total Reporting Burden: 5,000 hours.

Clearance Officer: Garrick Shear (202) 535-4297. Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-2358 Filed 1-30-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: Because there was legislation pending to repeal special tax, the Bureau of Alcohol, Tobacco and Firearms (BATF) has been forced to delay submission of this "Request for OMB Review." As a result of this delay, BATF is requesting approval from the Office of Management and Budget by February 10, 1992 in order for their Printing and Distribution contractor to do the required computer programming to coincide with the structure of the forms and to timely print, assemble and mail these renewal packages to the taxpayer By May 1, 1992.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0500.

Form Number: ATF F 5630.5R and ATF F 5630.5RC.

Type of Review: Revision.

Title: Special Tax "Renewal" Registration and Return and Special Tax Location Registration.

Description: 26 U.S.C. chapters 51, 52 and 53 authorities authorize the collection of special occupational tax from persons engaging in certain alcohol, tobacco or firearms businesses. ATF F 5630.5R and ATF F 5630.5RC are used for the annual renewal cycle to both compute and report the tax, and as an application for registry as required by statute. Upon receipt of the tax, a special tax stamp is issued.

Respondents: Individuals or households, State and local governments, Businesses or other for-

profit, Small businesses or organizations.

Estimated Number of Respondents: 402,000.

Estimated Burden Hours Per Response: 24 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 160,800 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2359 Filed 1–30–92; 8:45 am]

BILLING CODE 2359

Office of Thrift Supervision

Pacific Coast Federal Savings and Loan Association of America; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Pacific Coast Federal Savings and Loan Association of America, San Francisco, California ("Association"), OTS. No. 8836, with the Resolution Trust Corporation as sole Receiver for the Association, on July 12, 1991.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2314 Filed 1–30–92; 8:45 am]

BILLING CODE 6720–01–M

[AC–5; OTS No. 2630]

Advantage Bank, S.S.B., Kenosha, Wisconsin; Final Action; Approval of Conversion Application

Notice is hereby given that on January 13, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Advantage Bank, S.S.B., Kenosha, Wisconsin for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision of Chicago, 11 East Wacker Drive, Chicago, Illinois 60601.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2315 Filed 1–30–92; 8:45 am]

BILLING CODE 6720–01–M

[AC–4; OTS No. 2389]

First Federal Savings Bank of Iowa, Davenport, Iowa; Final Action; Approval of Conversion Application

Notice is hereby given that on January 10, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank of Iowa, Davenport, Iowa for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Service Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Des Moines Area Office, Office of Thrift Supervision, Regency West 2, 1401 50th Street, suite 300, West Des Moines, Iowa 50265–5924.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2316 Filed 1–30–92; 8:45 am]

BILLING CODE 6720–01–M

[AC–3; OTS No. 0684]

Suburban Federal Savings and Loan Association, Flossmoor, Illinois 60422, Final Action; Approval of Conversion Application

Notice is hereby given that on January 13, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Suburban Federal Savings and Loan Association, Flossmoor, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision of Chicago, 11 East Wacker Drive, Chicago, Illinois 60601.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2317 Filed 1–30–92; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary and Grievance Procedures; MP–5, Part II, Chapter 8

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40) dated May 7, 1991, revised the disciplinary, grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). This notice contains the regulations which implement the new procedures.

DATES: Comments must be received on or before March 2, 1992. Comments will be available for public inspection March 11, 1992. The proposed effective date of these regulations is 30 days after publication of this notice.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until March 11, 1992.

FOR FURTHER INFORMATION CONTACT: George W. Williams, Chief, Employee Relations and Performance Management Service (058), Office of Personnel and Labor Relations, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 535–8874.

SUPPLEMENTARY INFORMATION: Previously, VA policy for action was based on inaptitude, inefficiency, or misconduct and was applicable to all non-probationary VA employees appointed to positions pursuant to 38 U.S.C. 7401(1) (formerly 4104). This notice provides new VA regulations governing adverse actions based on conduct or performance, grievance procedures, and appeals. In line with congressional intent, these regulations are designed, to the extent possible, to parallel the title 5 disciplinary and adverse action system and to eliminate

barriers to taking actions in a timely manner. Major features of the new regulations include permitting the delegation of decision authority, elimination of the requirement for a predecisional hearing before a Disciplinary Board and the establishment of grievance and appeal procedures. These regulations promote the use of progressive disciplinary actions and streamline the disciplinary process so that required corrective action can be taken in a timely fashion. For purposes of clarity and consistency with the title 5 system, these regulations adopt the term "disciplinary action" to refer to any adverse action which is not specifically defined by law as a major adverse action.

Approved: January 22, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Chapter 8. Disciplinary and Grievance Procedures

Section A. Disciplinary and Major Adverse Actions

1. Scope and Authority

a. This section governs disciplinary and major adverse actions based on conduct or performance in the Department of Veterans Affairs (VA). The provisions of this section apply to VA employees holding a full-time, permanent appointment under 38 U.S.C. 7401(1) who have satisfactorily completed the probationary period required by 38 U.S.C. 7403(b). Included in this category are: Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. Henceforth, "employee(s)" will be the term used to refer to the above categories in this section, unless otherwise specified.

b. Excluded from the provisions of this section are interns and residents appointed pursuant to 38 U.S.C. 7406. Probationers and 7405 appointees are also excluded.

(Authority: 38 U.S.C. 501(a), 7401, 7403(b), 7405, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40).

b. Title 38, United States Code, chapter 74.

3. Definitions

Unless otherwise noted, the following definitions apply to this chapter only.

a. *Disciplinary Actions.* These are adverse actions, other than major adverse actions, which include admonishment and reprimand based on conduct or performance.

b. *Admonishment.* An official letter of censure to an employee for minor act(s) of misconduct or deficiency in competence. This letter normally remains in the employee's Official Personnel Folder (OPF) for two years.

c. *Reprimand.* An official letter of censure to an employee for an act of misconduct or deficiency in competence. A reprimand is a more severe disciplinary action than an admonishment. This letter normally remains in the employee's OPF for three years.

d. *Major Adverse Actions.* These are suspension, transfer, reduction in grade, reduction in basic pay, and discharge based on conduct or performance.

e. *Suspension.* The involuntary placement of an employee, for disciplinary reasons, in a non-duty, non-pay status for a temporary period of time.

f. *Transfer.* The involuntary movement of an employee from one VA facility to another (under separate managerial authority) based on conduct or performance and without a break in service.

g. *Reduction in Grade.* The involuntary assignment to a lower grade on the same pay schedule based on conduct or performance.

h. *Reduction in Basic Pay.* The involuntary reduction, based on conduct or performance, of the annual rate of basic pay to which an employee is entitled under 38 U.S.C. 7404, including above minimum entrance rates and special entrance rates authorized under 38 U.S.C. 7455. This does not apply to reductions in pay, other than basic pay, such as the loss of physician or dentist special pay or head nurse differential, other differentials, allowances or premium pays such as standby, oncall, shift, overtime, Sunday, holiday, night work, hazardous duty, and interim geographic adjustment.

i. *Discharge.* The involuntary separation of an employee from employment based on conduct or performance.

j. *Disciplinary Appeals Board.* The three-member board designated to hear an employee's appeal of a major adverse action which is based in whole or in part on a question of professional conduct or competence.

k. *Professional Conduct or Competence.* A question of professional conduct or competence involves direct patient care and/or clinical competence. The term clinical competence includes issues of professional judgment.

l. *Mixed Case.* This is a case that includes both (1) a major adverse action arising out of a question of professional conduct or competence, and (2) a major adverse action which does not arise out of a question of professional conduct or competence, or a disciplinary action.

m. *Grade.* The established grades for the positions covered by this chapter will be as defined by 38 U.S.C. 7404, and the qualification standards issued pursuant to 38 U.S.C. 7402 (see MP–5, part II, chapter 2 and its supplement).

(Authority: 38 U.S.C. 501(a), 7421.)

4. Responsibilities and Authorities

The Chief Medical Director (CMD) or designee will appoint Disciplinary Appeals Boards to hear appeals of major adverse actions and will review and take appropriate action on all decisions rendered by Disciplinary Appeals Boards.

(Authority: 38 U.S.C. 501(a).)

5. Disciplinary Actions

a. Types of Disciplinary Actions

This paragraph applies to adverse actions, other than major adverse actions, which include admonishment and reprimand based on conduct or performance (refer to paragraph 3 of this section for definitions).

b. Procedural Entitlements

(1) Prior to taking disciplinary action, employees must be given advance written notice of the action proposed. The advance notice of proposed action must contain the following information:

(a) The nature of the action proposed (i.e., admonishment);

(b) A statement of the specific charges upon which the proposed action is based, including names, dates, places, and other data sufficient to enable the employee to fully understand the charges and to respond to them;

(c) A statement of any specific law, regulation, policy, procedure, practice or other specific instruction (national, local or otherwise) that has been violated as it pertains to the charge(s) (if applicable);

(2) The right to reply orally or in writing, or both orally and in writing, and to submit affidavits and other documentary evidence in support of the reply;

(3) The right to a reasonable amount of time to submit the reply or replies (time limits may vary according to the circumstances but in no event should be less than five calendar days);

(4) The right to review the material relied upon to support the reasons for the proposed action;

(5) Identification of the official who will receive any oral and/or written replies;

(6) The right to a written decision as soon as possible after his or her reply has been fully considered or after the expiration of the time allowed for reply, if the employee does not reply;

(7) The right to be represented by an attorney or other representative of the employee's choice at all stages of the case; and

(8) The right to grieve the disciplinary action, if any.

c. Employee's Reply

(1) If the employee requests an opportunity to reply orally, the decision official or designee will receive the employee's reply. Any official designated to receive the reply must have the authority to recommend what final decision should be made.

(2) A written summary signed by the official hearing the oral reply must be made part of the record.

d. Arriving at a Final Decision

(1) The decision official will give full and impartial consideration to the employee's reply, if any; the recommendation of the designee to hear an oral reply, if any oral reply was made; and all evidence of record. If the decision official finds one or more of the charges in the advance notice sustained, he or she will determine an appropriate action.

(2) A decision adverse to the employee must be based only on the charges stated in the notice of proposed action. If none of the charges are sustained, either in whole or in part, no action may be imposed, regardless of any record of past discipline cited in the notice.

(3) The penalty may not be more severe than that proposed in the notice of proposed action.

(4) If the notice of proposed action is determined to be procedurally defective to the detriment of the employee's substantive rights, or if it is found that additional reasons other than those set forth should be considered, or that the appropriate action should be more severe than that proposed, the notice of proposed action will be rescinded and a new notice of proposed action issued.

(5) If it is determined that the appropriate action is a major adverse action, the procedures outlined in paragraph 6 below will apply.

e. Decision

The decision will be in writing and will contain the following information:

(1) A statement of whether any of the charges sustained arose out of a question of professional conduct or competence.

(2) A statement that consideration has been given to all evidence developed, including the employee's reply(ies).

(3) A statement of the decision official's determination regarding which charges, if any, in the advance notice were sustained, and which charges, if any, were not sustained.

(4) If a record of prior disciplinary actions was cited in the advance notice, the decision will indicate the weight which was given to the past record, in determining proper action. If any aggravating or mitigating factors were considered in determining the action, a statement regarding this shall be included.

(5) A statement concerning the employee's rights to file a grievance, and the time limit within which it must be filed.

f. Appeals of Disciplinary Actions

(1) If the disciplinary action involves or includes a question of professional conduct or competence, the employee may appeal it under the grievance procedures contained in section B of this chapter.

(2) If the disciplinary action does not involve or include a question of professional conduct or competence, the employee may appeal the action under the grievance procedure in section B of this chapter. However, if the employee is covered by a collective bargaining agreement under 5 U.S.C. chapter 71, and the negotiated grievance procedure includes disputes over these actions within its scope, the employee may elect to appeal the action through the negotiated grievance procedure or the grievance procedure in section B of this chapter, but not both. The employee shall elect which grievance procedure will be used. The timely filing of a grievance under either procedure shall constitute an irrevocable election. Grievances filed under the negotiated grievance procedure must be filed in accordance with the provisions of the applicable negotiated grievance procedure. Reference should be made to the negotiated agreement for the appropriate steps and time limits.

g. Withdrawal of action

(1) After two years, admonishments will be removed from the OPF and destroyed. However, in cases of patient abuse, an admonishment may be retained in the OPF indefinitely. The employee's supervisor may, after six months, make a written request to the Personnel Officer that the admonishment be withdrawn, if the employee's conduct so warrants.

(2) After three years, a reprimand will be removed from the OPF and destroyed. However, in cases of patient abuse, the reprimand may be retained in the OPF indefinitely. The employee's supervisor may, after two years, make a written request to the Personnel Officer that the reprimand be withdrawn, if the employee's conduct so warrants.

(3) If the request for early withdrawal is initiated by a supervisor below the level of the official who issued the action, it must be approved at or above the level of the initial decision official.

(4) Since the admonishment or reprimand may be appealed under the grievance procedure initially and, except in patient abuse cases, will automatically be removed from the OPF after two or three years, respectively, a grievance may not be filed based on a supervisor's decision not to remove it earlier than the expiration date.

(Authority: 38 U.S.C. 501(a), 7421, 7461, 7463.)

6. Major Adverse Actions

a. Types of Actions

This paragraph applies to suspensions, transfers, reductions in grade, reductions in basic pay, and discharges.

b. Burden of Proof

When taking a major adverse action against an employee, the Department bears the burden of proving by a preponderance of evidence the charges that form the basis for the action.

c. Procedural Entitlements

(1) Prior to taking a major adverse action, the employee must be given 30 calendar days advance written notice of the action proposed. The advance notice of proposed action must contain the following information:

(a) The nature of the action proposed;

(b) The specific charges upon which the proposed action is based, including the details and circumstances (i.e., names, dates, places, and other data) constituting the basis for action, sufficient to enable the employee to fully understand the charges and to afford the employee a fair opportunity to respond to them;

(c) Any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated as it pertains to each charge;

(d) A statement of the employee's past disciplinary record when such record is to be relied upon as evidence or considered as part of the basis for the proposed action. Specific previous infractions and penalties will be cited and identified and the employee will be

advised that he or she may reply orally or in writing, or both orally and in writing, with respect to those previous infractions. The statement will also advise the employee that he or she may submit supporting evidence, including affidavits, and may make a statement concerning the use to be made of the past record in determining proper action;

(2) The right to reply orally or in writing, or both orally and in writing, and to submit affidavits and other documentary evidence in support of the reply;

(3) The right to a reasonable amount of time to submit the reply(ies). Time limits may vary according to the particular circumstances in each case. However, the employee must be allowed a minimum of seven days from date of receipt of the notice of proposed action, but no more than 30 days from date of the written notice of charges. The proposing/deciding official may grant extensions beyond 30 days only when good cause is shown;

(4) The right to review the material relied upon to support the reasons for the proposed action;

(5) Identification of the official who will receive any oral or written replies;

(6) The right to representation by an attorney or other representative of the employee's choice at all stages of the case;

(7) Identification of the decision official;

(8) The right to a written decision within 21 days of receipt of the employee's reply, if any, or of the expiration of the reply period if no reply is made (see subparagraph g (1) and (2) below); and

(9) The right to grieve or appeal, as appropriate, any major adverse action effected.

d. Exceptions to 30 day Advance Notice

The requirement for a 30-day advance notice period may be shortened if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed (38 U.S.C. 7462(b)(1)(A)). This exception is concerned solely with shortening the advance notice period. In order for the "crime provision" or "crime exception" to be invoked, there must be reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned. The employee must still be afforded a reasonable amount of time, but not less than 7 days, to reply orally and/or in writing to a notice of proposed adverse action.

e. Employee's Reply

(1) If the employee requests an opportunity to reply orally, the decision official, or designee, will receive the employee's reply. Any official designated to receive the reply must have the authority to recommend what final decision should be made.

(2) A written summary of the oral reply must be made and placed in the adverse action file.

f. Arriving at a Final Decision on the Proposed Action

(1) The decision on a proposed major adverse action will be made by an official who is in a higher position than the official who proposed the action, unless the action is proposed by the Secretary.

(2) The decision official will give full and impartial consideration to the employee's reply, if any, and all evidence of record. If the decision official finds, by a preponderance of the evidence, that one or more charges in the advance notice are sustained, he or she will determine the appropriate action. If none of the charges are sustained, either in whole or in part, no action may be imposed, regardless of any past record cited in the notice.

(3) Any penalty imposed by the decision official may not be more severe than the action specified in the notice of proposed action.

(4) If the notice of proposed action is determined to be procedurally defective to the detriment of the employee's substantive rights, or if it is found that additional reasons other than those set forth should be considered, or that the appropriate action should be more severe than that proposed, the notice of proposed action will be rescinded and a new notice of proposed action issued.

(5) If additional evidence becomes available to further support the charges in the advance notice, but does not necessarily provide a basis to alter the charges or the proposed action, the employee will be afforded the opportunity to respond to the new evidence before a final decision is made.

g. Decision

(1) The deciding official shall render a decision in writing within 21 days of his/her receipt of the employee's reply(ies). The decision will be delivered to the employee at least five days prior to the effective date of the action, whenever possible. The five day period does not apply to indefinite suspensions.

(2) A decision on a proposed major adverse action may be held in abeyance at the request of the employee and agreement by the deciding official, in order for the employee to seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973 (see 29 U.S.C. 701, et seq.). The employee must provide acceptable documentation for his or her request which, at a minimum, establishes both a qualifying handicapping condition and a causal connection between the handicapping condition and the cited misconduct and/or deficiency in performance. However, an abeyance of this nature may not exceed one year.

(3) The decision letter must contain the following:

(a) A statement of the specific charges that are sustained and those that are not sustained;

(b) When a major adverse action is imposed, a statement as to whether any of the charges sustained arose out of a question of professional conduct or competence;

(c) A statement that consideration has been given to all evidence developed, including the employee's reply. If the employee replies both orally and in writing, both must be mentioned;

(d) If a record of prior disciplinary actions was cited in the advance notice, a statement that the action takes the past record, as cited in the advance notice, into consideration in determining proper action and the weight given to this past record;

(e) A statement of the effective date (not less than 30 days from receipt of notice of proposed action), if the action imposed is a major adverse action. If the action is a suspension, the inclusive dates of the suspension will be stated;

(f) A statement specifying the employee's appeal rights, and the time limits within which any appeal must be filed;

h. Appeals of Major Adverse Actions

(1) If the major adverse action does not involve or include a question of professional conduct or competence, an employee may elect to seek review of the decision under the grievance procedure described in section B of this chapter. However, if the employee is covered by a collective bargaining agreement under 5 U.S.C. chapter 71 and the negotiated grievance procedure includes disputes over these actions within its scope, the employee may elect to appeal the action through the negotiated grievance procedure or the grievance procedure in section B of this chapter, but not both. The employee shall elect which grievance procedure will be used. The timely filing of a grievance under either procedure shall constitute an irrevocable election. Time limits for filing a grievance under the

VA procedure are governed by the provisions of section B of this chapter. Grievances filed under the negotiated grievance procedure must be filed in accordance with the provisions of the applicable negotiated agreement.

(2) If the major adverse action is based in whole or in part (i.e., mixed case) on a question of professional conduct or competence, the employee may appeal the Disciplinary Appeals Board under the provisions in section C of this chapter.

(3) If the employee does not request a hearing in the request for an appeal, the Board may elect to conduct a hearing or make a decision based on a review of the record.

(4) Appeals to the Disciplinary Appeals Board must be submitted to the CMD or designee so as to be received within 30 days after the date of service of the written decision on the employee. The 30 day time limit may not be extended.

(5) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

Section B. Grievances

1. Scope and Authority

a. General

This section governs employee grievances under the VA grievance procedure.

b. Employee Coverage

This section applies to all permanent and probationary physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries.

c. Disciplinary and Adverse Actions Covered

Disciplinary and major adverse actions, other than major adverse actions which involve questions of professional conduct or competence, are covered by the grievance procedures described in this section.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

2. References

Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40); 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.

3. Responsibilities

The CMD and other key management officials are responsible for delegating authority to appropriate officials to decide grievances. The CMD and facility Directors, as appropriate, will designate such officials in writing.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

4. Definitions

a. Grievance

A request by an employee, or group of employees, for personal relief in a matter of concern or dissatisfaction relating to employment which is subject to the control of agency management. Matters not covered by the grievance procedure may be found in paragraph 14 of this section.

b. Employee

Any physician, dentist, podiatrist, optometrist, nurse, nurse anesthetist, physician assistant, or expanded-function dental auxiliary covered in the scope of this section. Former employees of VA are also included, but only in connection with a grievance over actions resulting in loss of pay (for example, a former employee charged with 8 hours absence with leave (AWOL) who has requested that the 8 hours of pay be restored). Former employees must have filed a timely grievance in accordance with the provisions of this chapter in order to receive consideration.

c. Bargaining Unit Employee

An employee included in an appropriate unit, pursuant to 5 U.S.C. 7112 and 7135, for which a labor organization has been accorded exclusive recognition.

d. Personal Relief

A specific remedy directly benefiting the grievant(s), but may not include a request for disciplinary or other action affecting another employee.

e. Grievance File

A separate file subject to the Privacy Act which contains all documents related to the grievance, including, but not limited to, statements of witnesses, records or copies thereof, the report of the hearing if one is held, statements made by the parties to the grievance, and the decision.

f. Decision Official

An official designated to (1) receive and attempt to adjust formal grievances; (2) refer formal grievances for further review and inquiry; and (3) decide formal grievances based on the results of impartial reviews and recommendations.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7561–7464.)

5. Representation

a. Election of Representation

An employee may present a grievance with or without representation.

b. Designation of Representative

An employee has the right, to be accompanied, represented, and advised by a representative of his or her choice at any stage of the procedure. If a grievance is presented under the formal grievance procedure, designation of a representative will be in writing and will be submitted to the decision official. Any change of representative will be in writing.

c. Disallowance of Designated Representative

An employee's representative who is employed by VA may be disallowed by an official with supervisory authority over that representative because of priority needs of that employee's service, unreasonable cost to the Government, conflict of position, or conflict of interest.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

6. Time Limits for Processing Grievance

a. Time Limits

A decision on a grievance will be issued within the shortest time frame possible. To ensure timely and orderly processing, the following time limits are established for each stage of the grievance procedure:

(1) Informal Procedure.

(a) 15 days from the date of the incident or action on which the grievance is based for employee to initiate grievance. When an employee is informed of a final decision that has not yet been effected, the period to present a grievance is counted from the date of notification of the action.

(b) 10 days for completion of action under the informal procedure.

(2) Formal Procedure.

(a) 10 days for employee to file a written grievance under the formal procedure after completion of the informal procedure, or 15 days from the date of service of a decision where a grievance originated at the formal process (see paragraph 9, this section).

(b) 10 days for deciding official to adjust, reject, or refer grievance for inquiry by examiner or for technical review after employee files formal grievance.

(c) 30 days for completion of the inquiry and submission of report when the examiner is appointed locally.

(d) 45 days for completion of the inquiry and submission of report when an examiner from outside the facility is appointed.

(e) 30 days for Central Office to issue technical reviews when requested to do so by the decision official.

(f) 15 days for issuance of the decision after the decision official receives the examiner's report of findings and recommendations or the Central Office technical review.

b. Grievance on Continuing Condition or Practices.

An employee may present a grievance concerning a continuing practice or condition at any time. Situations caused by actions which were taken or occurred on a specific date (e.g., admonishments, reprimands, or shift assignments) are not considered continuing conditions for these purposes despite any continuing effects they may have.

c. Delays in Processing Grievances

Management officials will ensure that grievances are processed promptly. Management delays in any stage of the grievance procedure beyond the prescribed time limits will be explained to the employee and the employee's representative. Such delays should be rare. If the employee delays in any stage of the grievance procedure, management will determine whether there was good cause and whether the grievance should continue to be processed. Such delays, explanations, and determinations will be documented for the record. This includes any delay created by the denial of an employee's representative or by challenge to the denial.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

7. Informal Grievance Procedure

a. Presenting Grievance Under Informal Procedure

An employee desiring consideration of a grievance must first seek informal adjustment of the matter through supervisory channels. This informal procedure will not be utilized when grieving disciplinary and major adverse actions, where grievances will be initiated at the formal step of the grievance procedure (see paragraph 9 of this section). The employee's request for informal adjustment of a grievance should be made as soon as possible, but not later than 15 days after the date of the incident or action upon which the grievance is based, or the date upon which the employee became aware of, or should have become aware of, the incident or action upon which the grievance is based (see paragraph 6a of this section).

b. Resolving Grievance

The supervisor to whom a grievance has been presented for informal adjustment will attempt to resolve it as expeditiously as possible, seeking the advice and assistance of others where necessary, and will give the employee a written decision on the matter within 10 days from the date of the request for informal consideration. If the relief sought is not granted, the employee shall be advised of the right to present the grievance under the formal procedure.

c. Mandatory Use of Informal Procedure

Normally, the employee must complete processing under the informal procedure before a grievance will be accepted for processing under the formal procedure. However, when the authority to resolve the matter is reserved to the Secretary, the informal procedure will not be used. This informal procedure will not be utilized when grieving disciplinary and major adverse actions, where grievances will be initiated at the formal step of the grievance procedure (see paragraph 9 of this section).

8. Formal Grievance Procedure

a. Presenting Grievance Under Formal Procedure

If the employee is not satisfied with the decision at the informal stage, or is grieving a disciplinary or major adverse action (see paragraph 9 of this section), he/she may present the grievance under the formal procedure. The formal grievance must be submitted in writing through the employee's immediate supervisor, within 10 days after completion of the informal procedure, or 15 days from the date of service of a decision where a grievance originates at the formal process (see paragraph 9, this section). The immediate supervisor or other official receiving the employee's formal grievance will refer it promptly through channels to the appropriate decision official. The time limit may be extended by management when good cause is shown by the employee.

b. Contents of Formal Grievance

(1) A formal grievance will be submitted in writing, will contain sufficient detail to identify and clarify the basis for the grievance, and will specify the personal relief requested by the employee. It will contain the following information:

(a) The specific action or incident on which the grievance is based; the date the action or incident occurred (if known), and the date the employee first learned of the action or incident (if appropriate).

(b) The reasons for which the employee believes that the action was unjustified or that he/she was treated unfairly; and/or the specific policy (department, facility, etc.), written agreement, or regulation violated and how it affected the employee.

(c) The corrective action desired by the employee.

(2) If the formal grievance does not contain a statement of the grievance giving essentially the information specified above, the decision official will return the grievance to the employee so that the necessary information may be furnished. If the employee fails to provide necessary information after being provided with an opportunity to do so, the decision official should cancel the grievance following procedures contained in paragraph 10 of this section.

c. Group Grievances

When a group of employees has an identical formal grievance, it will be considered in the same manner as an individual complaint and the decision will be binding on all employees. The group will select one individual case for processing under the provisions of the formal grievance procedure.

d. Adjustment or Referral of Grievance by Decision Official

Unless the decision official rejects or returns the grievance for additional information, that official will review the employee's grievance and the grievance file and explore the possibility of adjusting the grievance to the employee's satisfaction. If the decision official is unable to resolve the grievance in a manner acceptable to the employee, the grievance will be referred for inquiry by an examiner (see paragraph 12 of this section) or for technical review by an appropriate official (see paragraph 11 of this section) within 10 days of the decision official's receipt of the formal grievance.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

9. Grievances Over Disciplinary and Major Adverse Actions

a. Grievances over disciplinary and major adverse actions will be filed at the formal stage described in paragraph 8 of this section without first filing under the informal procedure. In cases of a major adverse action, the employee is

entitled to a hearing before a grievance examiner, if requested.

b. Grievances initiated under the formal stage must be filed within 15 days from the date of service of the decision letter as indicated by paragraph 6a of this section.

c. Except as provided in subparagraphs a and b above, all other provisions of this section apply.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

10. Rejection, Return, or Cancellation of a Grievance

a. Reasons for Rejection of a Grievance

The decision official may reject a grievance only for one or more of the following reasons:

(1) The relief sought is not personal to the grievant. Relief in the form of a request to discipline another employee will not be considered appropriate;

(2) The matter(s) is(are) not covered by the VA grievance procedure (see paragraph 14 of this section);

(3) The grievance was not filed in a timely manner (see paragraph 6, this section, for specific time limits). A grievance may be rejected under the formal procedure based on a failure to timely file at either the formal or informal stage.

b. Written Notification of Rejection of Formal Grievance

The grievant and his/her representative will be notified in writing when a formal grievance is rejected, and provided with the specific reason(s) for the rejection.

c. Reasons for Return

(1) Insufficient detail was furnished to clearly identify the matter being grieved;

(2) The personal relief sought is not specified.

d. Written Notification of Return of Grievance

The grievant and his/her representative will be notified in writing when a grievance is returned, and provided with the specific reason(s) for the return. A reasonable time will be identified for resubmission of the grievance.

e. Reasons for Cancellation of Grievance

A grievance may be cancelled, either wholly or partially as appropriate, by the decision official under any of the following conditions:

(1) At the employee's request;

(2) Termination of the employee's employment, unless the personal relief sought by the employee involves monetary issue(s) and can be granted after termination of employment;

(3) Death of the employee, unless the grievance involves a matter which would have entitled the employee to pay, or benefits;

(4) Failure of the employee to furnish required information; or

(5) Failure of the employee to duly proceed with advancement of the grievance.

f. Written Notification of Cancellation of Formal Grievance

The grievant and his or her representative will be notified in writing when a grievance is cancelled, and provided with the specific reason(s) for the cancellation.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

11. Technical Review

a. In cases where the facts are not in dispute and the primary issue involves only the interpretation of regulation or policy, instead of appointing an examiner, the decision official may forward the grievance for technical review and recommendations through appropriate channels to the Office of Personnel and Labor Relations (058A) in Central Office. Situations where "the facts are not in dispute" are those instances where management essentially agrees with the grievant's statement of facts in the formal grievance, and the primary issue in dispute is regulatory or policy interpretation. The grievant and his or her representative will be provided with a copy of the decision official's referral letter to Central Office. Upon receipt of the request, the grievance will be forwarded to the appropriate organizational element in Central Office which has technical program responsibility in the matter(s) disputed. A technical review will be conducted and the resulting recommendations transmitted by an appropriate Central Office line official to the decision official who will resolve the grievance as indicated in paragraph 13 of this section.

b. Matters covered under section A of this chapter which are subject to review under the grievance procedure, may only be resolved through a technical review if the employee waives the right to a formal review by a grievance examiner. Such waivers shall be in writing.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

12. Review of Grievance Examiner

a. Appointment of Grievance Examiner

(1) In cases where an examiner is required, the decision official may appoint a subordinate employee to act as the grievance examiner or request an examiner be appointed from outside the local area. The grievance examiner will be fair, impartial, and objective, with demonstrated analytical and factfinding skills. The grievance examiner will not be assigned cases in his or her work unit, service, or organizational component, and must be an employee who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, made a decision, or who otherwise is or was involved in the matter being grieved. The grievant and any designated representative will be informed of the assignment. The examiner assigned will promptly review the case and determine the nature and scope of the inquiry appropriate to the issue(s) involved in the grievance.

(2) In cases arising from disciplinary actions involving professional conduct or competence as covered under section A of this chapter, the grievance examiner will be selected from the panel of employees designated to serve on Disciplinary Appeals Boards. Notice of the grievance examiner's name on the panel list must have been provided at least 30 days prior to his or her selection as an examiner.

b. Formal Review

At the examiner's discretion, the grievance inquiry may consist of:

(1) The securing of documentary evidence, including the solicitation of such technical advice as may be needed or compelling expert VA testimony;

(2) Personal or telephone interviews (statements of witnesses obtained by the examiner should be under oath or affirmation, without a pledge of confidentiality);

(3) A group meeting;

(4) A hearing;

(5) Any combination of the above.

c. Hearings

(1) Formal hearings should be limited to grievances involving complex matters or where important factual matters are in dispute. The decision to schedule a hearing is the prerogative of the examiner, except in grievances over major adverse actions where the employee has the right to a hearing, if requested.

(2) If a hearing is held, the examiner will determine how the hearing will be

recorded, and will have a verbatim transcript or written summary of the hearing prepared. The record will include all pertinent documents submitted and accepted by the examiner. The examiner will make the transcript a part of the record of the proceedings. When the hearing is not recorded verbatim, a summary of pertinent portions of the testimony will be made by the examiner. The summary will constitute the report of the hearing and is made a part of the record of the proceedings.

d. Administering Oaths or Affirmations

For purposes of this section, examiners are authorized to administer oaths or affirmations to those individuals providing testimony relative to the grievance.

e. Preparation of Examiner's Report

The examiner will prepare a report of findings and recommendations, and submit that report, with the grievance file, to the decision official. The examiner will also furnish a copy of the report to the employee and the employee's representative.

f. Time Limits for Examiner's Report

Except in unusual cases, the time limit for submission of the report and the grievance file to the decision official is 30 days for local grievance examiners or 45 days for grievance examiners from outside the facility, after receipt of written notification of appointment as the grievance examiner.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

13. Decision of Grievance

a. Action by Decision Official—Technical Review

Central Office technical reviews (paragraph 11a, this section) and the resulting recommendations will be forwarded to the formal grievance decision official, and will serve as the basis for the final decision. The decision official will issue the decision to the employee within 15 days after the technical review is received from Central Office.

b. Action by Decision Official—Examiner's Report

Upon receipt of the grievance examiner's report of findings and recommendations, the decision official will accept, modify, or reject the examiner's recommendation and issue a written decision to the employee within 15 days after the recommendation is received. The employee's representative will also receive a copy of the decision.

(1) If the decision official modifies or rejects the examiner's recommendations, the written decision will include a specific statement of the reason for the modification or rejection. Modification or rejection of recommendations of the grievance examiner will be limited to the following grounds:

(a) The recommendation(s) are contrary to law, regulation, or published Department policy;

(b) The recommendation(s) are not supported by the preponderance of the evidence;

(2) The decision official may elect to grant the relief sought by the employee without regard to the examiner's recommendation.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

14. Matters Excluded From Coverage Under the Grievance Procedure

The following actions and complaints are excluded from coverage under the grievance procedure:

a. Major adverse actions taken under section A of this chapter which involve a question of professional conduct or competence.

b. Disputes over whether a matter or question concerns, or arises out of, professional conduct or competence.

c. Separation during probationary period.

d. Complaints arising from failure to receive special advancement.

e. Complaints arising from failure to receive a promotion or reassignment.

f. Complaints arising from dissatisfaction with grade or pay on initial appointment.

g. Complaints arising from actions taken due to the individual's physical or mental condition.

h. Complaints arising from dissatisfaction with proficiency rating.

i. An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.

j. The content of published VA or VHA regulations and policies. (An employee's allegation that locally established policy is in conflict with existing Department policy or regulation may be handled as indicated in paragraph 13a of this section.)

k. A decision which is subject to final administrative review by the Federal Labor Relations Authority (FLRA), or the Office of Workers' Compensation Programs (OWCP) under law or regulations of the FLRA, or the OWCP; or any other matter for which final administrative authority lies outside VA.

1. Allegations of discrimination on the basis of race, color, religion, sex, national origin, age (over 40) and/or handicap, in connection with any decision or action. Such allegations may only be pursued as complaints of discrimination, pursuant to regulations of the Equal Employment Opportunity Commission. Complaints of discrimination are excluded from the grievance procedure. However, other disputes related to the case are not precluded from review under the grievance procedures. Accordingly, a grievance concerning a matter or matters about which the employee has filed a complaint of discrimination must be rejected, either wholly or partially, as appropriate.

m. A preliminary warning notice of an action which, if effected, would be covered under a grievance or appeal system or excluded from coverage by other paragraphs of this section.

n . Nonadoption of a suggestion, disapproval of a discretionary award or disagreement with the amount of an award.

o. A matter which includes specified relief that is not personal to the grievant or is not subject to the control of management.

p. A matter covered by a negotiated grievance procedure. However, an employee may elect to use the VA grievance procedure described in this section or the negotiated grievance procedure in the case of a disciplinary or major adverse action covered under section A of this chapter which does not involve a question of professional conduct or competence.

q. A grievance of an individual from outside VA.

r. Grievances concerning the number of positions to be filled, or the grade level at which positions are filled.

s. An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee.

t. Matters that are not directly related to the employee's conditions of employment.

u. Matters involving the methods, means or technology of performing work.

v. Determinations and authorizations, including those delegated by the Secretary, to approve, disapprove, change, discontinue special pay or to decide upon waivers of special pay refund obligations. Examples of these include, but are not limited to: determinations on special pay amounts

relating to geographical locations, exceptional qualifications, executive positions, and scarce medical or dental specialties.

w. Designations of employees to serve on the panel from which members of Disciplinary Appeals Boards are selected, designations of employees to serve on Disciplinary Appeal Boards or the appointment of a grievance examiner.

x. All matters for which review procedures are already established in VA policy.

y. A decision not to remove an admonishment or reprimand from an employee's Official Personnel Folder prior to the expiration date.

(Authority: 38 U.S.C. 501(a), 7421.)

Section C. Appeals to the Disciplinary Appeals Board

1. Scope, Authority and Definitions

This section governs appeals of major adverse actions which arise out of (or which include) a question of professional conduct or competence in the Department of Veterans Affairs (VA). Major adverse actions are suspensions (including indefinite suspensions), transfers, reductions in grade, reductions in basic pay, and discharges. A question of professional conduct or competence involves direct patient care and/or clinical competence. The term clinical competence includes issues of professional judgement. This section applies to VA employees holding a full-time, permanent appointment under 38 U.S.C. 7401(1) who have satisfactorily completed the probationary period required by 38 U.S.C. 7403(b). Included in this category are: Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. The above categories of individuals are included in the term employee(s) as used in this section unless otherwise specified.

(Authority: 38 U.S.C. 501(a), 7401, 7403(b), 7421, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991.

b. 38 U.S.C. 501(a), 7421, 7461, 7462, 7464.

3. Filing an Appeal to the Disciplinary Appeals Board

a. Initiating an Appeal

An employee subjected to a major adverse action which is based in whole or in part on a question of professional conduct or competence, may file a written notice of appeal to the Disciplinary Appeals Board under the provisions of this section. The employee may request a hearing before the Board. Any such request must be submitted in writing and accompany the employee's notice of appeal. The appeal must contain, (1) the appellant's name, address, telephone number, designation of representative (if any), (2) a copy of the notice of action proposed and decision letter, (3) a statement as to whether he/she is requesting a hearing before the Board, (4) why the appellant believes the major adverse action taken was in error, and (5) a statement describing the expected relief. The original appeal and the request for hearing, if any, must be submitted to the Chief Medical Director (CMD) or his designee so as to be received within 30 days after the date of service of the written decision on the employee. Submission of the appeal must be by personal service, facsimile, or certified mail—return receipt requested. A copy of the appeal must be served to the decision official who took the action being appealed and to any management representative of record.

b. Establishing Timeliness of an Appeal

For purposes of computing the 30 day period for filing an appeal, the date of service of the written decision on the employee will be determined by the date of receipt by the employee of the personal delivery, the signed receipt of certified mail, or presumed to be five days after depositing the decision in the U.S. mail if no acknowledged receipt is available.

c. Representation

The employee may be represented by an attorney or other person of his/her choice.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

4. Appointment of Disciplinary Appeals Boards

a. General

The CMD or designee shall appoint Disciplinary Appeals Boards in accordance with this section to hear appeals of major adverse actions involving questions of professional conduct or competence as defined in section A of this chapter. Such Boards shall be referred to as Disciplinary Appeals Boards. Each Board will be comprised of three VA employees, each of whom shall be of the same grade (and Enhanced Qualifications or Assignments (EQA), where appropriate) as, or be senior in grade to, the employee who is appealing the action. For purposes of this section, the term grade is defined by the provisions of 38 U.S.C. 7404, and the qualification standards issued pursuant to 38 U.S.C. 7402 (see MP–5, part II, chapter 2 and its supplement). At least two of the members of the Board shall be employed in the same category of position as the employee who is appealing the action. For purposes of this section, a member employed in the same category of position is one who is employed in the same occupation (e.g., physician, nurse, dentist) as the appellant and has sufficient professional knowledge to evaluate the specific issues to clinical competence and/or direct patient care involved in the appeal.

b. Panel Notice

Notice of a name being on the list will be provided at least 30 days prior to the selection of the individual to serve on a Board.

5. Jurisdiction

The Disciplinary Appeals Boards appointed under this section shall have exclusive jurisdiction to review any case which arises out of (or which includes) a question of professional conduct or competence, and in which a major adverse action was taken under section A of this chapter.

(Authority: 38 U.S.C. 501(a), 7462, 7463.)

6. Powers of the Chairman

The Chairman's authority includes, but is not limited to:

a. Taking proper steps to expedite the hearing of evidence, and speaking and acting for the Board;

b. Ruling on all questions arising during the proceedings, such as admissibility of evidence offered during the hearing, calling of witnesses, order of introduction of witnesses, etc.;

c. Obtaining further evidence concerning any issue under consideration by the Board at any stage of the proceedings;

d. Acting as the presiding officer, directing the regular and proper conduct of the proceedings, and authenticating, by his/her signature, instructions and proceedings of the Board;

e. Ruling on questions of disqualification of any member of the Board. In cases where the Chairman is the challenged member, the question shall be resolved in accordance with paragraph 7e of this section;

f. Scheduling the specific hour and dates of hearings;

g. Closing the record;

h. Administering oaths or affirmations made by individuals giving testimony;

i. Ruling on motions from the parties, and

j. Calling witnesses on behalf of the Board.

(Authority: 38 U.S.C. 501(a).)

7. Procedure

a. Determining Jurisdiction

When a Board is convened to consider an appeal, the Board shall first determine whether the case is properly before it prior to considering the merits of the appeal. The Board shall determine whether the matter appealed is a major adverse action as defined in section A of this chapter and involves a question of professional conduct or competence, and was filed timely. The determination of jurisdiction will be made as soon as practicable. The Board will make a record of its determination.

(1) The record of decision in any mixed case shall include a statement by the Board of its exclusive jurisdiction, citing 38 U.S.C. 7462(a)(2) as the authority and the basis for such exclusive jurisdiction. A mixed case is one that includes both (a) a major adverse action arising out of a question of professional conduct or competence, and (b) a major adverse action which does not arise out of a question of professional conduct or competence or a disciplinary action.

(2) If necessary, the Board may develop the record to establish jurisdiction.

(3) If the Board determines that the appeal is not properly before it, (e.g., that it lacks jurisdiction), the Board shall fully set forth its reasons, including a statement of the appropriate appeal procedure. The CMD will take appropriate action on the decision of the Board as described in paragraph 9c of this section.

b. Type of Hearing

The employee has the right to a hearing before the Board in connection with his/her appeal of an adverse action. If the employee does not ask for a hearing before the Board, the Board may elect to conduct a hearing without the appellant or may consider the evidence of record, including any evidence developed by the Board. Formal hearings will be conducted in accordance with paragraph 8 of this section.

c. Technical Advisors

Employees may be designated to serve as technical advisors to the Board and assist in the development and review of the case.

d. Presence of Board Members

No Board hearing will proceed unless all members are present.

e. Disqualification

A Board member will be disqualified for service if the Chairman rules that the Board member initiated or participated in the initiation of charges, had direct personal knowledge of the case or facts giving rise to the action, or if his/her relationship with the appellant or officials involved in recommending or deciding on the disputed action creates a question of bias. Any party to the case or member of the Board may make a motion to disqualify a Board member. The Chairman will rule on the disqualification for service of any member of the Board. In cases where the Chairman is the challenged member, or if a member of the Board questions the ruling of the Chairman, the Board will make the ruling as to disqualification by majority vote in closed session.

f. Mental/Physical Condition of Employee

In the course of the hearing, if the appellant raises an issue of his/her mental or physical condition in relation to the charges, the appellant will be given the opportunity to present evidence relating to the condition. If appropriate, the Board may refer the matter to a Physical Standards Board for review so that the Board may determine whether the matter was appropriately before the Board as a chapter 8 action, or whether it should have been processed under MP–5, part II, chapter 9, and related supplements for consideration of physical and/or mental incapacity. If, however, the appellant is alleging discrimination on the basis of a handicapping condition, he/she should be referred to the EEO discrimination complaint process, which is the exclusive procedure for reviewing allegations of discrimination, and the hearing shall then proceed on the merits of the charges.

g. Closing of Record

At the conclusion of the hearing, the Chairman will close the record unless he/she authorizes parties to submit written closing arguments, briefs, or documents identified for introduction into evidence. Should this be the case, the record will close on the date set by the Chairman. If the appellant does not request an oral hearing, the record will close on the date the Board Chairman sets as the final date for the receipt of submissions.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

8. Formal Hearings

a. Notifications

The Board Chairman shall notify the appellant, the head of the facility, and any designated representatives when a hearing is scheduled. The initial notice from the Chairman shall include the following:

(1) The names of the Board members and technical advisor, if used;

The specific hour and dates of the scheduled hearing;

(3) The date by which submissions must be made to the Chairman in connection with motions from the parties (e.g., to request rescheduling of hearing if good cause can be shown, as well as motions in other areas); and,

(4) The date by which witness lists must be exchanged, which must include statements as to what testimony each witness is expected to provide as well as any objections either party may have to the other's witnesses. Service will be by personal delivery or certified mail—return receipt requested.

b. Exclusion of Individuals During Proceeding

Prior to testifying (or, if subject to recall), no witness will be permitted to hear the testimony being given by another witness unless the witness is the appellant, the charging official, or is assisting in the representation of either party. In any event, the Chairman of the Board will make the final determination on exclusion of individuals during any phase of the proceeding.

c. Oaths

The Chairman and Secretary of the Board shall have the authority to administer oaths or affirmations which will be made by all individuals giving testimony.

d. Verbatim Record

A verbatim record shall be maintained of Board hearings (see subparagraph g below for further details).

e. Witnesses

Both the appellant and management will have the right to call witnesses. The Chairman will, on his/her own initiative, call such witnesses on behalf of the Board as he/she deems necessary. A patient, with his/her consent, may be a witness, provided there has been a medical determination that he/she has the capacity to testify and that his/her appearance as a witness will not be detrimental to his/her health and welfare. The Chairman has the final

authority to determine the acceptability of any witness.

f. Scheduling of Hearing

The hearing will be conducted on official Government time, without charge to leave of the employees concerned, provided that such employees are otherwise in an active duty and pay status.

g. Record of Hearing

(1) A verbatim record of the hearing proceedings will be prepared.

(2) The employee and/or his/her representative shall be provided a copy of the transcript of the formal hearing after authentication.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

9. Disciplinary Appeals Board Decisions

a. Findings

The Board shall, with respect to each charge appealed, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part.

b. Decision

The Board has full authority to render a decision on an appeal. The Board shall reach a decision within 45 calendar days of completion of the hearing, if a hearing is convened. In any event, a decision will be made by the Board no later than 120 calendar days after the appeal is received by the CMD or designee.

(1) If any charge is sustained in whole or in part, the Board shall approve the action as imposed; approve the action with modification, reduction, or exception; or reverse the action.

(2) If none of the charges are sustained in whole or in part, the Board will reverse the decision.

c. Action by the CMD

The CMD shall execute the Board's decision in a timely manner, but in no case later than 90 calendar days after the Board's decision is received by the CMD. Pursuant to the Board's Decision, the CMD may order reinstatement, award back pay, and provide such other remedies as the Board found appropriate relating directly to the proposed action, including expungment of records relating to the action.

(1) However, if the CMD finds a decision of the Board to be clearly contrary to the evidence or unlawful, the CMD may:

(a) reverse the decision of the Board; or

(b) vacate the decision of the Board and remand the matter to the Board for further consideration.

(2) If the decision, while not clearly contrary to the evidence or unlawful, is found to be not justified by the gravity of the charges, the CMD may mitigate the adverse action imposed.

(3) The CMD's execution of a Board's decision, or the mitigated action if appropriate, shall be the final administrative action in the case.

d. Case Record

The case record will consist of the notice of proposed adverse action, appellant's reply (if any), all evidence (documents or testimony) relied upon by the Board in reaching its decision, notice of decision to appellant, appellant's request for a hearing, CMD's appointment of the Board, Board communications and notices related to the hearing, any Board rulings or submissions of the parties, verbatim record of any formal hearing, Board Action (VA Form 10–2543), CMD's execution of the Board's recommendation, and any Notification of Personnel Action (SF–50B).

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

10. Review of Records

The Chairman of a Board may review records or information covered by 38 U.S.C. 5701 and 7332 in accordance with 7464(c)(1) of title 38.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

Section D. Designation of Panel Members

1. Scope and Authority

This section governs the designation of employees to serve on the panel from which Disciplinary Appeals Board members and grievance examiners will be appointed to hear appeals of major adverse actions and disciplinary actions involving a question of professional conduct or competence.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991.

b. 38 U.S.C. 501(a), 7421, 7464; Section 203 of Public Law 102–40.

3. Responsibilities

The Chief Medical Director or designee will periodically designate employees to serve on the panel.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

4. Panel Designations

Decisions related to the designation or termination of the designation of any individual to serve on the panel are not subject to review under any grievance or appeal procedure.

(Authority: 38 U.S.C. 501(a), 38 U.S.C. 7461–7464.)

5. Training

All employees designated for the panel shall receive training in the functions and duties of Disciplinary Appeals Boards and grievance procedures.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

[FR Doc. 92–2375 Filed 1–30–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 21
Friday, January 31, 1992

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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at its open meeting held at 10:05 a.m. on Tuesday, January 28, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr., (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum re: FICO Industry Semi-Annual Assessment of Savings Association Insurance Fund Members.
Memorandum re: Definition of Highly Leveraged Transactions.

By the same majority vote, the Board further determined that no notice earlier than January 23, 1992, of these changes in the subject matter of the meeting was practicable.

The Board further determined, by the same majority vote, that Corporation business also required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding authorized procedures for certain FDIC insurance applications made necessary by the new banking law.

The Board further determined, by the same majority vote, that no earlier notice than today, January 28, 1992, of this change in the subject matter of the meeting was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: January 28, 1992.

Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 92-2441 Filed 1-28-92; 5:09 pm]
BILLING CODE 6714-0-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at its closed meeting held at 10:36 a.m. on Tuesday, January 28, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,777
New Hampshire Loan Sales
Various Banks
State of New Hampshire
Matters relating to the Corporation's liquidation activities.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting were practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), and (c)(9)(B)).

Dated: January 28, 1991.

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 92-2442 Filed 1-28-92; 5:09 pm]
BILLING CODE 6714-0-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, March 4, 1992.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Schering Corp., Docket 9232.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Schering Corp., Docket 9232.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161. Recorded Message: (202) 326-2711.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 92-2433 Filed 1-28-92; 4:34 pm]
BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, March 26, 1992.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public.

(1) Oral Argument in Textron, Inc., Docket 9226.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Textron, Inc., Docket 9226.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161. Recorded Message: (202) 326-2711.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 92-2434 Filed 1-28-92; 4:34 pm]
BILLING CODE 6750-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

at 2:07 p.m. on Tuesday, January 28, 1992, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of a failed thrift institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), and concurred in by Chairman William Taylor, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, N.W., Washington, D.C.

Dated: January 28, 1992.

Resolution Trust Corporation.

John M. Buckley,

Executive Secretary.

[FR Doc. 92–2479 Filed 1–29–92; 10:54 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

AGENCY MEETING:

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 3, 1992.

A closed meeting will be held on Tuesday, February 4, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the mattters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the schedule matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 4, 1992, at 10:00 a.m., will be:

Settlement of injunctive actions

Settlment of administrative proceedings of an enforcement nature

Institution of administrative proceedings of an enforcement nature

Institution of injunctive actions

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, pleases contact: Paul Atkins at (202) 272–2000.

Dated: January 28, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–2490 Filed 1–29–92; 11:14 am]

BILLING CODE 8010-01-M