1–11–95
Vol. 60 No. 7

federal register

Wednesday
January 11, 1995

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

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 481
A FR UMISE346U DEC 95 R
UMI SERIALS ACQUISITIONS
300 N ZEEB RD
PO BOX 1346
ANN ARBOR MI 48106

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

1–11–95
Vol. 60 No. 7
Pages 2671–2872

federal register

Wednesday
January 11, 1995

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

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

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

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

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

The annual subscription price for the **Federal Register** paper edition is $494, or $544 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

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

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

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

Online:

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

Assistance with online subscriptions	**202–512–1530**

Single copies/back copies:

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

FEDERAL AGENCIES

Subscriptions:

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

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

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: January 25 at 9:00 am and 1:30 pm

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

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 60, No. 7

Wednesday, January 11, 1995

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

Presidential Documents

Title 3—

The President

Presidential Determination No. 95–11 of December 30, 1994

Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby designate refugees and displaced persons from the Newly Independent States of the former Soviet Union as qualifying for assistance under section 2(b)(2) of the Act, and determine that such assistance will contribute to the foreign policy interests of the United States.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and to publish this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, December 30, 1994

[FR Doc. 95–844
Filed 1–9–95; 3 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 95–12 of December 31, 1994

Suspending Restrictions on U.S. Relations With the Palestine Liberation Organization

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Middle East Peace Facilitation Act of 1994, part E of title V, Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Public Law 103–236, ("the Act"), I hereby:

(1) certify that it is in the national interest to suspend the application of the following provisions of law until July 1, 1995:

(A) Section 307 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note), as it applies with respect to the Palestine Liberation Organization or entities associated with it;

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2502); and

(D) Section 37, Bretton Woods Agreement Act (22 U.S.C. 286w), as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund.

(2) certify that the Palestine Liberation Organization continues to abide by the commitments described in section 583(b)(4) of the Act.

You are authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, December 31, 1994

FR Doc. 95-845
Filed 1-9-95; 3:01 pm]
Billing code 4710-10-M

Presidential Documents

Presidential Determination No. 95–13 of December 31, 1994

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $4,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of Haitian and Cuban migrants. These funds may be used as necessary to cover costs related to the Haitian and Cuban migration programs, including related Department of State administrative expenses.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this memorandum in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, December 31, 1994.

[FR Doc. 95–846
Filed 1–9–95; 3:02 pm]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

RIN 3206–AF00; 3206–AF42; 3206–AF63

Reduction in Force Notice-Certification of Expected Separation; Exception to 60 Days Specific Notice; Permissive Temporary Exception

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing final reduction in force (RIF) regulations that authorize: an agency to issue a Certification of Expected Separation to an employee who the agency expects will be separated within 6 months by RIF; the Director of OPM to approve a (RIF) notice period of less than 60 days specific written notice in unforeseeable circumstances; and, an agency to make a permissive temporary exception for more than 90 days past the RIF effective date to satisfy a Government obligation to an employee.

DATES: Final rules effective February 10, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Edward P. McHugh, Workforce Restructuring Office, (202) 606–0960; FAX (202) 606–0390.

SUPPLEMENTARY INFORMATION:

Certification of Expected Separation

On May 26, 1992, OPM published interim regulations in the **Federal Register** at 57 FR 21890 with a 60 day comment period. The regulations were inadvertently deleted by regulations published June 8, 1993 (58 FR 32046). To correct this error, the regulations were republished for information in the **Federal Register** on June 27, 1994, at 59 FR 32871.

These interim regulations allowed agencies to issue employees a Certification of Expected Separation (CES) if the agency found that the employee would likely be separated within 6 months by RIF. The CES notice allows employees to register early for outplacement and retraining services provided by the agency, OPM, and programs under the Job Training Partnership Act (JTPA) administered by the Department of Labor.

OPM received fourteen written comments on these interim regulations: Nine from agencies and five from State or local governmental units or their representatives. All of the comments favored the CES option. After consideration of the comments, the interim regulations are published without revision.

Each comment addressed employees' eligibility for the JTPA after receiving a CES.

Eight recommended a minimum CES notice period longer than the 6 month limit provided in 5 CFR 351.807(a) of the interim regulations. After reviewing these comments, we left the 6 month limit unchanged because the maximum time period was consistent with the Department of Labor's policy.

Five requested broader eligibility criteria for registration in the JTPA. Again, we left the eligibility requirements unchanged because we believe 5 CFR 351.807(a) is consistent with the Department of Labor's policy.

Other comments asked that OPM issue technical guidance to clarify receipt of a CES on employees' eligibility for OPM's interagency placement programs and the reemployment priority list. We will provide this guidance to agencies through other sources.

The Discretionary Temporary Exception to the Order of Release and the Liquidation Provision

On May 27, 1994, OPM published proposed regulations in the **Federal Register** at 59 FR 27509 with a 60 day comment period. These regulations proposed elimination of the 90 day limit on the use of a permissive temporary exception to satisfy a Government obligation to an employee during a RIF. These regulations also proposed extending the time limit for use of the liquidation provision because of closure from 90 days to 120 days.

OPM received three written comments on these proposed regulations: Two from agencies, and one from an individual who suggested other changes to the RIF system.

Both agencies favored our proposed change to provide that an agency may use a permissive temporary exception without time limitation to satisfy a Government obligation to the retained employee. For example, a Department of Defense employee is entitled to 120 days written specific notice before release in a significant RIF. If the activity conducting the RIF subsequently finds that it must make a worse offer than that specified in the employee's original RIF notice, the employee is entitled to a new RIF notice period of 120 days. This means that the activity must use a permissive temporary exception to retain the released employee on its rolls past the effective date of the RIF in order to meet its notice obligation. Under a permissive temporary exception, the activity determines the released employee's retention rights on the effective date of the RIF, but the activity does not actually implement the action until it provides the employee with full specific notice of the RIF.

In conforming changes, 5 CFR 351.608(c) is redesignated as 5 CFR 351.608(d) and 5 CFR 351.608(d) is redesignated as 5 CFR 351.608(e).

One agency also requested that OPM expand the liquidation provision found in 5 CFR 351.605 from the present 90 days to 1 year. The liquidation provision in 5 CFR 351.605 allows a closing activity to release employees without regard to their respective service dates in a closure situation, provided that the employees have the same tenure and veterans' preference status.

Under the current regulations, a liquidation situation exists when an agency will abolish all positions in a competitive area within 90 days. In separating employees by RIF, the agency must release employees in group and subgroup order consistent with 5 CFR 351.601(a). (An agency may not apply this section to release an employee who is entitled to retention in the subgroup under 5 CFR 351.606 because of reemployment after military service.) However, the liquidation provision permits the agency, at its discretion, to release employees within a subgroup

regardless of the employees' relative retention standing for up to 90 days before closure of an activity. The 90 day liquidation provision was implemented when the minimum specific RIF notice period was 30 days rather than the present standard of 60 days notice (i.e., the liquidation provision was three times the basic RIF notice period).

We proposed revision of 5 CFR 351.605 to provide that the liquidation provision is applicable in a closure situation when an agency will abolish all positions in a competitive area within 120 days. After considering the agency's comments, 5 CFR 351.605 is revised to provide that the liquidation provision is applicable when an agency will abolish all positions in a competitive area within 180 days (i.e., three times the basic RIF notice period of 60 days). The new 180 day standard for the liquidation provision will also provide the Department of Defense with needed flexibility in carrying out large scale closures in which a Defense activity must provide its employees with a minimum of 120 days RIF notice because of a significant RIF. An employee released from a competitive level under the liquidation provision found in 5 CFR 351.605 may still have assignment rights to a position in a different competitive level, as provided in subpart G of part 351.

RIF Notices

On June 8, 1993, OPM published interim RIF notice regulations in the **Federal Register** at 58 FR 32047, effective upon publication with a 60 day comment period. These regulations implement section 4433 of Public Law 102–484 (the National Defense Authorization Act for Fiscal Year 1993), which revised 5 U.S.C. 3502 by adding new sections (d) and (e) containing new notice requirements for RIF actions.

OPM received five written comments on these interim regulations: Three from agencies and two from local offices of national unions.

All three agencies favored the proposal. However, one agency requested that OPM expand 5 CFR 351.802(b) to affirm that an agency must provide an employee who receives a specific RIF notice with a copy of OPM's retention regulations, upon the employee's request. We have reviewed the proposed language and believe that 5 CFR 351.802(b) as written specifically covers this requirement.

A second agency requested that OPM revise 5 CFR 351.803(b) to provide that the agency must meet special notice requirements only when 50 or more employees are actually separated from a competitive area. In the interim regulations, 5 CFR 351.803(b) provides that an agency must provide additional notice when 50 or more employees in a competitive area receive specific RIF separation notices. The agency must send this additional notice of a large RIF to (1) the appropriate State dislocated worker unit under the Job Training Partnership Act, (2) the chief elected local government official where the separations will take place, and (3) OPM. We retained the language in 5 CFR 351.803(b) without revision because we believe that an employee who receives a specific notice of separation in a large RIF is entitled to the same benefits as an employee who is actually separated.

The two union locals were concerned that OPM could approve a shortened RIF notice period that would be detrimental to their members. Both locals are in Department of Defense (DoD) activities. 5 CFR 351.801(a)(2) provides that DoD components must provide their employees with a minimum of 120 days specific notice when a significant number of employees will be separated by RIF.

5 U.S.C. 3502(e)(1) provides that the President of the United States may approve a RIF notice period of less than, as appropriate, 60 or 120 days, based on unforeseeable circumstances. However, 5 U.S.C. 3503(e)(3) provides that a shortened RIF notice period must always cover at least 30 days. E.O. 12828, approved on January 5, 1993 (58 FR 2965), authorizes OPM to shorten the applicable mandatory 60 or 120 day specific written RIF notice requirement to a minimum of 30 days. 5 CFR 351.801(b) implements E.O. 12828 and authorizes the Director of OPM to approve a shortened notice period at the request of an agency head or designee.

We have adopted 5 CFR 351.801(b) without revision because OPM is limited by law and Executive Order in granting exceptions to the minimum RIF notice period.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 351

Government employees.

Office of Personnel Management.

James B. King,

Director

Accordingly, OPM is adopting as final its interim and proposed rules published under 5 CFR part 351 on May 26, 1992, at 57 FR 21890 (as corrected on June 27, 1994, at 59 FR 32871), on June 8, 1993, at 58 FR 32047, and on May 27, 1994, at 59 FR 27509, with the following changes:

PART 351—REDUCTION IN FORCE

1 The authority citation for part 351 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; §351.801 also issued under E.O. 12828, 58 FR 2965

2. Section 351.605 is revised to read as follows:

§ 351.605 Liquidation provisions.

When an agency will abolish all positions in a competitive area within 180 days, it must release employees in group and subgroup order consistent with § 351.601(a). At its discretion, the agency may release the employees in group order without regard to retention standing within a subgroup, except as provided in § 351.606. When an agency releases an employee under this section, the notice to the employee must cite this authority and give the date the liquidation will be completed. An agency may also apply §§ 351.607 and 351.608 in a liquidation.

3. In § 351.608, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) respectively, paragraph (b) is revised, and paragraph (c) is added, to read as follows:

§ 351.608 Permissive temporary exceptions.

* * * * *

(b) *Exception not to exceed 90 days.* An agency may make a temporary exception for not more than 90 days when needed to continue an activity without undue interruption.

(c) *Government obligation.* An agency may make a temporary exception to satisfy a Government obligation to the retained employee.

* * * * *

4. Subpart H, consisting of §§ 351.801 through 351.806, is revised to read as follows:

Subpart H—Notice to Employee

Sec.

Subpart H—Notice to Employee

§ 351.801 Notice period.

(a)(1) Except as provided in paragraph (b) of this section, each competing employee selected for release from a competitive level under this part is entitled to a specific written notice at least 60 full days before the effective date of release.

(2) Under authority of section 4433 of Public Law 102–484, each competing employee of the Department of Defense is entitled, under implementing regulations issued by that agency, to a specific written notice at least 120 full days before the effective date of release when a significant number of employees will be separated by reduction in force. This 120 days notice requirement is applicable during the period from January 20, 1993, through January 31, 2000. The basic requirement for 60 full days specific written notice set forth in paragraph (a) of this section is still applicable when less than a significant number of employees will be separated by reduction in force.

(3) At the same time an agency issues a notice to an employee, it must give a written notice to the exclusive representative(s), as defined in 5 U.S.C. 7103(a)(16), of each affected employee at the time of the notice. When a significant number of employees will be separated, an agency must also satisfy the notice requirements of §§ 351.803 (b) and (c).

(b) When a reduction in force is caused by circumstances not reasonably foreseeable, the Director of OPM, at the request of an agency head or designee, may approve a notice period of less than 60 days, or a notice period of less than 120 days when a significant number of Department of Defense employees will be separated. The shortened notice period must cover at least 30 full days before the effective date of release. An agency request to OPM shall specify:

(1) The reduction in force to which the request pertains;

(2) The number of days by which the agency requests that the period be shortened;

(3) The reasons for the request; and

(4) Any other additional information that OPM may specify.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under § 351.607 or § 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802 Content of notice.

(a) The notice shall state specifically:

(1) The action to be taken and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date, and annual performance ratings of record received during the last 4 years;

(3) The place where the employee may inspect the regulations and record pertinent to this case;

(4) The reasons for retaining a lower-standing employee in the same competitive level under § 351.607 or § 351.608;

(5) Information on reemployment rights, except as permitted by § 351.803(a); and

(6) The employee's right, as applicable, to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations or to grieve under a negotiated grievance procedure. The agency shall also comply with § 1201.21 of this title.

(b) When an agency issues an employee a notice, the agency must, upon the employee's request, provide the employee with a copy of OPM's retention regulations found in part 351 of this chapter.

§ 351.803 Notice of eligibility for reemployment and other placement assistance.

(a) An employee who receives a specific notice of separation under this part must be given information concerning the right to reemployment consideration under subparts B (Reemployment Priority List) and C (Displaced Employee Program) of part 330 of this chapter The employee also must be given information concerning how to apply for unemployment insurance through his or her appropriate State program. This information must be provided either in or with the specific reduction in force notice, or as a supplemental notice to the employee.

(b) When 50 or more employees in a competitive area receive separation notices under this part, the agency must provide written notification of the action, at the same time it issues specific notices of separation to employees, to:

(1) The State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act;

(2) The chief elected official of local government(s) within which these separations will occur; and

(3) OPM.

(c) The notice required by paragraph (b) of this section must include:

(1) The number of employees to be separated from the agency by reduction in force (broken down by geographic area or other basis specified by OPM);

(2) The effective date of the separations; and

(3) Any other information specified by OPM, including information needs identified from consultation between OPM and the Department of Labor to facilitate delivery of placement and related services.

§ 351.804 Expiration of notice.

A notice expires except when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action. An agency may not take the action specified before the effective date in the notice. An action taken after the specific date in the notice shall not be ruled invalid for that reason except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for reduction in force as a result of the action.

§ 351.805 New notice required.

An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

§ 351.806 Status during notice period.

When possible, the agency shall retain the employee on active duty status during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, or leave without pay with his or her consent, or in a nonpay status without his or her consent.

§ 351.807 Certification of Expected Separation.

(a) For the purpose of enabling otherwise eligible employees to be considered for eligibility to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, an agency may issue a Certificate of Expected Separation to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment by reduction in force procedures under this part. A certification may be issued up to 6 months prior to the effective date of the reduction in force.

(b) This certification may be issued to a competing employee only when the agency determines:

(1) There is a good likelihood the employee will be separated under this part;

(2) Employment opportunities in the same or similar position in the local

commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; or

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

(e) An agency determination of eligibility for certification may not be appealed to OPM or the Merit Systems Protection Board.

(f) An agency may also enroll eligible employees in the Interagency Placement Program and the Reemployment Priority List up to 6 months in advance of a reduction in force. For requirements and criteria for these programs, see subparts B and C of part 330 of this chapter.

[FR Doc. 95–643 Filed 1–10–95; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1425

RIN 0560–AD70

Cooperative Marketing Associations; Eligibility Requirements for Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the proposed rule published in the **Federal Register** at 59 FR 44947–44952 on August 31, 1994. This rule amends the regulations governing the participation of cooperative marketing associations (CMA) in Commodity Credit Corporation (CCC) price support programs to ensure: the equitable treatment of CMA members and individual producers; the Government does not accept undue risk in providing CMA price support program benefits; and the efficient delivery of CMA price support program benefits. This rule: changes CMA bylaw requirements to reflect current CMA organizational and operational procedures; requires approved cotton CMA retention of services provided by servicing agent banks; requires approved CMA monitoring of payment they receive on behalf of their members to ensure that member payments do not exceed payment limits; and makes other administrative changes.

EFFECTIVE DATE: January 11, 1995.

FOR FURTHER INFORMATION CONTACT: Richard M. Ackley, Chief, Cooperative and Analysis Branch; Cotton, Grain, and Rice Price Support Division, Consolidated Farm Service Agency, USDA, P.O. Box 2415, Washington, DC 20013–2415.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

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.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12372

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

Executive Order 12778

This final rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

Public reporting burden for all collections is estimated to average from 1 to 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and competing and reviewing the collection of information. The information collections have previously been cleared under the current regulations by OMB, and assigned OMB No. 0560–0040.

Comments

No comments were received during the comment period which ended on September 30, 1994.

List of Subjects in 7 CFR Part 1425

Cooperatives, Price support programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1425 is amended as follows:

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

1. The authority citation for 7 CFR part 1425 is revised to read as follows:

Authority: 7 U.S.C. 1421(a), 1441, 1444(a), 1446(d), and 1447; 15 U.S.C. 714b, 714c, and 714j.

2. Section 1425.3 is amended.

A. Revising paragraph (d),

B. Redesignating paragraphs (i) and (j) as paragraphs (j) and (k) respectively,

C. Adding a new paragraph (i), and

D. Revising redesignated newly redesignated paragraphs (j) and (k):

§ 1425.3 Definitions.

* * * * *

(d) *Authorized commodity* means those commodities for which an approved cooperative may apply for price support, including barley, canola, corn, cotton, flaxseed, honey, shorn mohair, mustard seed, oats, rapeseed, rice, rye, safflower, seed cotton, shorn wool, sorghum, soybeans, sunflower seed, and wheat.

* * * * *

(i) *Participate in a Price Support Program* means the pledging, on behalf of members, of an eligible commodity as collateral for CCC price support loans, entering into purchase agreements, and when applicable, obtaining loan deficiency payments.

(j) *Person* means an individual, joint stock company, corporation, estate or

trust, association, or other legal entity, except that two or more entities shall be combined as one person in accordance with:

(1) The regulations found at part 1497 of this chapter for the purpose of administering maximum payment limitation provisions of the Food Security Act of 1985;

(2) The regulations found at part 796 of this title for the purpose of administering the provisions of the Food Security Act of 1985 with respect to the production of controlled substances; and

(3) The regulations found at part 12 of this title pertaining to the highly erodible land and wetland provisions (commonly know as "sodbuster and swampbuster" provisions) of the Food Security Act of 1985.

(k) *Producer* means a person who, as owner, landlord, tenant, or sharecropper, shares in the risk of producing the crop, and is entitled to share in the crops available for marketing from the farm, or would have shared had the crops been produced.

3. In § 1425.4, paragraphs (a), (b)(7), and paragraph (c) introductory text are revised and paragraphs (e) and (f) are added to read as follows:

§ 1425.4 Approval.

(a) *Application.* In order for a cooperative to participate in a price support program with respect to the 1994 and subsequent crops of authorized commodities, a cooperative must submit an application for approval with respect to such authorized commodities to CCC.

(b) * * *

(7) A detailed description of the method by which proceeds from a pool of eligible commodities for which price support is obtained will be distributed as provided for in § 1425.18.

* * * * *

(c) *Annual recertification.* An approved cooperative must submit, on an annual basis, the following information to CCC:

* * * * *

(e) *Reapplication.* Approved cooperatives must submit revised applications as required by this section instead of an annual recertification every 5 years, or more often if CCC determines that such application is necessary to determine if a cooperative has implemented an organizational or operational change that would affect compliance with the provisions of this part.

(f) *Form CCC-Cotton G.* Cooperative marketing associations applying for approval to participate in the price support program for cotton shall execute Form CCC-Cotton G, Cotton Cooperative Loan Agreement, with CCC.

4. Section 1425.6 (b)(2) is revised to read as follows:

§ 1425.6 Approved cooperatives.

* * * * *

(b) * * *

(2) *Conditionally approved.* (i) A cooperative may be conditionally approved if CCC determines that it has substantially met all the requirements of this part, and the failure to meet the remaining requirements is due to reasons beyond the control of the cooperative and not due to the cooperative's negligence; and

(ii) Such cooperative must agree in writing to meet all requirements for approval set forth in this part within the time period specified by CCC. When a cooperative can only comply with the regulations by amending its articles of incorporation or bylaws at a membership meeting, CCC may accept a board of directors' resolution agreeing to recommend to the members at the next meeting of the members the required changes to the articles of incorporation or bylaws as compliance with the requirements for approval for purposes of this section.

Board resolutions in which the cooperative agrees to comply with other provisions of this part may be accepted by CCC as compliance with the requirements for approval for purposes of this section.

* * * * *

5. Section 1425.7 (a) is revised to read as follows:

§ 1425.7 Suspension and termination of approval.

(a) *Suspension.* An approved cooperative may be suspended by CCC from further participation in a price support program if CCC determines that the cooperative or a member cooperative, as specified in § 1425.19:

(1) Has not operated in accordance with the conditions specified in such cooperative's application for approval;

(2) Has not complied with applicable regulations; or

(3) Has failed to correct deficiencies noted during an administrative review or an audit of the cooperative's operations with respect to a price support program. Such suspension may be lifted upon the receipt of documents indicating that the cooperative has complied with all requirements for approval. If such documents are not received within one year from the date of the suspension, the cooperative's approval for participation in a price support program shall be terminated

* * * * *

6. In § 1425.8, paragraphs (b)(2) and (e) are revised to read as follows:

§ 1425.8 Ownership and control.

* * * * *

(b) * * *

(2) The allocated equity of any active member that has acquired equity as a result of a loan from the cooperative unless such member is obligated to repay the loan within one year.

* * * * *

(e) *Approved plan.* An applicant or an approved cooperative not under the ownership or control, or both, of its active members, may be approved by CCC to participate in a price support program if the cooperative is able to establish that, by retiring the equity of its inactive members or by obtaining new members, the cooperative can vest ownership and control in its active members, as required by this section, by a date specified by CCC.

7. Section 1425.9 is amended by revising the introductory text and paragraphs (d) and (g) to read as follows:

§ 1425.9 Charter and bylaw provisions.

The articles of incorporation, articles of association, or the bylaws of the cooperative shall comply with each of the following requirements:

* * * * *

(d) *Nominations.* (1) Nominations for election of delegates and directors shall be made by members.

(2) Nominations for officers shall be made by elected directors or by members when nomination by members is authorized in the cooperative's articles of incorporation or bylaws.

(3) Nominations may be made by balloting, nominating committee, petition of members, or from the floor, provided that nominations from the floor shall be requested in addition to nominations made by a nominating committee or by petition.

* * * * *

(g) *Proxy.* (1) Except as provided in paragraph (g)(2) of this section, voting by proxy shall be prohibited.

(2) Voting by proxy may be permitted if a cooperative:

(i) Determines that it is necessary to amend the cooperative's articles of incorporation, articles of association, or bylaws, and

(ii) Establishes to the satisfaction of CCC that the law of the State in which the cooperative is incorporated permits voting by proxy, but does not permit members to vote by mail, with respect to such issue.

* * * * *

8. In § 1425.10, paragraph (b)(3) is revised to read as follows:

§ 1425.10 Financial condition.

* * * * *

(b) * * *

(3)(i) *The net worth of the cooperative.* The cooperative shall be considered to have a sufficient net worth if such net worth is equal to the product of an amount per unit for a commodity (as set forth in table 1) multiplied by the total number of such units of commodity for which the cooperative is approved, or requesting approval, to participate in price support and handled by the cooperative during the preceding marketing year, or, if the cooperative is in its first full marketing year of operations, the estimated quantity of such commodity that it will handle during such year.

(ii) (A) If the amount of the net worth of the cooperative is between 34 and 99 percent of the amount computed in accordance with paragraph (b)(3)(i) of this section and the cooperative is determined by CCC to be otherwise financially sound, CCC may determine that such cooperative meets the requirements of this section. Such a determination by CCC may be made if:

(*1*) The board of directors of the cooperative agrees to make a capital retain in the amount set forth in table 2 with respect to each unit of the commodity delivered to the cooperative until the net worth of the cooperative is at least equal to the amount computed in accordance with paragraph (b)(3)(i) of this section, and

(*2*) The cooperative agrees to deduct from pool proceeds the full amount of the estimated expenses of handling the commodities received by the cooperative.

(B) The failure to carry out such agreements shall be grounds for suspending a cooperative's approval.

TABLE 1

Commodity	Unit	Amount per unit
Barley	Bushel	0.13
Canola	Hundredweight	0.62
Corn	Bushel	0.13
Cotton	Bale	6.40
Flaxseed	Hundredweight	0.62
Honey	Hundredweight	1.90
Mustard Seed	Hundredweight	0.62
Oats	Bushel	0.13
Rapeseed	Hundredweight	0.62
Rice	Hundredweight	0.52
Rye	Bushel	0.13
Safflower	Hundredweight	0.62
Seed Cotton (lint basis).	Pound	0.008
Shorn Mohair	Pound	0.16
Shorn Wool	Pound	0.38
Sorghum	Hundredweight	0.19
Soybeans	Bushel	0.43
Sunflower Seed	Hundredweight	0.62
Wheat	Bushel	0.15

TABLE 2

Commodity	Unit	Amount per unit
Barley	Bushel	0.07
Canola	Hundredweight	0.32
Corn	Bushel	0.07
Cotton	Bale	3.20
Flaxseed	Hundredweight	0.32
Honey	Hundredweight	0.95
Mustard Seed	Hundredweight	0.32
Oats	Bushel	0.07
Rapeseed	Hundredweight	0.32
Rice	Hundredweight	0.26
Rye	Bushel	0.07
Safflower	Hundredweight	0.32
Seed Cotton (lint basis).	Pound	0.004
Shorn Mohair	Pound	0.08
Shorn Wool	Pound	0.19
Sorghum	Hundredweight	0.10
Soybeans	Bushel	0.22
Sunflower Seed	Hundredweight	0.32
Wheat	Bushel	0.08

* * * * *

9. In § 1425.11, paragraph (c)(3) is revised to read as follows:

§ 1425.11 Operations.

* * * * *

(c) * * *

(3) Require that all proceeds from the marketing operation be distributed as provided in § 1425.18.

10. In § 1425.14, paragraph (c) is revised to read as follows:

§ 1425.14 Member business.

* * * * *

(c) The cooperative has a plan, approved by CCC, which CCC determines to be in the cooperative members' best interest and will bring the cooperative into compliance with the provisions of this section. Commodities purchased or acquired from CCC and processed products acquired from other processors or merchandisers shall not be considered in determining the volume of member or nonmember business.

§§ 1425.16–1425.21, 1425.22, 1425.23 [Redesignated as §§ 1425.17–1425.22, 1425.24, 1425.25]

11. Sections 1425.16 through 1425.21 and §§ 1425.22 and 1425.23 are redesignated as §§ 1425.17 through 1425.22 and §§ 1425.24 and 1425.25, respectively, and a new § 1425.16 is added to read as follows:

§ 1425.16 Payment limitation.

Approved cooperatives shall monitor marketing loan gains, loan deficiency payments, and other payments they receive from CCC on behalf of their members and ensure that the sum of the amounts received for each member does not exceed the member's payment limitation determined in accordance with part 1497 of this title that, for purposes of administering such part, is assigned by CCC to the cooperative.

12. Redesignated § 1425.17 is amended by revising paragraphs (a)(2), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2), (c)(2), and adding paragraph (c)(5) to read as follows:

§ 1425.17 Eligible commodity and pooling.

(a) * * *

(2) Price support will be made available to approved cooperatives with respect to a quantity of an eligible commodity included in an eligible pool as provided in paragraph (c) of this section and the beneficial interest provisions of parts 1421, 1427, 1435, and 1468 of this chapter.

(b) * * *

(1) * * *

(i) All of the commodity included in the pool is eligible for price support, except as provided in paragraph (b)(2) of this section;

(ii) The eligible commodity in such pool was:

(A) Delivered to the cooperative for marketing for the benefit of the members of the cooperative, and

(B) Delivered by members who retain the right to share in the proceeds from the marketing of the commodity in accordance with § 1425.18.

(iii) Except with respect to a quantity of a commodity pledged as collateral for a price support loan and which is redeemed within 15 work days from the date the cooperative receives the proceeds from CCC, all of the commodity placed in such pool was delivered by members who have agreed to accept a payment of the initial advances made available to such producers by the cooperative with respect to such commodity in accordance with § 1425.18(a).

(2) If CCC determines that a cooperative has inadvertently included in a pool a quantity of commodity which is ineligible for price support because of grade, quality, bale weight or repacking in the case of cotton, or other factors, the remaining quantity of commodity shall remain eligible for price support.

(c) * * *

(2) Price support will be available to the cooperative for the quantity of a farm-stored commodity that is, pursuant

to such cooperative's marketing agreement with a member, part of the cooperative's pool.

* * * * *

(5) Commodities pledged as collateral for CCC price support loans shall be free and clear of all liens and encumbrances based on an approved cooperative's financial agreements or the cooperative shall obtain a completed Form CCC–679, Lien Waiver. Approved cooperatives shall not take any action to cause a lien or encumbrance to be placed on a commodity after a loan is approved.

* * * * *

13. Redesignated § 1425.18 is amended by revising paragraphs (a) and (a)(1) and adding paragraph (b)(5) to read as follows:

§ 1425.18 Distribution of proceeds.

(a) *CCC loans, purchases, and loan deficiency payments.* (1) If CCC makes available price support loans, purchases, or loan deficiency payments with respect to any quantity of the eligible commodity in a pool, the proceeds from such loans, purchases, or loan deficiency payments shall be distributed to members participating in such pool on the basis of the quantity and quality of the commodity delivered by each member which is included in the pool less any authorized charges for services performed or paid by the cooperative which are necessary to condition the commodity or otherwise make the commodity eligible for price support. Except with respect to commodities which are pledged as collateral for a price support loan and which are redeemed within 15 work days from the date the cooperative receives the loan proceeds from CCC, such proceeds shall be distributed within 15 work days from such date. Loan deficiency payments received from CCC shall be distributed within 15 work days of receipt from CCC.

* * * * *

(b) * * *

(5) When notified by CCC that pool distributions to a member of any eligible pool must be reduced for a program year, farm, or crop, cooperatives shall refrain from making such pool distributions and shall, if appropriate, reimburse CCC for such distributions.

* * * * *

14. Redesignated § 1425.20 is revised to read as follows:

§ 1425.20 Nondiscrimination.

The cooperative shall not, on the basis of race, color, age, sex, religion, marital status, national origin, physical disability, or mental disability, deny any producer participation in, or otherwise subject any producer to discrimination with respect to any benefits resulting from its approval to obtain price support and shall comply with the provisions of Title VI of the Civil Rights Act of 1964 and the Secretary's regulations issued thereunder, appearing in §§ 15.1 through 15.12 of this title; section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978; and provisions of the Age Discrimination Act of 1975, as amended. The cooperative shall not discriminate against employees under Title VII of the Civil Rights Act of 1964, as amended, or the Equal Pay Act of 1963 or Title VI of the Civil Rights Act of 1964 as administered by the Equal Employment Opportunity Commission, and shall handle employee discrimination complaints as provided for in 28 CFR part 42 and 29 CFR part 1691. The United States shall have the right to enforce compliance with such statutes and regulations by suit or by any other action authorized by law. The cooperative shall submit a certification with its application that the regulations cited in this section have been read and understood and that the cooperative will abide by them.

15. A new § 1425.23 is added to read as follows:

§ 1425.23 Reports.

(a) Approved cooperatives shall annually provide CCC with a PSL–86R report to applicable county Consolidated Farm Service Agency offices. The report shall include all eligible and ineligible commodity receipts by Farm Service Agency farm number for each member.

(b) Approved cooperatives shall at least annually report by commodity and by crop the marketing loan gains, loan deficiency payments, and any other CCC program payments received on behalf of each producer member.

Signed in Washington, DC, on December 23, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–560 Filed 1–10–95; 8:45 am]

BILLING CODE 3410–05–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 618

RIN 3052–AB51

Loan Policies and Operations; General Provisions; Collateral Evaluation Requirements, Actions on Applications, Review of Credit Decisions, and Releasing Information

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date; technical amendment.

SUMMARY: The Farm Credit Administration (FCA) published an interim rule with request for comments on September 12, 1994 (59 FR 46725), amending 12 CFR parts 614 and 618 to change collateral evaluation requirements for Farm Credit System (FCS or System) institutions. The rule also made conforming changes related to Board of Governors of the Federal Reserve (FRB) regulations interpreting the Equal Credit Opportunity Act (ECOA). In accordance with 12 U.S.C. 2252, the effective date of the rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is January 4, 1995.

DATES: The regulations amending 12 CFR parts 614 and 618, published on September 12, 1994 (59 FR 46725) are effective January 4, 1995.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. General

The amendments to 12 CFR parts 614 and 618, as published (59 FR 46725), address issues raised by recent regulatory revisions by the other Federal financial institutions' regulatory agencies (Federal regulatory agencies),[1] comments received in response to the FCA's published request for "regulatory burden" comments (58 FR 34003, June 23, 1993), and amendments made to

[1] The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and the Office of Thrift Supervision (OTS).

FRB regulations interpreting the Equal Credit Opportunity Act.[2]

The FCA Board received six comment letters in response to its request for comments on the interim rule. Comments were received from the Farm Credit Council (FCC), two Farm Credit Banks (FCBs), one agricultural credit association (ACA), the American Society of Farm Managers and Rural Appraisers, Inc. (ASFMRA), and the American Society of Appraisers (ASA).

Based upon a review of the comments received, the FCA has made a technical revision to § 614.4260(c)(5) to clarify what constitutes a "subsequent loan transaction." However, the FCA does not find it necessary to further amend the regulations as published on September 12, 1994 (59 FR 46725). The FCA does believe the comments raise some issues needing clarification, and discusses those issues in the following section-by-section analysis.

II. Section-by-Section Analysis

A. Section 614.4245—Collateral Evaluation Policies

An FCB commented that it would be appropriate to amend § 614.4245 to provide that the collateral evaluation policy adopted by an institution's board shall identify when a collateral evaluation will be required for a loan servicing transaction, but at a minimum require a collateral evaluation when a loan servicing transaction either involves the advancing of new funds, or would alter or affect the institution's collateral position.

The FCA's position is that, at a minimum, a collateral valuation will be completed on all "subsequent loan transactions," (as specified in § 614.4260(c)(5), which include but are not limited to servicing actions, reamortizations, modifications of loan terms, partial releases, etc.). Depending upon the circumstances and nature of the subsequent loan transaction and its impact upon the adequacy of the collateral, such collateral valuations may take the form of an updated report referencing previous evaluations or a more detailed evaluation. The explanatory language of the interim regulation indicated that a new real estate appraisal will be completed when there has been an advancement of new funds (including capitalizing interest) and there has been a material increase in the credit risk. If there are no new funds advanced (other than reasonable closing costs) or, even if new funds have been advanced but there has been no material increase in the risk then a valuation may be sufficient, depending upon the institution's policies and procedures and the individual circumstances. The form and content of the valuation may range from an update, referencing previous evaluations and any changes, to a more detailed "limited" or "complete" evaluation (as defined by USPAP).

B. Section 614.4255—Independence Requirements

The FCC requested clarification that the internal control procedures may provide for post-review of credit decisions on a sampling basis. The ACA commented that the wording in this section implies that all credit decisions are either prior approved or post-reviewed, and requested that credit decisions be post-reviewed on a sampling basis.

Section 614.4255 requires the institution to have appropriate internal controls in place if they intend to use officers and employees as evaluators. The regulation refers the reader to § 618.8430 for guidance for the required internal controls. Section 618.8430 requires institutions to establish appropriate internal control policies and procedures that provide effective control over operations of the institution, including standards for collateral evaluation and scope of review selection. The regulation provides the institution the flexibility to establish the scope of the collateral and credit review (including sampling) as part of the institution's internal controls. The FCA considers a sampling of individual credit decisions to be an acceptable internal control as long as the scope of selection is sufficient to adequately identify risk in the loan portfolio.

C. Section 614.4260—Evaluation Requirements

When an appraisal by a State licensed or certified appraiser is not required, the FCC and ACA believe it would be more clear and less susceptible to misinterpretation if, "subsequent loan transaction" were defined to include specific loan servicing actions, such as reamortizations and partial releases. Similarly, an FCB believes it would be helpful if the regulation itself clearly stated that subsequent loan transactions include loan servicing transactions such as reamortizations and releases.

It is the intent of the regulations that "subsequent loan transactions" include, but are not limited to, transactions such as renewals, reamortizations, partial releases, and modifications of loan repayment terms and maturity dates. Therefore, the FCA has made a technical change to the regulation (§ 614.4260(c)(5)) to further identify examples of "subsequent loan transactions" where a real estate appraisal may not be necessary.

Another FCB suggested that portions of FCA's explanatory comments contained in the preamble seem to be in conflict as to when an evaluation is needed on servicing actions. The FCB urges the FCA to clarify that a new evaluation is required only when new funds are advanced or there is a material increase in credit risk. The FCB also contends that requiring a collateral evaluation on all subsequent loan transactions is overly burdensome.

A similar comment has been addressed in the discussion of § 614.4245. Whenever there is a subsequent loan transaction the institution must make a determination as to the effect upon the adequacy of the collateral securing the loan as well as the impact upon the overall credit characteristics of the loan. Depending upon the circumstances, this can be accomplished through the completion of a collateral valuation or a real estate appraisal. As stated earlier, the form and content of the valuation may require nothing more than a restricted report identifying the affected collateral, references to previous evaluations, and recognition of any material changes. However, depending upon the nature of the subsequent transaction and the effect upon the collateral and the associated risk the institution may be required to provide a more detailed evaluation report ranging from a limited report to a full USPAP appraisal.

The ASFMRA was concerned that all of the Federal regulatory agencies had fashioned too broad an exception for a business loan, creating an effective "de minimis" of $1,000,000, regardless of the purpose of the loan. The ASFMRA believes that a $250,000 limit should apply where the purpose of the loan is for real estate acquisition or permanent improvement.

The FCA recognizes the concern of the ASFMRA as it relates to the application of the $1,000,000 business loan exception. However, the FCA believes that, in accordance with the March 31, 1993 Presidential directive, absent safety and soundness concerns, lenders must be afforded additional flexibility to provide credit to small and medium-sized businesses. The Federal regulatory agencies have provided this flexibility with the $1,000,000 exception provision. The

[2] The FRB published final regulations (Regulation B) on December 16, 1993 (58 FR 65657) implementing the Equal Credit Opportunity Act, 15 U.S.C. 1691–1691f, as amended by the FDIC Improvement Act of 1991, Pub. L. 102–242, 105 Stat. 2236.

FCA does not believe that the $1,000,000 exception creates undue risk for System institutions since the FCA's regulations still require full compliance with the Uniform Standards of Professional Appraisal Practices (USPAP) requirements for all loans in excess of the $250,000 *de minimis* level. The FCA regulation is conservative because it establishes minimum criteria for all collateral evaluations, whether completed under USPAP or not.[3] These FCA criteria provide flexibility for the presentation of the evaluation, but otherwise are comparable to the "departure provision" minimums contained in USPAP.

The ASA strongly opposed those portions of the Interim Rule that it felt would "exempt the vast majority of farm credit loan transactions from the appraisal requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)." The ASA believes that FCA has underestimated the risk to safety and soundness created by exempting 90 percent of the FCS's real estate loan volume and close to 80 percent of total loan volume from professional appraisal requirements. In addition, the ASA contends that the cost differential between an appraisal and a valuation of approximately $300 per evaluation reported by the System is overestimated and does not take into account the significant reduction in costs that will occur once System institutions are permitted to obtain limited appraisals prepared pursuant to USPAP's Departure Provision. The ASA further stated that the FCA may have overlooked substantial opposition to the Federal regulatory agencies' appraisal rule changes from Federal regional banking and thrift regulatory officials, and even from the thrift industry itself.

The FCA has reviewed the comments received from the ASA and considered those comments in the context of their application to the operations and risk of the FCS institutions. In addition to reviewing ASA's written comments, the FCA, at the ASA's request, met with representatives of the ASA to discuss the proposed final rule and their concerns. The FCA understands the basis for the ASA's concerns with the standards for state-sanctioned appraisers and risk in residential lending markets but believes that the portfolio structure and associated risks of the System are different. The FCS institutions' portfolios contain only a small percentage of residential loans, representing only 6 percent of the total real estate mortgage loan volume and 13 percent of the total number of mortgage loans. It should also be noted that FIRREA does not apply to FCS institutions. The FCA's regulations do, however, address similar appraisal policies in addition to concerns and issues specifically related to the FCS institutions and their collateral evaluation requirements. As indicated by the statistics cited earlier, the large majority of the System's loans and related collateral is agricultural in nature, therefore requiring agricultural-based knowledge and evaluation standards. The fact that an individual is a State licensed or certified appraiser does not ensure that the individual possesses the necessary training and expertise to value a given agricultural property. On the other hand, there are individuals who have the training and expertise to value such properties, but have not obtained a State license or certification.

FCA's regulations require the FCS institutions to establish criteria and standards concerning educational and expertise levels necessary to adequately and competently value the types of collateral found within the institution's portfolio. The FCA collateral regulations constitute only one of a number of statutory and regulatory controls placed on System institutions (e.g., maximum loan to value of 85 percent, first lien requirements for mortgage loans, and annual FCA examinations). These statutory and regulatory requirements form the framework for addressing certain safety and soundness concerns. In addition, the System institutions are restricted by certain statutory eligibility requirements which serve to limit the outer boundaries of the FCS lending institutions' activities. Given the existence of these additional statutory and regulatory requirements, the FCA believes that the collateral evaluation requirements contained in the Interim Rule adequately identify and address System risks from a safety and soundness standpoint.

D. Section 614.4265—Real Property Evaluations

An FCB commented that the cost of compliance with this section of the regulation is unjustified considering that other regulators do not require this level of compliance with USPAP for real estate collateral evaluations on "business loans" that are in excess of $250,000 and not otherwise exempted by § 614.4260(c). Therefore, the FCB urges FCA to delete the requirement for USPAP compliance for business loans over $250,000 and less than $1,000,000. Another FCB commented that most appraisers with the training necessary to perform a real estate evaluation in compliance with USPAP are in fact state-certified or state-licensed and that this requirement therefore makes the exemption meaningless, placing the System at a severe competitive disadvantage. The ACA also maintained that the cost of compliance with this section of the regulation is unjustified considering that other regulators do not require this level of compliance with USPAP. Both FCBs and the ACA believe that the requirement places System institutions at a competitive disadvantage.

On the other hand, the ASFMRA applauded the FCA's action to require that all evaluations above $250,000 meet the standards established under USPAP, but it was troubled by the provision allowing valuations to be completed by persons who are not licensed or certified. The ASFMRA urged the FCA to consider extending the USPAP provision to recognize that all valuations, irrespective of the "de minimis" level, be completed under USPAP or under the Departure provision of USPAP.

The ASA stated that by requiring all real estate valuations to be performed by licensed or certified appraisers in accordance with USPAP, the FCA could achieve all of the regulatory flexibility it deems necessary and reduce regulatory burden even below the level set by the Interim Rule. The ASA contends that instead of easing the burden of regulatory compliance, the Interim Rule only adds to the patchwork of confusing exemption criteria under which the necessity for obtaining a licensed or certified appraisal will be dependent on an analysis, for each loan, of a variety of complex factors. They also contend that because many of these factors are so subjective in nature that they almost invite noncompliance. Both the ASA and ASFMRA proposed that the FCA extend USPAP requirements to all FCS loan transactions where collateral is valued.

The FCA believes that financial institutions operating in today's environment must engage collateral evaluators that are cognizant of the current appraisal industry standards, including knowledge of and compliance with the USPAP standards. In order for lenders to accept appraisal reports as support for their credit decisions there must be an assurance that such reports

[3] Subsequent to the publication of the FCA's interim collateral evaluation regulation revisions the other Federal financial regulatory agencies adopted, on October 27, 1994, a set of "Interagency Appraisal and Evaluation Guidelines" which provide guidance for the development and application of prudent appraisal and evaluation policies, procedures, practices, and standards. Such guidelines are similar to the guidelines established in the FCA's collateral evaluation regulations.

are accurate and adequate to withstand the legal and technical scrutiny of borrower rights, foreclosure, bankruptcy, and other adverse credit actions. Therefore, the FCA also believes that anyone valuing any form of collateral should be familiar with, and, when required by the regulations, comply with USPAP.

While it might be argued that there is some additional expense involved with USPAP related training and compliance (e.g., field training, USPAP compliance training, and compliance with basic educational course requirements), such expenses are considered necessary to comply with the industry standards and current prudent lending practices. It is FCA's position that knowledge of current appraisal industry practices (including USPAP standards) is a necessary part of any evaluator training that is developed and provided by the System institutions pursuant to the requirements of § 614.4245. The FCA's regulations do provide flexibility to the System relative to the use of specific forms and the providing of necessary training requirements. However, whether conducted internally or through various appraiser affiliated educational programs, there is an expected level of education, expertise, and familiarity with USPAP standards. Therefore, the FCA does not view the requirement for USPAP on transactions in excess of the $250,000 *de minimis* level to create an unnecessary expense burden.

The FCA regulations provide basic criteria for collateral evaluation practices in order to address safety and soundness concerns. However, an additional intent of the regulations is to provide the FCS institutions flexibility to administer their own programs within the confines of state appraisal agencies and appraisal industry standards. It is not the intent of the FCA to dictate the form of the evaluation process, but rather to establish the basic criteria. The FCA believes that adopting full USPAP compliance for all collateral-based loan transactions would be unnecessary and overly burdensome. The FCA also believes the regulations provide a balanced approach which addresses the concerns of both the appraisal industry and the System.

E. Section 614.4443—Review Process

An FCB requested clarification of the deletion of the language "or a borrower who has applied for a restructuring" that is now in the existing regulation, lest it be read as excluding borrowers seeking restructuring."

By definition (§ 614.4440(b)) the term applicant means "any person who completes and executes a formal application for an extension of credit from a qualified lender, or a borrower who completes an application for restructuring." A borrower whose application for restructuring has been denied has the rights specified in § 614.4443(c), including the right to obtain an independent collateral evaluation. It is not the intent of the FCA to exclude borrowers who have applied for restructuring.

F. Section 618.8320—Data Regarding Borrowers and Loan Applicants

An FCB urged FCA to consider seeking clarification of the Federal Reserve Board's position on redacting confidential third-party information from copies of appraisals provided to applicants.

The present amendment of § 618.8320 conforms FCA regulations to reflect the requirements of the Equal Credit Opportunity Act. Section 618.8320 is being amended to state that collateral evaluation reports may be released to a loan applicant when required by the ECOA or related regulations. The ECOA is interpreted by the FRB which has amended its regulations to require release of "appraisal reports." Those regulations define "appraisal report" to mean the documents relied upon by a creditor in evaluating the value of the dwelling. (See 12 CFR 202.5a(c). The FRB, in its explanatory language concerning the published final regulation (58 FR 65657, December 16, 1993), provided a discussion of the appraisal report definition as follows:

> The statute does not define an appraisal report; however, the legislative history suggests that it is the complete appraisal report signed by the appraiser, including all information submitted to the lender by the appraiser for the purpose of determining the value of residential property. The proposed definition was based on the legislative history, and stated that an appraisal report referred to the documents relied upon by a creditor in evaluating the market value of residential property containing one-to-four family units on which a lien will be taken as collateral for an extension of credit, including reports prepared by the creditor. The proposal stated that an appraisal report would not be limited to reports prepared by third parties.
>
> The final rule provides the same meaning for an appraisal report as was proposed, but the definition has been shortened for clarity A consumer who requests a copy of the appraisal report will be entitled to receive a copy of any third party appraisal that has been performed. For consistency with the rules implementing the prohibitions of the Fair Housing Act on discrimination in appraising residential real property, an appraisal report includes all written comments and other documents submitted to the creditor in support of the appraiser's estimate or opinion of value. (See 24 CFR 100.135(b).)
>
> . The "appraisal report" does not include copies of "review appraisals," agency-issued statements of appraised value, or any internal documents *if* a third party appraisal report was used to establish the value of the security. Even when a third party appraisal has been performed, however, a consumer requesting a copy of the report also must receive a copy of documents that reflect the creditor's valuation of the dwelling when that valuation is *different* from that stated in the third party appraisal report. Such documents would include staff appraisals or other notes indicating why the value assigned by the third party appraiser is not the appropriate valuation.
>
> .The right to receive a copy of an appraisal report provided under Regulation B includes, but is not limited to, transactions in which appraisals by a licensed or certified appraiser are required by federal law. If the value of the dwelling has been determined by the creditor and a third party appraiser has not been used, the appraisal report would be the report of the creditor's staff appraiser, where applicable, or the other documents of the creditor which assign value to the dwelling.

The FCA believes that the aforementioned discussion taken from the FRB's final rule publication provides a reasonable and thorough explanation of what constitutes an "appraisal report." However, any further clarification of the scope of the Regulation B requirement should be derived directly from the FRB.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For reasons stated in the preamble, part 614 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1 The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1 10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3 8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7 2, 7.6, 7 7, 7.8, 7.12, 7 13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart F—Collateral Evaluation Requirements

2. Section 614.4260 is amended by revising the introductory text of paragraph (c)(5) to read as follows:

§ 614.4260 Evaluation requirements.

* * * * *

(c) * * *

(5) Subsequent loan transactions (which include but are not limited to loan servicing actions, reamortizations, modifications of loan terms, and partial releases), provided that either:

* * * * *

Dated: January 5, 1995.

Floyd Fithian,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 95–678 Filed 1–10–95; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 25148; Admt. No. 121–240]

Antidrug Program for Personnel Engaged in Specified Aviation Activities; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to a final rule, Antidrug Program for Personnel Engaged in Specified Aviation Activities; Correction, published in the **Federal Register** on December 28, 1994.

EFFECTIVE DATE: December 28, 1994.

FOR FURTHER INFORMATION CONTACT:

Ms. Julie B. Murdoch, (202) 366–6710.

Correction to Final Rule

In the final rule beginning on page 66672, in the issue of Wednesday, December 28, 1994, the following correction is being made:

1. On page 66672, second column, in the heading, the amendment number should be "121–240".

Dated: January 4, 1995.

Donald P. Byrne,

Assistant Chief Counsel, Office of Chief Counsel.

[FR Doc. 95–596 Filed 1–10–95; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CGD01–94–159]

RIN 2115–AE47

Drawbridge Operation Regulations; Fore River, MA

AGENCY: Coast Guard, DOT

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the regulations governing the Quincy Weymouth SR3A Bridge over the Fore River at mile 3.5 between Quincy Point and North Weymouth, Massachusetts. This final rule changes the exemption in the regulations which had allowed any commercial vessel to obtain a bridge opening during the two vehicular traffic rush hour periods. This final rule will require the bridge to open only for self-propelled vessels greater than 10,000 gross tons during the two rush hour periods. This change to the regulations is expected to alleviate some of the traffic congestion caused when the bridge opens during rush hour.

EFFECTIVE DATE: February 10, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for copying and inspection at the First Coast Guard District, Bridge Branch office located in the Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350, room 628, between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Manager, Bridge Branch, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this final rule are Mr. John W. McDonald, Project Officer, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Regulatory History

On September 27, 1994, the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; Fore River, Massachusetts" in the **Federal Register** (59 FR 49228). The Coast Guard received three letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

The Coast Guard received requests from state and local officials to change the operating regulations listed in 33 CFR 117.621 which state that the Quincy Weymouth Bridge need not be opened from 6:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., Monday through Friday. However, commercial vessels were exempt from these two vehicular rush hour closed periods and could have the bridge opened on signal at any time. Traffic delays resulted whenever the bridge opened during the morning and evening rush hours.

This final rule will change the wording to allow only self-propelled vessels greater than 10,000 gross tons to obtain a bridge opening during the two rush hour periods. By further limiting the number of rush hour openings, this change to the regulations should provide relief from traffic delays.

Discussion of Comments and Changes

Three comment letters were received by the Coast Guard in response to the publication of the notice of proposed rulemaking. Two letters were in favor of the proposed change to the regulations. One letter urged that the existing regulations be retained. No changes to the proposed rule have been made.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulation will not prevent mariners from passing through the Quincy Weymouth Bridge, but will only require mariners to plan their transits around the two closed periods.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not

dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under paragraph 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.621 is revised to read as follows:

§ 117.621 Fore River.

The draw of the Quincy Weymouth SR3A bridge, mile 3.5 between Quincy Point and North Weymouth, Massachusetts, shall open on signal, except that:

(a) From 6:30 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., Monday through Friday, except holidays observed in the locality, the draw need not be opened.

(b) The draw shall open on signal at all times for self-propelled vessels greater than 10,000 gross tons.

Dated: December 30, 1994.

J.L. Linnon,

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

[FR Doc. 95–564 Filed 1–10–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–049–2–5818a; FL–049–2–6132a; FL–058–5819a FRL–5133–9]

Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to Florida Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Florida State Implementation Plan (SIP). These revisions were submitted to EPA through the Florida Department of Environmental Protection (FDEP) on January 8, 1993 and April 25, 1994. They revise regulations in Florida's SIP addressing new source review (NSR), non-control technology guidelines (non-CTG) for reasonably available control technology (RACT), and adds nitrogen oxide (NO_x) as a RACT requirement in the South Florida nonattainment area in Florida's SIP. This plan has been submitted by the FDEP as an integral part of the program to achieve and maintain the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, nitrogen dioxide and sulfur dioxide. These regulations meet all of EPA requirements and therefore EPA is approving the SIP revisions.

DATES: This final rule will be effective March 13, 1995, unless adverse or critical comments are received by February 10, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Alan Powell, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399.

FOR FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4209. Reference file FL–49–5818.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act as amended in 1990 (CAA) includes new requirements for the improvement of air quality in ozone nonattainment areas. Under section 181(a) of the CAA, nonattainment areas were classified by the severity of the ozone problem, and section 182 contains requirements for progressively more stringent control measures for each classification of higher ozone concentrations. The classification of an area in a specific category was based on the ambient air quality data obtained in the three year period 1987–1989. The Jacksonville area (Duval County) was classified as transitional because it did not have any ozone violations; the Tampa/St. Petersburg area (Hillsborough and Pinellas counties) area was classified as a marginal nonattainment area and the South Florida area (Broward, Palm Beach, and Dade counties) was classified as a moderate ozone non-attainment area. The SIP revisions address several of the CAA requirements for ozone nonattainment areas.

General

On January 8, 1993, and April 25, 1994, Florida submitted SIP revision packages containing regulations governing NSR, non-CTG RACT, NO_x RACT, emissions testing, air quality designations and gasoline vapor recovery. The regulations pertaining to emissions testings, air quality designations and gasoline vapor recovery have been addressed in separate **Federal Register** documents.

Rule 17–212, Stationary Preconstruction Review

The amendments to Rule 17–212, F.A.C., make changes to the new source review requirements for ozone. The original January 8, 1993, submittal also

included NSR for lead nonattainment. Since Florida does not have any lead nonattainment areas, the State withdrew this portion, and EPA will not act on it.

New definitions are incorporated for "Affected Pollutant," "Base Emission Limit," "Volatile Organic Compounds (VOCs), and "Significant Impact." Previously, the affected pollutant for ozone nonattainment areas was VOC only because the control of VOC emissions was considered the most effective way to attain the ambient standard. Recent studies suggest that the control of NO_X emissions may be effective and section 182(f) of the CAA requires the SIP to address major stationary sources of NO_X in addition to VOC. The revisions to this rule require proposed new or modified major sources of VOC or NO_X to obtain emissions reduction of VOC and NO_X from sources within the non-attainment area in order to offset the emission increase from the new source. The offset requirements are 1.1:1 for marginal nonattainment areas and 1.15:1 for moderate nonattainment areas. These requirements are consistent with EPA guidelines. Guidance on the new source review procedure are outlined in the April 16, 1992, General Preamble to the CAA.

Rule 17–296, Stationary Source Emission Standards

The air quality planning requirements for the reduction of NO_X emissions through RACT are set out in section 182(f) of the Clean Air Act. Section 182(f) requirements are described by EPA in a notice, "State Implementation Plans; Nitrogen Oxide Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). The notice outlines specific requirements for various ozone nonattainment areas. Specifically, the notice requires that provisions of subpart 182 of the CAA which apply to VOC shall also apply to NO_X. NO_X RACT is required for moderate ozone nonattainment areas by this rule. The November 25, 1992, notice should be referenced to for further information on the NO_X requirements and is incorporated into this proposal by reference.

Section 182(f) of the Clean Air Act requires States within moderate or above ozone nonattainment areas or the ozone transport region to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of VOCs. The EPA is approving the NO_X RACT rule for the South Florida area because it meets the requirements of section 182(b)(2) of the Clean Air Act and conforms to the policy in the NO_X Supplement to the General Preamble, cited above. EPA is also approving the VOC RACT portion of the rule because it too meets the requirements of the CAA.

As noted, the moderate and above ozone nonattainment areas and areas in the ozone transport regions should have submitted, by November 15, 1992, provisions to assure that RACT is implemented (see section 182(b)(2)). States are expected to require final installation of the actual NO_X controls by May 31, 1995, for sources for which installation by that date is practicable. The NO_X Supplement to the General Preamble (57 FR 55623) contains a detailed discussion of EPA's interpretation of the RACT requirement. Florida's rule is consistent with these guidelines.

This rule applies to the 1990 Clean Air Act Amendment requirement for RACT for existing major sources of VOCs and NO_X in Florida's moderate non-attainment area. The original January 8, 1993, submittal to EPA did not contain source specific RACT standards and Florida received an objections letter from the State Joint Administrative Procedures Committee. In response to that letter, Florida has established source specific RACT standards which were submitted to EPA on April 25, 1994. The rule details specific NO_X emission limits as RACT standards for furnaces, turbines, cement plants, oil fired diesel generators and carbonaceous fuel burning equipment in Broward, Dade and Palm Beach Counties. The State also chose to include an emission limit for sources which are not covered by the specific limits; since the State has indicated that there are currently no sources in this category, approval of this limit does not set RACT precedent. The rule requires operations not equipped with continuous emissions monitors (CEMs) to demonstrate compliance through annual testing using EPA Reference Methods or other State approved methods. In addition to these NO_X specific requirements, the rule requires the use of low-VOC resin or thermal oxidation of emissions from the purge cycle for all resin coating operations. The only VOC source affected by section 182 of the CAA is a resin coating operation. Additional information on the specific emission limits may be found in the TSD. The rule also requires affected sources to propose a compliance schedule in which the facility complies with the RACT requirements no later than May 31, 1995. These changes are consistent with EPA guidance and meets the requirements for non-CTG RACT.

Final Action

EPA is approving the above referenced revision to the Florida SIP and is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 13, 1995, unless by February 10, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 13, 1995.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen Oxide, Ozone, Reporting and recordkeeping requirements.

Dated: December 20, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c) (88) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(88) Revisions to the F.A.C. Chapters 17–212 and 17–296 which were effective February 2, 1993

(i) Incorporation by reference.

(A) Revision to F.A.C. 17–212, and 17–296 which were effective on : February 2, 1993. 17–212.100; 17–212.200 introductory paragraph, (5),(12),(57),(63)(e),(64),(75); 17–212.400 introductory paragraph,(2) introductory paragraph, (2)(f)3; 17–212.500(2)(a), (2)(a) introductory paragrpah, 2(a)2. introductory paragraph, 2(a)2.a., (2)(a)2.e.4.,(4)(b), (4)(c),(4)(d)1., (4)(d)2.a.–c., (4)(g), (5)(a), (5)(b)2.,4.–7.. 9.;17–296.200(13), (50), (198); 17.500 introductory paragraph,(1); 17–296.570(3).

(B) Revision to F.A.C. 17–296 which became effective on April 17, 1994. 17–296.500(1)(b), (2)(a)(1), (2)(b)(1), (2)(c), (6); 17–296.570(1–2), (4).

(ii) Other material.

(A) Letters of January 8, 1993 and April 25, 1994, from the Florida Department of Environmental Protection.

[FR Doc. 95–608 Filed 1–10–95; 8:45 am]

BILLING CODE: 6560–50–P

---

40 CFR Part 52

[OR35–1–6188a, OR43–1–6523a, OR36–1–6298a; FRL–5113–7]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving revisions to the State of Oregon's Air Quality Control Plan Volume 2 (The Federal Clean Air Act State Implementation Plan and Other State Regulations). Specifically, EPA is approving revisions to Oregon Administrative Rules (OAR) Chapter 340, Division 25 and revisions to Title 47 of Lane Regional Air Pollution Authority (LRAPA).

The revisions to Division 25, submitted to EPA on May 28, 1993, and November 15, 1993, and the revisions to Title 47, submitted on April 13, 1994, satisfy the requirements of section 110 of the Clean Air Act (CAA) and 40 CFR part 51.

DATES: This final rule is effective on March 13, 1995, unless adverse or critical comments are received by February 10, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, Oregon 97204–1390

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Air & Radiation Branch (AT–082), EPA, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION:

I. Background

The Oregon Department of Environmental Quality (ODEQ) submitted to EPA two separate revisions to OAR, Division 25 on May 28, 1993. A third, and separate revision, to Division 25 was submitted on November 15, 1993. In addition, ODEQ submitted a revision to Lane Regional Air Pollution Authority's (LRAPA) Title 47, Outdoor Open Burning, on April 13, 1994.

The first revision to Division 25, submitted May 28, 1993, became state effective on January 24, 1990. The submittal contained revisions to Oregon's Kraft Pulp Mill Rules (OAR 340–25–150 through 205) and Oregon's Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills (OAR 340–25–220 through 234).

The second revision submitted on May 28, 1993, to Division 25 became state effective March 10, 1993. This revision contained editorial changes to the following rules: Wigwam Waste Burners (OAR 340–25–005 through 025), Hot Mix Asphalt Plants (OAR 340–25–105 through 125), Kraft Pulp Mills (OAR 340–25–150 through 205), Primary Aluminum Plants (OAR 340–25–255 through 285), Specific Industrial Standards (OAR 340–25–305 through 325), Regulations for Sulfite Pulp Mills (OAR 340–25–350 through 380), and Laterite Ore Production of Ferronickel (OAR 340–25–405 through 430). The editorial changes are considered housekeeping in nature.

A third revision to Division 25 submitted November 15, 1993, became state effective November 4, 1993. This submittal contained specific revisions to OAR 340–25–160, 222, 275, 310, and 420.

The revision to LRAPA's Title 47, Outdoor Open Burning, submitted on April 13, 1994, became state effective January 1, 1993. This submittal revised Sections 47–010, 47–015, 47–020, 47–025, and 47–030.

II. Discussion

OAR 340–25–150 to 205 and OAR 340–25–220 to 234

A revision to OAR Chapter 340, Division 25, specifically revisions to the Kraft Pulp Mill rules (sections 150 to 205), was previously submitted to EPA on May 30, 1986. During EPA's review, numerous deficiencies were noted and conveyed to ODEQ. A major deficiency was the lack of a demonstration ensuring attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), a demonstration that the revision would not result in significant deterioration of air quality, and an insurance of progress towards meeting the national visibility goal.

The above demonstration was needed, in part, because the revision included an increase in the allowable opacity limit from 20% to 35% for kraft recovery furnaces. Of primary concern were those sources located in Special Control Areas as defined in OAR 340–21–010.

To address EPA's concerns, ODEQ conducted an analysis identifying the sources affected by the revised opacity limits, quantified the theoretical changes in emissions, and predicted the maximum particulate impacts. The analysis concluded that the rule revision will ensure attainment and maintenance of the NAAQS, will not result in significant deterioration of air quality, and will ensure progress towards meeting the national visibility goal. This analysis accompanied the May 28, 1993 submittal.

The submittal also contained new rules (OAR 340–25–220 through 234) for Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills. Prior to development of these regulations, emissions from this source class were regulated by the state's sulfite pulp mill regulations. To more accurately control emissions from neutral sulfite semi-chemical pulp mills, specific regulations were developed.

EPA has determined that the Kraft Pulp Mill regulations (OAR 340–25–150 through 205) and the Neutral Sulfite Semi-Chemical Pulp Mill regulations (OAR 340–25–220 through 234), as they relate to particulate matter and sulfur dioxide, meet the requirements of the Clean Air Act, as amended, and 40 CFR Part 51. The rules include well defined short term (3 hour and 24 hour) emission standards required to conform with the appropriate short term NAAQS. The emission standards, therefore; satisfy EPA's enforceability requirements.

In addition to particulate matter and sulfur dioxide, the regulations discussed above set specific emission limitations for total reduced sulfur (TRS). Because TRS is not a pollutant for which a NAAQS has been established, EPA is taking no action to either approve or disapprove those portions of the regulations relating to TRS and they are not to be considered as official portions of the SIP. EPA is therefore approving OAR 340–25–150 through 205 and OAR 340–25–220 through 234 excluding all references to TRS.

OAR 340–25–005 to 025 and OAR 340–25–105 to 430

ODEQ submitted to EPA housekeeping amendments to OAR Chapter 340, Divisions 14, 20 through 27, 30, 31, and 34 on May 28, 1993, as one submittal packet. EPA has decided to separate the Division 25 amendments from the May 28, 1993, submittal and take action on the amendments in this notice. The remaining divisions revised by the housekeeping amendments will be acted on separately.

The housekeeping amendments include updated statutory citations, the removal of passed compliance dates and outdated regulations, and correcting typographical and grammatical errors. The amendments do not have any administrative, legal or economic effect. EPA is approving the revision as submitted.

OAR 340–25–160, 222, 275, 310, and 420

The November 15, 1993, submittal repealed the general authority requiring the highest and best practicable treatment and control of air contaminant emissions contained in the above rules. The general authority requiring the highest and best practicable treatment and control of air contaminant emission is now contained in OAR 340–28–600. EPA is approving the revision as submitted.

LRAPA Title 47—Outdoor Open Burning

The April 13, 1994, submittal contained revisions to LRAPA's Title 47, specifically revisions to Sections 47–010, 47–015, 47–020, 47–025, and 47–030.

Title 47 was revised, in part, to reduce emissions from backyard open burning in the area outside the city limits of Eugene and Springfield, Oregon, but inside the Eugene-Springfield Urban Growth Area (ESUGA). The rules restrict burning to only woody yard materials on lots of one-half acre or more. The rules also ban commercial, industrial and demolition burning within the ESUGA. However, prescribed burning of standing vegetation may be permitted under certain conditions (see section 47–020).

The rules, which meet EPA's enforceability requirements, will reduce smoke impacts and result in a reduction in particulate matter emissions in the ESUGA. The rules are also more stringent than the existing federally approved regulations. EPA is approving the revision as submitted.

III. Summary of Action

EPA is approving revisions to OAR Chapter 340, Division 25, as submitted on May 28, 1993 and November 15, 1993, except for those rules which pertain to TRS. EPA is also approving a revision to LRAPA's Title 47 as submitted April 13, 1994.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 13, 1995, unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the

effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 13, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, and Sulfur oxides.

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

Dated: November 16, 1994.

Chuck Clarke,

Regional Administrator

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(110) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(110) On May 28, 1993, the Director of ODEQ submitted two separate sets of revisions to its air quality regulations, OAR, Chapter 340, Division 25. One submittal was housekeeping amendments affecting all of Division 25; the second submittal was specifically Kraft Pulp Mill rules (OAR 340–25–150 through –205) and Neutral Sulfite Semi-Chemical Pulp Mill regulations (OAR 340–25–220 through –234). On November 15, 1993, the Director of ODEQ submitted a revision to OAR, Chapter 340, Division 25. On April 13, 1994, the Director of ODEQ submitted revisions to the Oregon SIP for LRAPA's Title 47, Outdoor Open Burning.

(i) Incorporation by reference.

(A) EPA received on May 28, 1993, two letters from the Director, ODEQ, to the Regional Administrator, EPA, submitting housekeeping amendments to Division 25: Housekeeping amendments to Division 25 (OAR 340–25–005 through 025 and OAR 340–25–105 through 340–25–430), effective March 10, 1993; and revisions to the Oregon SIP for Kraft Pulp Mill Amendments and Neutral Sulfite Semi-Chemical Pulp Mill Regulations: Kraft Pulp Mill Rules (OAR 340–25–150 through 205) and the Neutral Sulfite Semi-Chemical Pulp Mill Pulp Mills (OAR 340–25–220 through 234), excluding all references to total reduced sulfur, effective January 24, 1990.

(B) November 15, 1993, letter from the Director, ODEQ, to the Regional Administrator, EPA, submitting revisions to the Oregon SIP for OAR, Chapter 340, Division 25: Amendments to OAR Chapter 340, Division 25 (OAR 340–25–160, 340–25–222, 340–25–275, 230–25–310, 340–25–420), effective November 4, 1993.

(C) April 13, 1994, letter from the Director, ODEQ, to the Regional Administrator, EPA, submitting revisions to LRAPA, Title 47: Title 47, Lane Regional Air Pollution Authority, August 11, 1992, *Outdoor Open Burning*, effective January 1, 1993.

3. Section 52.1977 is amended by revising the entry for "Division 25–Specific Industrial Standards Construction and Operation of Wigwam Waste Burners," and the entry for "3.2 Lane Regional Air Pollution Authority Regulations, Title 47 Rules for Open Outdoor Burning."

§ 52.1977 Content of approved State submitted implementation plan.

* * * * *

Division 25—Specific Industrial Standards Construction and Operation of Wigwam Waste Burners

Sec. 005 Definitions (3–10–93)
Sec. 010 Statement of Policy (3–10–93)
Sec. 015 Authorization to Operate a Wigwam Burner (3–10–93)
Sec. 020 Emission and Operation Standards for Wigwam Waste Burners (3–10–93)
Sec. 025 Monitoring and Reporting (3–10–93)

Hot Mix Asphalt Plants

Sec. 105. Definitions (3–10–93)
Sec. 110 Control Facilities Required (3–10–93)
Sec. 115 Other Established Air Quality Limitations (3–10–93)
Sec. 120 Portable Hot Mix Asphalt Plants (3–10–93)
Sec. 125 Ancillary Sources of Emission—Housekeeping of Plant Facilities (3–10–93)

Kraft Pulp Mills

Sec. 150 Definitions—excluding any reference to TRS (3–10–93)
Sec. 155 Statement of Policy (3–10–93)
Sec. 160 Repealed
Sec. 165 Emission Limitations—excluding any reference to TRS (3–10–93)
Sec. 170 More Restrictive Emission Limits (3–10–93)
Sec. 175 Plans and Specifications (3–10–93)
Sec. 180 Monitoring—excluding any reference to TRS (3–10–93)
Sec. 185 Reporting—excluding any reference to TRS (3–10–93)
Sec. 190 Upset Conditions—excluding any reference to TRS (3–10–93)
Sec. 195 Repealed
Sec. 205 Chronic Upset Conditions (1–24–90)

Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills

Sec. 220 Definitions (3–10–93)
Sec. 222 Repealed
Sec. 224 Emission Limitations—excluding any reference to TRS (3–10–93)
Sec. 226 More Restrictive Emission Limits—excluding any reference to TRS (3–10–93)
Sec. 228 Plans and Specifications (3–10–93)
Sec. 230 Monitoring—excluding any reference to TRS (3–10–93)

Sec. 232 Reporting—excluding any reference to TRS (3–10–93)
Sec. 234 Upset Conditions—excluding any reference to TRS (3–10–93)

Primary Aluminum Plants

Sec. 255 Statement of Purpose (3–10–93)
Sec. 260 Definitions (3–10–93)
Sec. 265 Emission Standards (3–10–93)
Sec. 270 Special Problem Areas (3–10–93)
Sec. 275 Repealed
Sec. 280 Monitoring (3–10–93)
Sec. 285 Reporting (3–10–93)

Specific Industrial Standards

Sec. 305 Definitions (3–10–93)
Sec. 310 General Provisions (11–4–93)
Sec. 315 Veneer and Plywood Manufacturing Operations (3–10–93)
Sec. 320 Particleboard Manufacturing Operations (3–10–93)
Sec. 325 Hardboard Manufacturing Operations (3–10–93)

Regulations for Sulfite Pulp Mills

Sec. 350 Definitions (3–10–93)
Sec. 355 Statement of Purpose (3–10–93)
Sec. 360 Minimum Emission Standards (3–10–93)
Sec. 365 Repealed
Sec. 370 Monitoring and Reporting (3–10–93)
Sec. 375 Repealed
Sec. 380 Exceptions (3–10–93)

Laterite Ore Production of Ferronickel

Sec. 405 Statement of Purpose (3–10–93)
Sec. 410 Definitions (3–10–93)
Sec. 415 Emission Standards (3–10–93)
Sec. 420 Repealed
Sec. 425 Repealed
Sec. 430 Monitoring and Reporting (3–10–93)

* * * * *

3.2 Lane Regional Air Pollution Authority Regulations

* * * * *

Title 47 Rules for Open Outdoor Burning

47–001 General Policy (8–14–84)
47–005 Statutory Exemptions from These Rules (8–14–84)
47–010 Definitions (9–8–92)
47–015 Open Burning Requirements (9–8–92)
47–020 Letter Permits (9–8–92)
47–025 Repealed
47–030 Summary of Seasons, Areas, and Permit Requirements for Open Outdoor Burning (9–8–92)

* * * * *

[FR Doc. 95–610 Filed 1–10–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 80

[AMS–FRL–5134–5]

Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to Moderate Ozone Nonattainment Areas in Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of EPA shall apply the prohibition against the sale of gasoline that has not been controlled under EPA's reformulated gasoline (RFG) regulations in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located. This action extends the prohibition set forth in section 211(k)(5) of the Act to three moderate ozone non-attainment areas in Wisconsin, including those counties in the federal RFG program. In Phase I beginning on January 1, 1995, reformulated gasoline will achieve a 15 to 17 percent reduction in both ozone-forming volatile organic compound (VOC) emissions and toxics emissions from motor vehicles. In Phase II beginning on January 1, 2000, the program will achieve a 25 to 29 percent VOC reduction, a 20 to 22 percent reduction in toxics emissions, and a 5 to 7 percent nitrogen oxide (NO_x) reduction.

EFFECTIVE DATES: This action will be effective on March 13, 1995 unless notice is received by February 10, 1995 that adverse or critical comments will be submitted or that an opportunity to submit such comments at a public hearing is requested.

If such comments or a request for a public hearing are received by the Agency, then EPA will publish a subsequent **Federal Register** notice withdrawing this action and will issue a notice of proposed rulemaking.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A–94–46, at Air Docket Section, U.S. Environmental Protection Agency, Waterside Mall, Room M–1500, 401 M Street SW., Washington, DC 20460. The Agency requests that commenters also send a copy of any comments to Joann Jackson Stephens at U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

Other materials relevant to the RFG rulemaking, and hence today's action, are contained in Public Docket Nos. A–91–02, A–92–12, A–93–49, and A–94–30. These dockets are also located in Waterside Mall at the above listed address. The dockets may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Joann Jackson Stephens, Telephone: (313) 668–4276.

To request copies of this action contact Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information:

TTN BBS: 919–541–5742
(1200–14400 bps, no parity, 8 data bits, 1 stop bit),
Voice Help-line: 919–541–5384,
Accessible via Internet:
TELNETttnbbs.rtpnc.epa.gov,
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS
<K> Rulemaking and Reporting
<3> Fuels
<9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the RFG rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp
Selection or <CR> to exit: D
filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via

<S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. EPA published final regulations for the RFG program on February 16, 1994 and on August 2, 1994. See 59 FR 7716 and 59 FR 39258. Corrections and clarifications to the final RFG regulations were published July 20, 1994. See 59 FR 36944.

Section 211(k)(10)(D) defines the areas covered by the RFG program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989. Applying those criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Under section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) is also to be included in the RFG program.

Any other ozone nonattainment area may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against the retail sale of conventional gasoline (gasoline EPA has not certified as reformulated) in any area requested by the Governor which has been classified under subpart 2 of Part D of Title I of the Act as a Marginal, Moderate, Serious or Severe ozone nonattainment area.[1] Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition at the retail level as of the date the Administrator "deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later." In some cases the effective date may be extended for such an area as provided in section 211(k)(6)(B) based on a determination by EPA that there is "insufficient domestic capacity to produce" reformulated gasoline. Finally, EPA is to publish a governor's application in the Federal Register. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, Texas, and Kentucky. Although Vermont has requested to opt-in to the program, states without ozone nonattainment areas, such as Vermont, can not do so.

II. The Governor's Request

EPA received an application from the Honorable Tommy G. Thompson, Governor of the state of Wisconsin, for three moderate ozone non-attainment areas to be included in the RFG program. Governor Thompson later clarified his request in reference to implementation dates with the submission of a second letter of application. Both letters are set out in full below.

A. Initial Letter From Wisconsin's Governor

[State of Wisconsin letterhead]

April 6, 1994.

Carol Browner,
USEPA Administrator,
USEPA Headquarters,
401 M Street, SW (101),
Washington, DC 20460

Dear Ms. Browner: The purpose of this letter is to request that you extend the requirement for reformulated gasoline to the three moderate ozone nonattainment areas in Wisconsin. As you know, Section 211(k)(6) of the Clean Air Act gives the Governor the authority to opt into the reformulated gasoline program for ozone nonattainment areas that are not otherwise required to use reformulated gasoline. I am exercising the opt-in provision of Section 211(k)(6) for the three moderate ozone nonattainment areas in Wisconsin; Kewaunee, Manitowoc and Sheboygan Counties.

Reformulated Gasoline is a significant component of our 15 percent VOC emission reduction plans for our moderate nonattainment areas, supplying about ½ of the necessary emission reductions. After evaluating the public input to our 15 percent VOC plan, I am convinced that reformulated gasoline is critical to the success of the 15 percent plan in our moderate ozone nonattainment areas.

Thank you for considering my request. I am looking forward to the successful implementation of our 15 percent emission reduction plan and a good start to achieving our goals of attainment of the ozone air quality standard in Eastern Wisconsin.

Sincerely,

Tommy G. Thompson,

Governor.

B. Second Letter From Wisconsin's Governor

[State of Wisconsin letterhead]

August 2, 1994.

Carol Browner,
USEPA Administrator,
USEPA Headquarters,
401 M Street, SW (101),
Washington, DC 20460

Dear Ms. Browner: In April of this year I requested that you extend the federal reformulated gasoline program to the three Wisconsin moderate ozone nonattainment counties of Sheboygan, Manitowoc, and Kewaunee. Your staff subsequently notified the state of the need to clarify the requested effective date for the program within those counties. I understand the program in our six severe ozone counties automatically commences January 1, 1995 based on federal regulation.

Given the summer ozone air quality rationale of the program, I request that the three county opt-in become effective for gasoline blended to meet summer season requirements for 1995. Based on staff meetings with the gasoline refining and wholesale/retail distribution industry, I recommend a June 1, 1995 retail level compliance date. The slight start-up delay for the moderate counties will provide suppliers time to respond to the recently altered market structure.

Thank you for your attention in this regard. I hope this overall program will significantly affect air quality improvement in eastern Wisconsin.

Sincerely,

Tommy G. Thompson,

Governor.

cc: Don Theiler, Air Management, WI–DNR, Richard Rykowski, Motor Vehicle Emission Lab, USEPA, Ann Arbor, MI 48105

III. Action

Pursuant to the governor's letter and the provisions of section 211(k)(6), the prohibitions of subsection 211(k)(5) will be applied to the Wisconsin moderate[2] ozone non-attainment areas of Kewaunee, Manitowoc, and Sheboygan counties beginning June 1, 1995. As of that date they will be treated as covered areas for all purposes of the federal RFG program.

The application of the prohibitions of Section 211(k)(5) to the Wisconsin moderate ozone nonattainment areas at the retail level could take effect no later than August 2, 1995 under section 211(k)(6)(A) which stipulates that the effective program date must be no "later

[1] EPA promulgated such designations pursuant to Section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

[2] See 56 FR 56764 (November 6, 1991); 57 FR 56762, 56778 (November 30, 1992); and 40 CFR 81.350.

than January 1, 1995 or 1 year after such application is received, whichever is later". EPA considers the date of the second letter from the Governor as the effective date of the application, as that letter first expresses when Wisconsin would like the program to start and clarifies the Governor's original letter. Additionally, EPA expects there to be sufficient domestic supply of RFG and therefore has no current reason to delay implementation of the program in Wisconsin beyond August 2, 1995.

For those nonattainment areas in Wisconsin, EPA could establish the start of the RFG program at the retail level anytime between January 1, 1995 and August 2, 1995. However, the Agency believes that any effective date for the retail level prior to June 1, 1995 is inappropriate for the following reasons. First, an effective date of January 1, 1995 for the RFG program in Wisconsin would not provide sufficient notice to relevant parties. In addition, implementation of the RFG program in Wisconsin later than January 1, 1995 but earlier than June 1, 1995 would require that winter RFG be sold at the retail level for a brief period before summer VOC-control requirements would become effective. As stated in the Governor's letter, Wisconsin officials are primarily concerned with the benefits derived from VOC-controlled RFG which is required June 1, 1995. Thus, EPA believes that an effective date of June 1, 1995 is suitable for Wisconsin since it is consistent with the beginning of the RFG summer VOC control season and with the request in Governor Thompson's letter.

Requiring that the RFG program begin at the onset of the VOC-control season, as requested by Governor Thompson, addresses concerns raised by wholesale/retail distributors to Wisconsin officials regarding the unwillingness of refiners which normally sell gasoline in Wisconsin to supply RFG to a geographic area which is so small and that is such a substantial distance from the nearest RFG market. Wisconsin officials believe that the June 1 effective date will provide the gasoline distribution industry with the necessary lead-time to establish storage and cross sales agreements with refiners (other than those which already market fuel in the area) willing to sell RFG in the three county moderate ozone nonattainment area. Such storage and cross sales agreements will facilitate the sale of reformulated gasoline, which will aid Wisconsin in meeting its statutory 15 percent reduction requirements. In addition, as expressed in the Governor's letter, the main interest in opting into this program is based on a belief that the state air quality would most benefit from the summer season reformulated gasoline.

RFG VOC-control compliance at the terminal in Wisconsin should be consistent with the final regulatory requirements for the RFG program. Thus, compliance by parties upstream of retail outlets, in Wisconsin, will be effective May 1, 1995. As in the federal volatility program, such an effective date for upstream parties such as terminals is necessary to ensure compliance at the retail level by requiring that RFG be in the pipeline (upstream) prior to June.

IV. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views the addition of the three ozone nonattainment areas in Wisconsin to the RFG program as non-controversial and anticipates no adverse or critical comments. Representatives from the state of Wisconsin have met with refiners that supply the majority of the state's fuel, including those refiners willing to supply RFG to the moderate ozone nonattainment areas, and the parties apparently agree that the on-set of the VOC-control season is an appropriate time to begin implementation of the RFG program. Thus, interested parties appear to agree on the June 1, 1995 date.

This action will be effective on March 13, 1995 unless the Agency receives notice by February 10, 1995 that adverse or critical comments will be submitted, or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended. If such notice or comments are received regarding the addition of the moderate ozone nonattainment areas in Wisconsin to the RFG program, today's action will be withdrawn before the effective date by the publication of a subsequent withdrawal notice in the **Federal Register**. In the event that today's direct final rule is withdrawn as a result of the submission of adverse or critical comments or a request to present such comments at a public hearing, the Agency will issue a notice of proposed rulemaking to extend the RFG program to the three moderate ozone nonattainment counties in Wisconsin.

V. Statutory Authority

The statutory authority for the action finalized today is granted to EPA by Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

VI. Administrative Designation

Pursuant to Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this direct rule is not a "significant regulatory action".

VII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of extending the RFG program to three moderate ozone nonattainment areas in Wisconsin and to identify significant adverse impacts of federal regulations on a substantial number of small entities. Because the RFA does not provide concrete definitions of "small entity," "significant impact," or "substantial number," EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses. For purposes of the RFG program, a small entity is any business which is independently owned and operated and not dominant in its field as defined by SBA regulations under section 3 of the Small Business Act.

The Agency believes that the extension of the RFG program to the three ozone nonattainment areas in Wisconsin is unlikely to have a significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: December 29, 1994.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended by making the following revisions:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

In § 80.70, paragraphs (l) and (l)(1) are added to read as follows:

§ 80.70 Covered areas.

* * * * *

(l) The ozone nonattainment areas listed in this paragraph (l) are covered areas beginning on May 1, 1995 at the terminal. No requirements under subpart D shall apply to gasoline at a retail outlet or at the facilities of a wholesale purchaser/consumer until June 1, 1995. The geographic extent of each covered area listed in this paragraph (l) shall be the nonattainment boundaries as specified in 40 CFR part 81, subpart C:

(1) The following Wisconsin counties:

(i) Kewaunee;

(ii) Manitowoc;

(iii) Sheboygan.

(2) [Reserved]

[FR Doc. 95–420 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 80

[FRL–5134–7]

Temporary Administrative Stay of the Reformulated Gasoline Program: Nine Counties in New York, Twenty-Eight Counties in Pennsylvania, and Two Counties in Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In today's action, EPA is temporarily staying the reformulated gasoline program requirements in nine opt-in counties in New York, in twenty-eight opt-in counties in Pennsylvania and in two opt-in counties in Maine. Today's action stays the applicability of the RFG requirements for these areas effective from January 1, 1995, until July 1, 1995. Although EPA believes that the RFG program provides a highly cost-effective means of reducing ground-level ozone and toxic vehicle emissions, the Agency believes that States should be given the flexibility to choose which programs best meet each State's needs for emissions reductions. In a separate notice of proposed rulemaking to be published soon, EPA will propose to approve the requests for opt-out for these specified counties from the States of New York, Pennsylvania, and Maine. EPA will be unable to take final action on this proposed rulemaking by January 1, 1995, the date when RFG requirements must be met at the retail level. EPA believes a stay in the implementation of the reformulated gasoline requirements in these areas effective January 1, 1995 and continuing until July 1, 1995, will avoid significant disruption in the marketplace while notice and comment rulemaking proceeds. This temporary stay is issued without prior notice and comment, based on good cause described herein.

EFFECTIVE DATE: This rule is effective on December 29, 1994.

ADDRESSES: Materials relevant to this action have been placed in Docket A–94–68. The docket is located at the Air Docket Section (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Coryell, U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW. (6406J), Washington, DC 20460, (202) 233–9014.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919–541–5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

(M) OMS

(K) Rulemaking and Reporting

(3) Fuels

(9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following titles: STAY.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D *filename.zip*

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background

A. General Background on Reformulated Gasoline Program and Opt-In Process

The reformulated gasoline program is designed to reduce ozone levels in the largest metropolitan areas of the U.S. with the worst ground-level ozone problems by reducing vehicle emissions of the ozone precursors, specifically volatile organic compounds (VOC), through fuel reformulation. Reformulated gasoline also achieves a significant reduction in air toxics. In Phase II of the program, nitrogen oxides (NO_x), another precursor of ozone, are reduced. The 1990 amendments of the Clean Air Act require reformulated gasoline in the nine cities with the highest levels of ozone. Congress also provided the opportunity for states to choose to opt into the RFG program for their other nonattainment areas.

EPA issued final rules establishing requirements for RFG on December 15, 1993 (59 FR 7716, February 16, 1994). During development of the RFG rule, a number of states inquired as to whether they would be permitted to opt out of the RFG program at a future date or to opt out of certain of the requirements. This was based on their concern that the air quality benefits of RFG, given their specific needs, might not warrant the cost of the program, specifically focusing on the more stringent standards in Phase II of the program (starting in 2000). Such states wished to retain their ability to opt out of the program. Other states indicated they viewed RFG as an interim strategy to help bring their nonattainment areas into attainment sooner than would otherwise be the case.

The regulation issued on December of 1993 did not include procedures for opting out of the RFG program, because EPA had not proposed and was not ready to adopt such procedures at that time. However, the Agency did indicate that it intended to propose such procedures in a separate rule.

B. Jefferson County, New York

Jefferson County was included as a covered area in EPA's reformulated gasoline regulations based on Governor Mario Cuomo's request of October 28, 1991, that this county be included under the Act's opt-in provision for ozone nonattainment areas (57 FR 7926, March 5, 1992). See 40 CFR 80.70(j)(10)(vi). On November 29, 1994, EPA received a petition from the Commissioner of New York's

Department of Environmental Conservation, Mr. Langdon Marsh, to remove Jefferson County, New York, from the list of areas covered by the requirements of the reformulated gasoline program. EPA understands that Commissioner Marsh is acting for Governor Cuomo on this matter. The Administrator responded to the State's request in a letter to Commissioner Marsh dated December 12, 1994, stating EPA's intention to grant New York's request as of January 1, 1995, and to conduct rulemaking to implement the opt-out. The Administrator also announced that effective January 1, 1995, and until the rulemaking to remove Jefferson County from the list of covered areas is completed, EPA would not enforce the reformulated gasoline requirements in Jefferson County. This decision was based on the particular circumstances that apply in Jefferson County.

C. The Buffalo and Albany Areas of New York

On December 23, 1994, Commissioner Marsh of New York's Department of Environmental Conservation wrote to request opt-out of the Albany and Buffalo areas which include the counties of Albany, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Erie and Niagara. The Assistant Administrator for Air and Radiation, Mary Nichols, responded to the state's request in a letter to Commissioner Marsh dated December 28, 1994, stating EPA's intention to grant New York's request as of January 1, 1995, and to conduct rulemaking to implement the opt-out. The December 28, letter also indicated EPA's intent to stay the RFG requirements effective from January 1, 1995 until July 1, 1995, while the Agency completes rulemaking to appropriately change the regulations.

D. Pennsylvania Counties

Twenty-eight counties in Pennsylvania were included as covered areas in EPA's reformulated gasoline regulations based on Governor Robert P. Casey's request dated September 25, 1991 (56 FR 57986, November 15, 1991). See 40 C.F.R. 80.70(j)(11) (i) through (xxviii). The counties referred to are listed as follows: Adams, Allegheny, Armstrong, Beaver, Berks, Blair, Butler, Cambria, Carbon, Columbia, Cumberland, Dauphin, Erie, Fayette, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Mercer, Monroe, Somerset, Northhampton, Perry, Washington, Westmoreland, Wyoming and York. On December 1, 1994, EPA received a petition from Governor Casey to remove these twenty-eight counties from the list of areas covered by the requirements of the reformulated gasoline program. Based on the state of Pennsylvania's opt-out request of December 1, 1994, the EPA Administrator formally responded to the State's request in a letter to Governor Casey dated December 12, 1994. In this letter, the Administrator indicated that effective January 1, 1995, and until the formal rulemaking to remove the twenty-eight counties from the list of covered areas is completed, EPA would not enforce the reformulated gasoline requirements in these twenty-eight counties. This decision was based on the particular circumstances that apply in these twenty-eight counties.

E. Hancock and Waldo Counties in Maine

Hancock and Waldo counties were included as a covered areas in EPA's reformulated gasoline regulation based on Governor John R. McKernan's request of June 26, 1991, that these counties be included under the Act's opt-in provision for ozone nonattainment areas (56 FR 46119, September 10, 1991). See 40 CFR 80.70(j)(5) (viii) and (ix). On December 27, 1994, EPA received a petition from the Acting Commissioner of Maine's Department of Environmental Protection, Ms. Deborah Garrett, to remove Hancock and Waldo Counties in Maine from the list of areas covered by the requirements of the reformulated gasoline program. EPA understands that Commissioner Garrett is acting for Governor McKernan in this matter. The Assistant Administrator for Air and Radiation, Mary Nichols, responded to the state's request in a letter to Commissioner Garrett, dated December 27, 1994, stating EPA's intention to grant Maine's request, and conduct rulemaking to implement the opt-out. The December 28 letter also indicated EPA's intent to stay the reformulated gasoline requirements effective from January 1, 1995, until July 1, 1995, while the Agency completes rulemaking to appropriately change the regulations.

II. EPA's Proposal To Grant New York's, Pennsylvania's, and Maine's Request To Remove Selected Opt-In Areas From the Requirements of the Reformulated Gasoline Program

EPA believes that it is reasonable to construe section 211(k) as authorizing the Agency to establish procedures and requirements for states to opt out of the reformulated gasoline program. This would only apply to areas that have previously opted in under section 211(k)(6); the mandatory covered areas would not be allowed to opt out of the program.

In section 211(k)(6), Congress expressed its clear intention regarding state opting in to this program. That paragraph establishes that "upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (5) in any (ozone nonattainment) area in the State * * *. The Administrator shall establish an effective date for such prohibition * * *."[1] However, with respect to opting out, "the statute is silent or ambiguous with respect to the specific issue" and the question is whether EPA's interpretation "is based on a permissible construction of the statute." *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843 (1984). In addition, "[i]f Congress has explicitly left a gap for the Agency to fill, there is an express delegation of authority to the Agency to elucidate a specific provision of the statute by regulation." *Id.* at 843–44. If the delegation is implicit, the Agency may adopt a reasonable interpretation of the statute. *Id.* at 844.

Section 211(k)(1) provides that EPA is to promulgate "regulations establishing requirements for reformulated gasoline." This provision therefore delegates to EPA the authority to define the requirements for reformulated gasoline. Clean Air Act section 301(a)(1) also delegates to EPA the general authority to promulgate "such regulations as are necessary" for EPA to carry out its function under the Act. Given these delegations of legislative rulemaking authority, EPA's interpretation of section 211(k) with respect to opting out should be upheld unless manifestly contrary to the Act. *Chevron*, 467 U.S. at 843–44.

EPA believes that it is appropriate to interpret section 211(k) as authorizing states to opt-out of this program, with the requirements focusing on a reasonable transition out of the program.[2] There are really two aspects

[1] Paragraph 5 of section 211(k) prohibits the sale of conventional, or non-reformulated gasoline, in covered areas.

[2] The preamble to the December 15, 1993, final regulations failed to provide a clear discussion of EPA's views on this issue. While EPA noted that it "may pursue a separate action in the future that would allow states to opt out of the RFG program, provided sufficient notice is given," the preamble also indicated there were concerns over whether EPA had authority to allow states to opt-out. 59 FR 7808 (February 16, 1994). The context for these statements, however, makes it clear that EPA's concerns were based on issues surrounding questions of opting-in for only Phase I of the reformulated gasoline program. See 59 FR 7809. As noted above, EPA believes that it does have authority to establish requirements that allow states to opt-out of this program.

to this, the first being whether states should be allowed to opt out at all, the second being what conditions, if any, should be placed on opting out. With respect to the former, a right to opt out is consistent with the Act's recognition that states have the primary responsibility to develop a mix of appropriate control strategies needed to reach attainment with the NAAQS. While various mandatory control strategies were established under the Clean Air Act, the Act still evidences a clear commitment to allowing states the flexibility to determine the appropriate mix of other measures needed to meet their air pollution goals. Section 211(k)'s opt-in provision reflects this deference to state choice, providing that opt-in will occur upon application by the governor. The only discretion EPA retains regarding opt-in is in setting or extending the effective date. Allowing states the right to opt-out is a logical extension of these considerations of deference to state decision making.

Given such deference, it follows that opting out should be accomplished through application of the governor. It also follows that the conditions on opting out should be geared towards achieving a reasonable transition out of the reformulated gasoline program, as compared to requiring a state to justify its decision. EPA has identified two principal areas of concern in this regard. The first involves coordination of air quality planning. For example, reformulated gasoline in opt-in areas has been relied upon by several states in their State Implementation Plan submissions or in their redesignation requests. The second involves appropriate lead time for industry to transition out of the program.

In a separate notice, to be published soon, EPA will be proposing to revise its RFG regulations to remove the affected counties from the program.

III. Temporary Stay Removing the Nine New York Counties, the Twenty-Eight Counties in Pennsylvania, and Two Counties in Maine From the List of Areas Covered by the Reformulated Gasoline Requirements as of January 1, 1995

Clean Air Act section 307(d)(1) requires EPA to follow specified rulemaking procedures in promulgating regulations under section 211(h). Section 307(d) provides, however, that notice and comment rulemaking requirements "shall not apply in the case of any rule or circumstance referred to in subparagraph (A) or (B) of subsection 553(b) of title 5 of the United States Code [i.e. sections 553(b) (A) and (B) of the APA]." Under APA section 553(b)(B), notice and comment are not required "when the agency for good cause finds (and incorporate the finding and a brief statement of reasons thereof in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

EPA is issuing this temporary stay as a final rule without prior notice and comment. This expedited rulemaking procedure is based on the need to act quickly to avoid unnecessary disruption at the inception of the reformulated gasoline program, stemming from recent decisions by various states to opt out of this program. The different circumstances for the various covered areas involved are discussed below.

The final regulations establishing the reformulated gasoline program were issued on December 15, 1993, requiring upstream parties to have reformulated gasoline in the covered areas as of December 1, 1994, and to have reformulated gasoline at all retail outlets in those areas as of January 1, 1995. In late November and December, EPA received requests from Pennsylvania, New York and Maine to opt out various areas in these states. EPA responded to the initial requests from New York and Pennsylvania by letter dated December 12, 1994, indicating EPA's belief that the Act authorizes states to opt out of the reformulated gasoline program, and EPA's intention to grant the request considering the lack of adverse air quality impacts,[3] the lack of reliance on reformulated gasoline in the states' SIPs, and the logistical problems associated with providing reformulated gasoline, at least with respect to Jefferson County. EPA announced that it would commence rulemaking to revise its regulations to effectuate the opt out, and effective January 1, 1995 would not enforce the reformulated gasoline requirements in the respective counties. EPA, of course, retains its authority to take appropriate action to address any non-compliance that may have occurred prior to January 1, 1995.

EPA has since learned that its December 12 announcement has led to confusion and disruption in the market place regarding the transition back to conventional gasoline. There is also uncertainty regarding potential liability under EPA's citizen suit provisions. The existence of confusion within the regulated community has led to unfortunate disruptions in the market place. EPA neither intended nor expected this result. Instead, EPA's December 12 announcement was an attempt to provide certainty and stability, while at the same time recognizing the value in allowing states to expeditiously opt out of the reformulated gasoline program under appropriate circumstances.

With respect to the Albany-Buffalo area in New York and the affected towns in Maine, EPA did not make a prior announcement of its intention regarding the opt-out of these areas. However, expedited issuance of a temporary stay is also needed for those areas to avoid a patchwork of staggered times for opt out, occurring at the inception of this major program. Such variability would only increase the logistical and other problems facing the regulated community, and disrupt their planning to produce and market reformulated gasoline over the next several months.

This important and complicated program is just starting, and it is necessary that all parties involved have the certainty and stability needed for successful implementation. EPA believes that these circumstances warrant a temporary stay of the reformulated gasoline requirements in these areas effective from January 1, 1995 until July 1, 1995. That will provide adequate time to conduct notice and comment rulemaking and take final action on these opt-out requests.

Given all of the above circumstances, EPA's belief that it is fully authorized to allow the affected areas to opt out, the temporary nature of this stay, and the ability of all parties to comment on the notice of proposed rulemaking to allow the opt out of these areas, EPA believes there is good cause under 5 U.S.C. 553(b) and CAA § 307(d)(1) to issue this final rule without prior notice and comment. For the same reasons, EPA finds there is good cause under 5 U.S.C. 553(d) for the expedited effective date of this final rule.

V. Effective Date

This temporary stay is effective as of January 1, 1995.

VI. Environmental Impact

The temporary stay is not expected to have any adverse environmental effects. The areas covered by this rule have data showing compliance with the National Ambient Air Quality Standard (NAAQS) for ozone for three or more consecutive years.

VII. Economic Impact

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this temporary stay will not have a

[3] The affected areas have not had ozone exceedances for three years. Several of the areas have requests pending before the agency for redesignation to attainment status. The other areas are expected to submit such requests.

significant economic impact on a substantial number of small entities. This temporary stay is not expected to result in any additional compliance cost to regulated parties and, in fact, is expected to decrease compliance costs to the industry and decrease costs to consumer in the affected areas.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether a regulation is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

Under the Paper Reduction Act, 44 U.S.C. 3501 *et seq.*, EPA must obtain Office of Management and Budget (OMB) clearance for any activity that will involve collecting substantially the same information from 10 or more non-Federal respondents. This rule does not create any new information requirements or contain any new information collection activities.

IX. Statutory Authority

The statutory authority for the action in this rule is granted to EPA by section 211 (c) and (k), and section 301(a) of the Clean Air Act as amended, 42 U.S.C. 7545 (c) and (k) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, and Motor vehicle pollution.

Dated: December 29, 1994.

Carol M. Browner,

Administrator.

40 CFR Part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a))

2. Section 80.70 is amended by revising the introductory text of paragraph (j) to read as follows.

§ 80.70 Covered areas.

* * * * *

(j) The ozone nonattainment areas listed in this paragraph (j) of this section are covered areas beginning on January 1, 1995, except that those areas listed in paragraphs (j)(5) (viii) and (ix), (j)(10) (i), (iii) and (v) through (xi) and j(11) of this section are covered areas beginning on July 1, 1995. The geographic extent of each covered area listed in this paragraph (j) of this section shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C:

* * * * *

[FR Doc. 95–421 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 228

[FRL–5137–5]

Ocean Dumping; Site Designation Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: This document contains corrections to the final rulemaking for designation of an Ocean Dredged Material Disposal Site (ODMDS) offshore Fort Pierce, Florida. The final rule was published in the **Federal Register** on Thursday, September 2, 1993. The preamble of the Final Rule correctly described the location of the ODMDS. However, the regulatory text gave incorrect coordinates for the location of the Fort Pierce, Florida ODMDS. This technical amendment is necessary to correct the coordinates for the location of the ODMDS.

EFFECTIVE DATE: February 10, 1995.

FOR FURTHER INFORMATION CONTACT: Christopher J. McArthur, 404/347–1740.

SUPPLEMENTARY INFORMATION:

Background

The final rule (September 2, 1993, 58 FR 46544) that is the subject of this correction designated an Ocean Dredged Material Disposal Site (ODMDS) offshore Fort Pierce, Florida as an EPA-approved ocean dumping site for the dumping of suitable dredged material.

Need for Correction

As published, the final rule contained errors in the regulatory text. Coordinates for the location of the Fort Pierce, Florida ODMDS were listed incorrectly

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: December 23, 1994.

Approved by: Patrick M. Tobin,

Acting Regional Administrator.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is to be amended by revising paragraph (h)(11)(i) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(11) * * *

(i) Location: 27°28′00″ N., 80°12′33″ W.; 27°28′00″ N., 80°11′27″ W.; 27°27′00″ N., 80°11′27″ W.; and 27°27′00″ N., 80°12′33″ W.

* * * * *

[FR Doc. 95–701 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 271

[FRL–5137–7]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma Department of Environmental Quality (DEQ) applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act, (RCRA), 42 U.S.C. 6926(b). The Environmental Protection Agency (EPA) reviewed Oklahoma's application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Oklahoma's hazardous waste program revision

subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments (HSWA) of 1984. Oklahoma's application for program revision is available for public review and comment.

DATES: This final authorization for Oklahoma shall be effective April 27, 1995 unless EPA publishes a prior **Federal Register** (*FR*) action withdrawing this Immediate Final Rule. All comments on Oklahoma's program revision application must be received by the close of business February 27, 1995.

ADDRESSES: Copies of the Oklahoma program revision application and the materials EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: State of Oklahoma Department of Environmental Quality, 1000 Northeast Tenth Street, Oklahoma City, Oklahoma 73117–1212, phone (405) 271–5338 and EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665–6444. Written comments, referring to Docket Number OK–95–1, should be sent to Dick Thomas, Region 6 RCRA Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665–8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Region 6 RCRA Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665–8528.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of RCRA have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR 124, 260–268, and 270.

B. Oklahoma

Oklahoma initially received final authorization on January 10, 1985 (see 49 FR 50362), to implement its base hazardous waste management program. Oklahoma received authorization for revisions to its program on June 18, 1990 (see 55 FR 14280), November 27, 1990 (see 55 FR 39274), June 3, 1991 (see 56 FR 13411), November 19, 1991 (see 56 FR 47675) and December 21, 1994, (see 59 FR 51116). The authorized Oklahoma RCRA program was incorporated by reference into the Code of Federal Regulations effective December 13, 1993. On December 1, 1994, Oklahoma submitted a final complete program revision application for additional program approvals. Today, Oklahoma is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

Specific statutory language which addressed adoption of Federal regulations by reference was formerly found at 63 Oklahoma Statutes (O.S.), Supp. 1992 § 1–2005. This section was repealed by Oklahoma House Bill 1002, effective July 1, 1993. Adoption by reference was continued through the general rule making language of 27A O.S. Supp. 1993 § 2–7–106. To clarify the adoption by reference abilities of the DEQ, 27A O.S. Supp. § 2–2–104 was enacted. Rules 252:200–3–2 through 252:200–3–6 adopt the Federal requirements by reference.

EPA reviewed the DEQ's application, and made an immediate final decision that DEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Oklahoma. The public may submit written comments on EPA's final decision until February 27, 1995. Copies of Oklahoma's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of DEQ's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Oklahoma's program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 124, 260–262, 264, 265, 266, and 270 that were published in the FR through June 30, 1993. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Used Oil Filter Exclusion; Technical Correction, [57 FR 29220] July 1, 1992. (Checklist 107).	Oklahoma Hazardous Waste Management Act (OHWMA), as amended, 27A Oklahoma Statutes (O.S.), Supp. 1993, §§ 2–2–104, 2–7–106, and 2–7–107(A)(5) effective July 1, 1993; and Oklahoma Administrative Code (OAC) Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
2. Toxicity Characteristics Revision; Technical Corrections, [57 FR 30657] July 10, 1992. (Checklist 108).	OHWMA, as amended, 27A O.S., Supp. 1993, §§ 2–2–104 and § 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
3. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris, [57 FR 37194] August 18, 1992. (Checklist 109).	OHWMA, as amended, 27A O.S., Supp. 1993, §§ 2–2–104, 2–7–106, and 2–7–107(A)(10) effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
4. Coke By-Product Listings, [57 FR 37284] August 18, 1992. (Checklist 110).	OHWMA, as amended, 27A O.S., Supp. 1993, §§ 2–2–104 and § 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
5. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, [57 FR 38558] August 25, 1992. (Checklist 111).	OHWMA, as amended, 27A O.S., Supp. 1993, §§ 2–2–104 and § 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.

Federal citation	State analog
6. Recycled Used Oil Management Standards, [57 FR 41566] September 10, 1992. (Checklist 112).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, and 2–7–107(A)(5) effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
7. Financial Responsibility for Third-Party Liability, Closure and Post-Closure, [57 FR 42832] September 16, 1992, [53 FR 33938] September 1, 1988, and [56 FR 30200] July 1, 1991. (Checklists 113, 113.1, and 113.2).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, and 2–7–116 effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
8. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Amendment IV, [57 FR 44999] September 30, 1992. (Checklist 114).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, 2–7–107(A)(4), and 2–7–107(A)(5), effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
9. Chlorinated Toluene Production Waste Listing, [57 FR 47376] October 15, 1992. (Checklist 115).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, and 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
10. Hazardous Soil Case-By-Case Capacity Variance, [57 FR 47772] October 20, 1992. (Checklist 116).	OHWMA, as amended, 27A O.S., Supp. 1993, §2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–2 through 252:200–3–6, effective May 26, 1994.
11. "Mixture" and "Derived-From" Rules; Response to Court Remand, [57 FR 7628] March 3, 1992, [57 FR 23062] June 1, 1992, and [57 FR 49278] October 20, 1992. (Checklists 117A, 117A.1 and 117A.2).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, and 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
12. Toxicity Characteristic Revision, [57 FR 23062] June 1, 1992. (Checklist 117B).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, and 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
13. Liquids in Landfills II, [57 FR 54452] November 18, 1992. (Checklist 118).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, 2–7–105(10), 2–7–107(1), and 2–7–110(B), effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
14. Toxicity Characteristic Revision; TCLP, [57 FR 55114] November 24, 1992, and [58 FR 6854] February 2, 1993. (Checklists 119, and 119.1).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, and 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
15. Wood Preserving; Amendments to Listings and Technical Requirements, [57 FR 61492] December 24, 1992. (Checklist 120).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, and 2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994
16. Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C, [58 FR 8658] February 16, 1993. (Checklist 121).	27A O.S., Supp. 1993, §§2–2–104, 2–7–106, 2–7–126(3), and 2–7–127(A), effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
17. Recycled Used Oil Management Standards; Technical Amendments and Corrections, [58 FR 26420] May 3, 1993, and [58 FR 33341] June 17, 1993. (Checklists 122 and 122.1).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, and 2–7–107(A)(5), effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
18. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance, [58 FR 28506] May 14, 1993. (Checklist 123).	OHWMA, as amended, 27A O.S., Supp. 1993, §2–7–106, effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
19. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Waste Whose Treatment Standards Were Vacated, [58 FR 29860] June 17, 1993. (Checklist 124).	OHWMA, as amended, 27A O.S., Supp. 1993, §§2–2–104, 2–7–106, 2–7–105(17), and 2–7–107(A)(10), effective July 1, 1993; and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.

Oklahoma is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that DEQ's application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, DEQ is granted final authorization to operate its hazardous waste program as revised. Oklahoma now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Oklahoma also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Sections 3008, 3013, and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR 272 for codification of the decision to authorize DEQ's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under Section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR 272, Subpart LL until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Oklahoma's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and Water supply

Authority

This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: December 30, 1994.

Lynda F. Carroll,

Acting Regional Administrator.

[FR Doc. 95–702 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

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

Food and Consumer Service

7 CFR Parts 273 and 274

[Amendment No. 364]

RIN 0584–AB60

Food Stamp Program: Simplification of Program Rules

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes several changes in Food Stamp Program rules relating to social security numbers, combined allotments, residency, excluded resources, contract income, self-employment expenses, certification periods, the notice of adverse action, recertification, and suspension under retrospective budgeting. The changes are being proposed as means to simplify regulatory requirements and to increase consistency with requirements of the Aid to Families with Dependent Children Program.

DATES: Comments must be received on or before March 13, 1995 to be assured of consideration.

ADDRESSES: Comments should be submitted to Judith M. Seymour, Eligibility and Certification Regulation Section, Certification Policy Branch, Program Development Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Comments may also be datafaxed to the attention of Ms. Seymour at (703) 305–2454. All written comments will be open for public inspection at the office of the Food and Consumer Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 720.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed rulemaking should be addressed to Ms. Seymour at the above address or by telephone at (703) 305–2496.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive order 12866.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR 3015, Subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Ellen Haas, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program.

Paperwork Reduction Act

Pursuant to 7 CFR 273.14, State welfare agencies must recertify eligible households whose certification periods have expired. Households are required to submit a recertification form. This rule authorizes State agencies to use a shortened or modified form of the application used for initial certification. The reporting and recordkeeping burden associated with the application, certification and continued eligibility of food stamp applicants is approved by the Office of Management and Budget under OMB No. 0584–0064. OMB approval of the recertification procedures contained in § 273.14 of this proposed action is not necessary because the procedures do not add new or additional requirements on State agencies. In fact, the proposal gives State agencies more flexibility in recertifying households.

The public reporting burden for the collection of information associated with the application, certification and continued eligibility of food stamp applicants is estimated to average .1561 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 aspect of the information collection requirements, including suggestions for reducing the burden, to the Certification Policy Branch, Program Development Division (address above) and to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, Desk Officer for FCS.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) for Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(1) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or Part 284 (for rules related to QC liabilities); (3) for Program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Background

In this rule, the Department proposes to revise Food Stamp Program regulations in response to State agency requests for waivers of Program requirements and suggestions for simplification of rules. In some cases, we are proposing to amend the regulations to incorporate guidance we have already provided to State agencies. In other instances, we are proposing to modify Program rules to provide more

consistency with requirements in the Aid to Families with Dependent Children (AFDC) program. Each proposal is discussed in detail below.

Social Security Numbers for Newborns—7 CFR 273.2(f)(1)(v), 7 CFR 273.6(b)

Current regulations at 7 CFR 273.6(a) require an applicant household to provide the State agency with the social security number (SSN) of each household member. A household member who does not have an SSN must apply for one before he or she can be certified, unless there is good cause for such failure as provided in 7 CFR 273.6(d). If a household member refuses or fails without good cause to apply for an SSN, the individual is ineligible to participate.

Under a program instituted by the Social Security Administration (SSA) called "Enumeration at Birth (EAB)," 45 CFR 205.52, parents of a newborn child may apply for an SSN for the child when the child is born if this service is available at the hospital. When providing information for the child's birth certificate, the parent may request that the child be assigned an SSN and issued an SSN card as part of the birth registration process. The State records that information and subsequently provides enumeration data to SSA in Baltimore via magnetic tape. The time it takes for States to transmit data to SSA varies. However, SSA generally prints and mails cards within 3 days of receipt of the required data.

Most hospitals give parents Form SSA–2853, "Message From Social Security." This receipt form, which describes the EAB process and how long it will take to receive a card, contains the child's name and is signed and dated by a hospital official. It is accepted by State agencies for welfare or other public assistance purposes.

Current program regulations do not address the EAB system. Food and Consumer Service (FCS) regional offices were informed in a memorandum dated July 28, 1989, to instruct State agencies that the Form SSA–2853 (OP4) could be used as verification of application for an SSN if the State agency has other documentation connecting the baby named on the form to the household. We are proposing an amendment to 7 CFR 273.2(f)(1)(v) to reflect that a completed Form SSA–2853 is acceptable as proof of SSN application for an infant. However, the proposed amendment would give State agencies and households more flexibility in this area than the 1989 policy memo granted.

In cases in which a household is unable to provide or apply for an SSN for a newborn baby immediately after the baby's birth, Section 273.6(d) currently allows for good cause exceptions to the SSN requirement. The regulations allow the member without an SSN to participate for one month in addition to the month of application. However, good cause does not include delays due to illness, lack of transportation or temporary absences of that household member from the household, and good cause must be shown monthly in order for the household member to continue to participate.

Several State agencies have requested and been granted waivers to allow households up to four months following the month in which a baby is born to apply for an SSN for a newborn. In justifying the need for a waiver, the State agencies cited the difficulty some households experience in obtaining a certified copy of the birth certificate needed to apply for an SSN.

To avoid a delay in adding a new member to the household, we propose to amend 7 CFR 273.6(b) to provide that, in cases in which a household is unable to provide or apply for an SSN for a newborn baby immediately after the baby's birth, a household may provide proof of application for an SSN for a newborn infant at its next recertification. If the household is unable to provide an SSN or proof of application at its next recertification, the State agency shall determine if the good cause provisions of 7 CFR 273.6(d) are applicable.

Combined Allotments—7 CFR 273.2(i) and 274.2(b)

Current regulations at 7 CFR 274.2(b)(3) provide for the issuance of a combined allotment (prorated benefits for the application month and full benefits for the subsequent month) for eligible households applying after the 15th of the month that qualify for expedited service. The regulations require that to receive the combined allotment, a household must supply all required verification within the 5-day expedited service timeframe. If the household does not supply all required verification within the expedited service timeframe, the household receives a prorated amount for the initial month issued within 5 days of application (with waived verification, if necessary, to meet the expedited timeframe) and a second allotment for the subsequent month issued after all necessary verification has been obtained.

On March 31, 1992, the U.S. District Court for the Northern District of Georgia ruled against USDA in *Johnson v. USDA and Madigan*. This case concerned combined allotments for expedited service. The Court agreed with the plaintiffs that Section 8(c)(3)(B) of the Food Stamp Act, 7 U.S.C. 2017(c)(3)(B), requires that if an eligible household applies for food stamps after the fifteenth of the month and is entitled to expedited service, it must receive the prorated initial month's allotment and the full allotment for the second month within the expedited timeframe. In such a case, any additional requirements would be postponed until the end of the second month.

In light of the District Court's decision, the Department chose to alter national food stamp policy regarding combined allotments. On June 16, 1993, the Department issued a policy memorandum to its regional Food Stamp Program directors informing them of the change in policy. The regional directors were instructed to inform the State agencies in their regions of the change. The Department is proposing in this rule to incorporate the provisions of the policy memorandum into the Food Stamp Program's regulations.

Currently, the regulations regarding combined allotments are contained at 7 CFR 274.2(b) (2), (3), and (4). In order to simplify these regulations, the Department is proposing to move the combined allotments requirements out of 7 CFR 274.2(b) and into 7 CFR 273.2(i). In 7 CFR 274.2, the Department is proposing to delete paragraphs (b) (2), (3), and (4), and redesignate paragraphs (b)(1), (c), (d), and (e) as paragraphs (b), (d), (e), and (f), respectively. The Department is proposing to add two sentences to the end of redesignated paragraph (b) which will contain the requirements for issuing benefits to expedited service households. The Department is also proposing to add a new paragraph (c) which will reference the combined allotment regulations at 7 CFR 273.2(i). In 7 CFR 273.2(i)(4)(iii), the Department is proposing to revise paragraph (C), and to add two new paragraphs, (D) and (E). 7 CFR 273.2(i)(4)(iii)(C) will include the requirements currently contained at 7 CFR 274.2(b)(2), which concern combined issuance for households certified under normal processing timeframes. 7 CFR 273.2(i)(4)(iii)(D) shall contain the new requirement that a household which applies after the 15th of the month and is processed under expedited service procedures shall be issued a combined allotment consisting of prorated benefits for the initial month of application and benefits for the first full month of participation.

In these cases, any unsatisfied verification requirement would be postponed until the end of the second month. 7 CFR 273.2(i)(4)(iii)(E) shall include the requirements currently contained at 7 CFR 274.2(b)(4), which concern households not entitled to combined allotments.

The regulations at 7 CFR 273.2(i)(4)(iii)(B) currently require that households which apply after the fifteenth of the month and are assigned certification periods of longer than one month, must have all postponed verification completed before it can be issued its second month's benefits. Migrant households which apply after the fifteenth of the month and are assigned certification periods of longer than one month must provide all postponed verification from within-State sources before the second month's benefits can be issued, and must provide all postponed verification from out-of-State sources before the third month's benefits are issued. Because of the change in policy regarding combined allotments, eligible households that are entitled to expedited service and apply after the 15th of the month must now receive a combined allotment which includes their first and second month's benefits. Since these households will have already received their second month's benefits, postponed verification must now be completed prior to the third month of benefits. As noted above, this is current policy for migrants in regard to completing out-of-State verification, and the Department is proposing to broaden the requirement to make it mandatory for all households which apply after the fifteenth of the month and are assigned certification periods of longer than one month. Therefore, the Department is proposing to amend 7 CFR 273.2(i)(4)(iii)(B) accordingly. The Department is also proposing to make a conforming amendment to 7 CFR 273.10(a)(1)(iv), which contains a similar verification requirement to that currently contained in 7 CFR 273.2(i)(4)(iii)(B).

Current regulations at 7 CFR 273.2(i)(4)(iii)(B) require that when households which apply for benefits after the 15th of the month provide the required postponed verification, the State agency shall issue the second month's benefits within five working days from receipt of the verification or the first day of the second calendar month, whichever is later. The Department is proposing to remove this requirement.

Current regulations at 7 CFR 273.2(i)(4)(iii)(C) require that households which are eligible for expedited service and that apply after the fifteenth of the month must be issued their second month's benefits on the first working day of the second calendar month, not the day benefits would normally be issued in a State using staggered issuance. Because of the potentially lengthy period of time between issuance of the combined allotment for the month of expedited service and the first full month of participation and issuance of a second allotment for the third month of participation if benefits are issued to the household in a State using staggered issuance, the Department has decided to retain the issuance requirement of 7 CFR 273.2(i)(4)(iii)(C) for the third month of benefits. Therefore, the Department is proposing to add a new paragraph 7 CFR 273.2(i)(4)(iii)(F) which will require that in States with staggered issuance, households be issued their third allotment by the first working day of the third calendar month. For allotments in subsequent months, State agencies will employ their normal issuance mechanisms.

Current regulations at 7 CFR 273.2(i)(4)(i)(B) require that households entitled to expedited service furnish a social security number (SSN) for each household member before the first full month of participation. Households that are unable to provide the required SSNs or who do not have one prior to the first full month of participation can only participate if they satisfy the good cause requirements with respect to SSNs specified in 7 CFR 273.6(d).

Because of the change in combined allotment policy, eligible households that apply after the fifteenth of the month and are entitled to expedited service can receive their second month's benefits without having to furnish an SSN. The Department is proposing to revise the regulations at 7 CFR 273.2(i)(4)(i)(B) to require that households entitled to expedited service that apply after the fifteenth of the month furnish an SSN for each person prior to the third month of participation.

Current regulations at 7 CFR 273.2(i)(4)(iii) provide that households that are certified for expedited service and have postponed verification requirements may be certified for either the month of application or for longer periods, at the State agency's option. 7 CFR 273.2(i)(4)(iii)(A) currently addresses verification requirements for households that are certified only for the month of application, and 7 CFR 273.2(i)(4)(iii)(B) currently addresses verification requirements for households that are certified for longer than the month of application. Neither section of the regulations addresses verification requirements for households that apply before the 15th of the month. The Department is proposing to eliminate this deficiency by amending 7 CFR 273.2(i)(4)(iii)(A) to address verification requirements for households that apply on or before the 15th of the month and to amend 7 CFR 273.2(i)(4)(iii)(B) to address verification requirements for households that apply after the 15th of the month.

Current regulations at 7 CFR 273.2(i)(4)(iii) give State agencies the option of requesting any household eligible for expedited service which applies after the 15th of the month to submit a second application (at the time of initial certification) if the household's verification requirements have been postponed. Under current policy, that second application would be denied for the first month and acted on for the second month. However, now that expedited service households will be receiving a combined allotment of their first and second month's benefits, under our proposal, the second application would be denied for both the first and second months and acted on for the third month. The Department believes that current regulations do not allow for this procedure and is, therefore, proposing to amend the regulations at 7 CFR 273.10(a)(2)(i) to require that if a household files an application for recertification in any month in which it is receiving food stamp benefits, the State agency shall act on that application for eligibility and benefit purposes starting with the first month after the current certification period expires.

Residency—7 CFR 273.3

Current rules at 7 CFR 273.3 require food stamp households to live in the project area in which they apply unless the State agency has made arrangements for particular households to apply in nearby specified project areas. A proposed rule on Consistency for Food Stamp Program, Aid to Families with Dependent Children, and Adult Assistance Programs (the Consistency rule), published September 29, 1987, at 52 FR 36549, would have permitted State agencies to allow Statewide residency. The change was proposed to increase consistency with requirements of the AFDC and the Adult Assistance programs under Titles I, X, XIV, and XVI of the Social Security Act, which require that applicants reside in the State, but have no project area requirement. Under that proposed rule, State agencies would still have been able to designate limited project areas and restrict where a given household could apply. That proposed rule was not

published as a final rulemaking because of the initiation of a broader AFDC/food stamp consistency effort. However, in the interest of Program simplification, the Department has decided to repropose the provision. We are proposing, therefore, to amend 7 CFR 273.3 to give State agencies the option of permitting households to live anywhere in the State rather than in the project area in which they apply for benefits.

Comments received on this provision of the proposed Consistency rule were favorable. One commenter did ask, however, that State agencies which continue to require an applicant to apply in a particular project area office be required to forward the application from an "incorrect" office to a "correct" receiving office. The regulations at 7 CFR 273.2(c)(2)(ii) provide that if a household files an application at the incorrect office within a project area, the State agency shall forward the application to the correct office the same day. The application processing timeframes begin when the correct office receives the application. This provision of 273.2(c)(2)(ii) would continue to apply to State agencies which require applicants to apply in a particular project area. We are proposing, however, to add a new paragraph (iii) to 7 CFR 273.2(c)(2) to address application processing timeframes in States which opt to allow Statewide residency. If a State agency does not require that households apply in specified project areas, the application processing timeframes would begin the day the application is received by any office.

The Department is also proposing to make a second amendment to 7 CFR 273.3 to clarify the requirements for transferring food stamp cases between project areas. Several commenters on the Consistency rule requested this clarification. The Department is proposing to amend 7 CFR 273.3 to state that when a household moves within a State, the State agency may either require the household to reapply in the new project area or transfer the case from the previous project area to the new one and continue the household's certification without requiring a new application. If the State agency chooses to transfer the case, it must act on changes in the household circumstances resulting from the move in accordance with 7 CFR 273.12(c) or 7 CFR 273.21. The State agency must also ensure that potential client abuse of case transfers from project area to project area is identifiable through the State agency's system of duplicate participation checks required by 7 CFR 272.4(f). Finally, the State agency must develop transfer procedures to guarantee that the transfer of a case from one project area to another does not affect the household adversely. These proposed requirements are consistent with the requirements for transferring cases between project areas stated in Policy Interpretation Response System (PIRS) Category 3 Policy Memo 3–91–03 issued December 17, 1990.

Funeral Agreements—7 CFR 273.8(e)(2)

Regulations at 7 CFR 273.8(e)(2) exclude the value of one burial plot per household member from resource consideration. Questions have arisen concerning the treatment of pre-paid funeral agreements. In the Consistency rule, we proposed to adopt a funeral agreement policy similar to that of the AFDC program. AFDC regulations at 45 CFR 233.20(a)(3)(i)(4) exclude from resource consideration "bona fide funeral agreements (as defined and within limits specified in the State plan) of up to a total of $1,500 of equity value or a lower limit specified in the State plan for each member of the assistance unit." We proposed in the Consistency rule to amend 7 CFR 273.8(e) to allow for an exemption from resource consideration of up to $1,500 for bona fide, pre-paid funeral agreements that are accessible to the household. Funeral agreements that are inaccessible to a household were not affected by the proposed rule, as they are excluded from resource consideration under the provisions of 7 CFR 273.8(e)(8).

There were 26 comments on the funeral agreement provision in the proposed rule. Many commenters mistakenly thought that the proposed provision would limit the exclusion of inaccessible funeral agreements to a maximum of $1,500. Others believed the $1,500 limit on the exclusion of funds in accessible funeral agreements should be either raised or removed.

In this rule, the Department is again proposing the funeral agreement exclusion. We are retaining the $1,500 limit on the exclusion in order to remain consistent with AFDC and to lessen the likelihood of abuse of the exemption. Therefore, the Department is proposing to amend 7 CFR 273.8(e)(2) to exclude as a resource the value of one bona fide funeral agreement up to $1,500 in equity value per household member.

Determining Income—7 CFR 273.10(c)(2)

Current regulations at 7 CFR 273.10(c)(2)(iii) provide that households receiving Federal assistance payments (PA) or State general assistance (GA), Supplemental Security Income (SSI), or Old-Age, Survivors, and Disability Insurance (OASDI) benefits on a recurring monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

There are other instances in which a household may receive a disproportionate share of a regular stream of income in a particular month. For example, an employer may issue checks early because the normal payday falls on a weekend or holiday. We have granted waivers to several State agencies to allow income such as State employment checks received monthly or twice a month to be counted in the month the income is intended to cover rather than the month in which it is received.

We are proposing to amend 7 CFR 273.10(c)(2)(iii) to specify that income received monthly or semimonthly (twice a month, not every two weeks) shall be counted in the month it is intended to cover rather than the month in which it is received when an extra check is received in one month because of changes in pay dates for reasons such as weekends or holidays.

Contract Income—7 CFR 273.10(c)(3)(ii)

Section 5(f)(1)(A) of the Food Stamp Act, 7 U.S.C. 2014(f)(1)(A), provides that households which derive their annual income (income intended to meet the household's needs for the whole year) from contract or self-employment shall have the income averaged over 12 months. Current regulations at 273.10(c)(3)(ii) implement this provision of the Act, stating that "[h]ouseholds which, by contract or self-employment, derive their annual income in a period of time shorter than 1 year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis." The regulations at 7 CFR 273.11(a)(1)(iii) address how self-employment income which is not a household's annual income and is intended to meet the household's needs for only part of the year should be handled. 7 CFR 273.11(a)(1)(iii) provides that "[s]elf-employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover." The regulations, however, fail to specify how contract income which is not a household's annual income and is intended to meet the household's needs for only part of the year should be handled. This omission in the regulations has been

brought to our attention in several waiver requests from State agencies. We are taking action to rectify this deficiency in the regulations by proposing to amend 7 CFR 273.10(c)(3)(ii) to clarify that contract income which is not the household's annual income and is not paid on an hourly or piecework basis shall be averaged over the period the income is intended to cover.

Certification Periods—7 CFR 273.10(f)

In October 1991, the Department solicited suggestions from State agencies for simplifying the recertification process. Several State agencies recommended changes in the requirements for certification periods to allow more flexibility in aligning the food stamp recertification and the PA/GA redetermination in joint cases. We have granted waivers to State agencies to facilitate matching the PA/GA and food stamp periods, including extension of food stamp certification periods for up to 16 months.

Alignment of the food stamp recertification with the PA/GA redetermination has long been a problem for State agencies. Section 3(c) of the Food Stamp Act, 7 U.S.C. 2012(c), requires that the food stamp certification period of a GA or PA household coincide with the period for which the household is certified for GA or PA. However, because PA/GA and Food Stamp Program processing standards and the period for which benefits must be provided are not the same, it is often difficult to get the certification periods for the programs to coincide.

Some State agencies have requested that the Food Stamp Program return to the policy of open-ended certification periods which existed prior to the Food Stamp Act of 1977 so that the food stamp portion of the case may be recertified at the same time as the PA/GA redetermination. Section 11(e)(4) of the Act, 7 U.S.C. 2020(e)(4), however, requires that households be assigned definite certification periods and thus precludes the use of open-ended certification periods. It is also clear in the legislative history of the Act that Congress intended for households participating in the Food Stamp Program to be subject to distinct certification periods. The House of Representatives Report No. 464, 95th Cong., 1st Sess. (August 10, 1977), states on page 277 that "* * * in no event should [the mandate that the food stamp certification period be identical to the PA eligibility period] lead to food stamp eligibility for public assistance recipients being a perpetual entitlement as their assistance might be instead of being subject to distinct entitlements marked off by certification period[s] * * *" We feel, therefore, that the intent of the Act clearly prohibits us from returning to open-ended certification periods.

We are proposing, however, three alternative means of assisting State agencies in aligning PA/GA and food stamp certification periods. First, we are proposing to amend 7 CFR 273.10(f)(3) to allow the following procedure: When a household is certified for food stamp eligibility prior to an initial determination of eligibility for PA/GA, the State agency shall assign the household a food stamp certification period consistent with the household's circumstances. When the PA/GA is approved, the State agency shall reevaluate the household's food stamp eligibility. The household will not be required to submit a new application or undergo another face-to-face interview. If eligibility factors remain the same, the food stamp certification period can be extended up to an additional 12 months to align the household's food stamp recertification with its PA/GA redetermination. The State agency would be required to send a notice informing a household of any such changes in its certification period. At the end of the extended certification period the household must be sent a Notice of Expiration and must be recertified before being determined eligible for further food stamp assistance, even if the PA/GA redetermination has not been completed. In the event that a household's PA/GA redetermination is not completed at the end of the food stamp certification period and, as a result, the household's food stamp and PA/GA certification periods are no longer aligned, the State agency may employ the procedure described above to once again align those certification periods.

Our second proposal for aiding State agencies in aligning PA/GA and food stamp certification periods is to allow State agencies to recertify a household currently receiving food stamps when the household comes into a State office to report a change in circumstances for PA/GA purposes. At that time, the State agency would require the household to fill out an application for food stamps and to undergo a face-to-face interview. If the household is determined eligible to continue receiving food stamps, its current certification period would end and a new one would be assigned.

Our third proposal for aiding State agencies in aligning PA/GA and food stamp certification periods would allow State agencies to assign indeterminate certification periods to households certified for both food stamps and PA/GA. Under this proposal, a household's food stamp certification period would be set to expire one month after the household's scheduled PA/GA redetermination, so long as the period of food stamp certification did not exceed 12 months. Therefore, if a food stamp certification were set to expire in seven months, that being the month after the month the PA redetermination was due, but the PA redetermination was not done on time, the food stamp certification period could be postponed up to an additional five months to align food stamp recertification and PA/GA redetermination. In the twelfth month, the household would have to be recertified for food stamp purposes, even if the PA redetermination had not yet been completed.

The Department is proposing to amend 7 CFR 273.10(f)(3) to permit State agencies to implement the three above-described procedures.

Calculating Boarder Income—7 CFR 273.11(b)

Current rules at 7 CFR 273.11(b) provide that State agencies must use the maximum food stamp allotment as a basis of establishing the cost of doing business for income received from boarders when the household does not own a commercial boardinghouse. Boarders are not included as members of the household to which they are paying room and board. The households receiving the room and board payments must include those payments as self-employment income, but can exclude that portion of the payments equal to the cost of doing business. The rules provide that the cost of doing business is either (1) the maximum food stamp allotment for a household size equal to the number of boarders; or (2) the actual documented cost of providing room and meals, if that cost exceeds the maximum allotment. The Department is proposing to revise current regulations to provide State agencies with an additional option for calculating border income.

The Consistency rule included a provision that would have required State agencies to use, in place of the maximum allotment method, a flat percentage equal to 75 percent of the boarder-generated income as the means of establishing the cost of doing business for income received from boarders. The proposal allowed the household to use actual expenses if it could verify that its actual expenses were higher than the flat percentage. This is currently the policy of the AFDC

program as indicated in 45 CFR 233.20(a)(6)(v)(B).

There were only a few comments received on this proposal in the Consistency rule. The majority opposed the proposal, arguing that use of the fixed percentage would further burden households by requiring them to document all their actual expenses or face the possibility of overstating the income they receive from boarders.

Several State agencies have obtained waivers to allow use of a flat percentage to calculate allowable costs of doing business for households with boarders. It is our understanding that other State agencies prefer the maximum allotment method.

In this rule, we are proposing to add a new paragraph, 7 CFR 273.11(b)(1)(ii)(C), to give State agencies the option of using actual costs, the maximum allotment for a household size equal to the number of boarders, a flat amount, or a percentage of income from boarders to determine the cost of doing business of households with boarders. Households must be given the opportunity to claim actual costs. We are not proposing a percentage limit at this time. Current waivers specify 75 percent, 60 percent, or the limit used in the State's AFDC program. We are seeking comments concerning an appropriate percentage.

Day Care Providers—§ 273.11(b)(2)

The Department is also proposing to allow households who are day care providers to use a standard per individual amount as a cost of doing business. Under current regulations, at 7 CFR 273.11(a)(4)(i), households which provide in-home day care can claim the cost of meals fed to individuals in their care as a cost of doing business, provided they can document the cost of each meal. Several State agencies have obtained waivers to use a flat dollar amount, such as $5 a day, or to use the FCS Child and Adult Care Food Program reimbursement rates, which are updated annually to reflect the cost of meals as specified in 7 CFR 26.4(g).

We believe use of a standard reimbursement rate for the cost of providing day care would eliminate the burden on day care providers to document itemized costs incurred for producing the income and would increase the benefits for households that fail to adequately document business costs. Use of a standard would also decrease the amount of time needed to process these self-employment cases and reduce payment errors. Therefore, we are proposing to amend 7 CFR 273.11(b) to add a new paragraph, (2), to allow use of a standard amount for determining the self-employment expenses of households providing day care. State agencies would be required to inform households of their opportunity to verify actual meal expenses and use actual costs if higher than the fixed amount. When establishing a standard amount, State agencies should take into account the differences in cost for full-day and part-day care. Households that are reimbursed for the cost of meals fed to individuals in their care, for example through the FCS Child and Adult Care Food Program, cannot claim the standard but may claim actual expenses that exceed the amount of their reimbursement.

Exemption From Providing a Notice of Adverse Action—7 CFR 273.13(b)

Current regulations at 7 CFR 273.13(a) require State agencies to send a notice of adverse action (NOAA) to a household prior to any action to reduce or terminate the household's benefits, except as provided in 7 CFR 273.13(b). That section does not include an exception to the NOAA requirements when mail sent to a household is returned with no known forwarding address. The AFDC regulations at 45 CFR 205.10(a)(4)(ii) do not require a notice of adverse action in this situation. In the Consistency rule, the Department proposed to add an exemption from sending an NOAA if agency mail is returned with no known forwarding address. Since it is unlikely that the Postal Service can deliver a NOAA mailed to an address which is no longer correct, it is reasonable to specify in regulations that no notice is required if delivery cannot be reasonably expected.

Few comments were received on this proposal and most were favorable. Therefore, the Department is reproposing the amendment to 7 CFR 273.13(b) to provide that no NOAA is required if the household's mail has been returned with no known forwarding address.

Recertification—7 CFR 273.14

Background. Over the years, the Department has become aware, through State agency waiver requests and other means, of the need to simplify the food stamp recertification process. The need for simplification has become especially important in this time of tight budgetary constraints and of increased demand on the time of State eligibility workers. In this rule, the Department is proposing to simplify recertification procedures in several areas.

State agencies have requested more flexibility in developing recertification procedures. We understand the need of State agencies to be able to adopt procedures that are consistent with those of other programs and which can be administered in conjunction with computerized systems. However, the Department is limited in the extent to which it can give State agencies more flexibility because of the provisions of the Food Stamp Act. There are two main provisions in the Act that govern the timeframes for recertification. Section 11(e)(4), 7 U.S.C. 2020(e)(4), provides that each participating household must receive a notice of expiration of its certification prior to the start of the last month of its certification period. That section of the Act also provides that a household which files an application no later than 15 days prior to the end of the certification period shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment. Section 11(e)(4) allows modification of the timeframes for monthly reporting households.

We are proposing changes to the recertification process that will provide State agencies with more flexibility and at the same time retain the right of a household to receive uninterrupted benefits if it applies by the filing deadline and meets interview and verification requirements within the required timeframes. In exchange for the increased flexibility, State agencies would be responsible for providing households sufficient notice and time to comply with application, interview, and verification requirements. The proposed changes are discussed below.

In accordance with § 273.14(a) of the current regulations, households that meet all eligibility requirements must have their recertifications approved or denied by the end of their current certification period and, if recertified, be provided uninterrupted benefits. The regulations give State agencies two options for handling the cases of households who do not provide verification or attend an interview as required for recertification. The State agency may either deny the household's application at the end of the current certification period or within 30 days after the date the application was filed. State agencies also have the option of establishing verification timeframes. A household which does not meet all the verification requirements within required timeframes loses its right to uninterrupted benefits but can receive benefits within 30 days after the date the application was filed. These requirements are stated in 7 CFR 273.14 (c) and (d). State agencies have found these procedures confusing and have requested that they be simplified.

In this rulemaking we are proposing to reorganize the recertification section in an attempt to provide a clearer expression of the requirements. The proposed revision of 7 CFR 273.14(a) contains general introductory statements regarding actions the household and the State agency must take to ensure that eligible households receive uninterrupted benefits. We propose to include in revised 7 CFR 273.14(b) requirements for the notice of expiration, the recertification form, the interview and verification. In revised 7 CFR 273.14(c), we propose to include the filing deadlines for timely applications for recertification. These and other revisions are discussed below.

1. Recertification Process

a. Notice of expiration (NOE). Several State agencies have requested that we reduce the mandated content of the NOE. Under current regulations at 7 CFR 273.14(b)(3), the following information is required in the NOE:

(1) The date the current certification period ends;
(2) The date by which the household must file an application for recertification to receive uninterrupted benefits;
(3) Notice that the household must appear for an interview, which will be scheduled on or after the date the application is timely filed in order to receive uninterrupted benefits;
(4) Notice that the household is responsible for rescheduling a missed interview;
(5) Notice that the household must complete the interview and provide all required verification in order to receive uninterrupted benefits;
(6) Notice of the number of days the household has for submitting missing verification;
(7) Notice of the household's right to request an application and have the State agency accept an application as long as it is signed and contains a legible name and address;
(8) The address of the office where the application must be filed;
(9) Notice of the consequences of failure to comply with the notice of expiration;
(10) Notice of the household's right to file the application by mail or through an authorized representative;
(11) Notice of the household's right to request a fair hearing; and
(12) Notice of the fact that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for food stamp recertification at an office of the Social Security Administration.

We have reviewed the requirements for the NOE and have determined that none of the requirements in the current rule can be eliminated because they are required either by the provisions of the Act or judicial orders. Therefore, we have retained all of the current recertification requirements in the proposed revised section 273.14(b)(1).

b. *Recertification form.* In response to our request for ideas for simplifying the recertification process, several State agencies suggested that we develop a short recertification form to be used in conjunction with current case file information. Several State agencies have requested and been granted waivers to allow use of a modified application form for recertification. The forms developed by the State agencies do not require households to provide information which is already available in the case file.

This rule proposes to revise 7 CFR 273.14(b)(2) to allow State agencies to use a modified application form for recertifying households. This form could only be used for those households which apply for recertification before the end of their current certification period. FCS does not plan to develop a model recertification form, so individual State agencies must devise this form themselves. However, because Section 11(e)(2) of the Act, 7 U.S.C. 2020(e)(2), requires that the Department approve all deviations from the uniform national food stamp application, all State agency-designed recertification applications must be approved by FCS before the forms can be used.

To allow State agencies as much flexibility as possible in the design of their modified recertification forms, we are not specifying the exact questions that must be asked. The State agency should design an application that suits its own needs, whether it be a short form on which the household notes changes since its last certification, or a computer printout of household circumstances annotated by the caseworker, or some other type of form. Whichever type of form the State agency chooses to use, it must be able to obtain from that form, or have available in the case record, all information concerning household composition, income and resources needed to redetermine eligibility and the correct benefit amount for the first month of the new certification period. However, while we are not specifying questions that must be on the forms, we would require that all recertification forms include the information required by 7 CFR 273.2(b)(1) (i), (ii), (iii), (iv) and (v). This information is required by Section 11(e)(2) of the Act, 7 U.S.C. 2020(e)(2), and apprises applicants of their rights and responsibilities under the Program. The information regarding the Income and Eligibility Verification System in 7 CFR 273.2(b)(2) may be provided on a separate form.

c. *Interviews.* Under current regulations, State agencies are required to conduct face-to-face interviews with households applying for recertification. Several State agencies suggested that we modify the requirement that all households have face-to-face interviews. Some State agencies suggested eliminating the face-to-face interview entirely or reserve the office interview for those households that do not have telephones. Other State agencies indicated that case workers should be allowed to decide on a case-by-case basis which households should be interviewed. Other suggestions included eliminating the interview requirement entirely for households that are not error-prone, eliminating recertification interviews unless there is questionable information that cannot be resolved in any other manner, and giving State agencies the option of not interviewing households receiving AFDC if they are not due for an AFDC redetermination

We consider the face-to-face interview to be an important source of information about household circumstances. However, we have granted waivers on a State-by-State basis to substitute a telephone interview for the face-to-face interview for households with very stable circumstances, such as households in which all members are elderly or disabled and have no earned income. In an effort to be responsive to State agency requests for simplification and flexibility, we are proposing to revise 7 CFR 273.14(b)(3) to allow telephone interviews in place of face-to-face interviews at recertification for some categories of households. We are not allowing State agencies to substitute telephone interviews for face-to-face interviews on a case-by-case basis. Section 11(e)(2), 7 U.S.C. 2020(e)(2), currently provides for the waiver of the face-to-face interview on a case-by-case basis for those households for whom a visit to the food stamp office would be a hardship. We feel, however, that to allow caseworkers the option of waiving a face-to-face interview for any household based only on that caseworker's personal determination that a face-to-face interview is not needed may compromise the right to equal treatment guaranteed all food stamp recipients under Section 11(c) of the Act, 7 U.S.C. 2020(c).

We are proposing to revise 7 CFR 273.14(b)(3) to allow State agencies to interview by telephone any household that has no earned income and whose members are all elderly or disabled We are also proposing to give State agencies the option of conducting a face-to-face interview only once a year with a food stamp household that receives PA or

GA. The interview could be conducted at the same time the household is scheduled for its PA or GA face-to-face interview. At any other recertification during that time period, the State agency may choose to interview the household by telephone. However, the State agency would be required to grant a face-to-face interview to any household that requests one.

Several State agencies suggested that group interviews or videotapes be used whenever possible to cover areas of the recertification process common to all recipients. Current regulations do not prohibit the use of group interviews for informing households about the Program and Program rights and responsibilities. However, a certification worker must obtain information about specific household circumstances in a setting which guarantees confidentiality and privacy, as required by 7 CFR 273.2(e)(1).

d. *Verification.* Current regulations at 7 CFR 273.14(c)(3) give State agencies the option of establishing timeframes for submission of verification information. To increase consistency with procedures for initial applications and provide sufficient time for households to obtain the required verification information, we are proposing to revise 7 CFR 273.14(b) to add a new paragraph (4) to require State agencies to allow households a minimum of 10 days in which to satisfy verification requirements.

Current regulations at 7 CFR 273.2(f)(8)(i) require State agencies to verify at recertification a change in income or actual utility expenses if the source has changed or the amount has changed by more than $25, and previously unreported medical expenses and total recurring medical expenses which have changed by $25 or more. 7 CFR 273.2(f)(8)(i) also requires that State agencies not verify income, total medical expenses, or actual utility expenses which are unchanged or have changed by $25 or less, unless the information is "incomplete, inaccurate, inconsistent, or outdated." Several State agencies have requested that we simplify verification requirements at recertification by requiring them to only reverify information that is questionable, rather than information that is "incomplete, inaccurate, inconsistent or outdated." The Department does not see that there is any substantive difference between the terms "incomplete, inaccurate, inconsistent or outdated" and the term "questionable." Presumably, State agency caseworkers would consider questionable any information that is incomplete, inaccurate, inconsistent, or outdated. Therefore, if replacing the words "incomplete, inaccurate, inconsistent, or outdated" with the word "questionable" will simplify Program administration for State agencies, we see no objection to doing so. We are proposing, therefore, to amend 7 CFR 273.2(f)(8)(i)(A) and (C), and (ii) to replace the terms "incomplete, inaccurate, inconsistent or outdated" with the term "questionable."

e. *Filing deadline.* Currently, 7 CFR 273.14(c)(1) provides that for monthly reporting households the deadline for filing an application for recertification is the normal date for filing a monthly report. Several State agencies have requested that, for the purpose of administrative efficiency and flexibility, the Department make the filing deadline for monthly reporters the 15th of the last month of the household's certification period (recertification month), the same as it is for nonmonthly reporting households.

We are proposing to revise 7 CFR 273.14(c) to give State agencies the option of making the filing deadline for monthly reporters either the 15th of the recertification month or the household's normal date for filing a monthly report.

2. Timely Processing

Current regulations at 7 CFR 273.14(d) provide that the State agency shall act to provide uninterrupted benefits to any household determined eligible after the household timely filed an application, attended an interview, and submitted all necessary verification information. Action to approve or deny a recertification application must be taken by the end of the certification period if the household has met all required application procedures. Households which are certified for one month or are in the second month of a two-month certification period must receive benefits within 30 days of their last issuance. Other households must receive benefits in their normal issuance cycle if they have met all processing requirements. If verification requirements are unsatisfied at the end of the recertification month, the State agency must provide benefits within five working days after the household supplies the missing verification information. If the State agency is at fault for delaying the household's benefits, it must provide benefits as soon as the household is determined eligible. Current regulations at 7 CFR 273.14(e) provide that eligible households which have complied with all requirements are entitled to restored benefits if the State agency does not provide benefits in the first month of the new certification period.

7 CFR 273.14(f)(1) currently addresses failure of the household to appear for an interview or provide verification information as required. 7 CFR 273.14(f)(2) provides requirements for households that do not file a timely application.

To clarify recertification requirements that address a variety of situations that may occur in application processing, we are proposing to reorganize sections 7 CFR 273.14(d), (e), and (f) into two new sections 7 CFR 273.14(d) and (e). New section 7 CFR 273.14(d) would combine all of the provisions of the previous sections relating to timeframes for providing benefits when all processing deadlines are met. New section 7 CFR 273.14(e) would address situations in which the household or the State agency fail to meet processing deadlines.

3. Delayed Processing

We are proposing to include in new section 273.14(e) requirements for providing benefits when delays in application processing occur. Section 273.14(e)(1) will address delays caused by the State agency, and section 273.14(e)(2) will address delays caused by the household.

We are also proposing a change in provisions for handling the recertification of households which do not comply with the requirements for interviews or verification. Under current regulations at 7 CFR 273.14(a)(3), a State agency may deny a household's application for recertification at the time a household's certification period expires or within 30 days after the date the application was filed as long as the household has had adequate time to satisfy verification requirements. Under current regulations at 7 CFR 273.14(a)(2), a household that fails to attend a scheduled interview or to provide required verification information within required timeframes loses its right to uninterrupted benefits but cannot be denied eligibility at that time, unless the household fails to cooperate or the household's certification period has elapsed.

To increase consistency with AFDC procedures and provide maximum flexibility to State agencies, we are proposing to include in revised section 7 CFR 273.14(e) a provision to allow State agencies the option of denying eligibility to households as soon as a failure to comply with the interview or verification requirement occurs. The State agency would be required to send the household a denial notice informing it that its application for recertification has been denied. The notice would have to contain the reason for the denial, the action required to continue

participation, the date by which it must be accomplished, the consequences of failure to comply, notification that the household's participation will be reinstated if it complies within 30 days after its application for recertification was filed and is found eligible, and that the household has a right to a fair hearing. If the household subsequently requests an interview or provides the required verification information within 30 days of the date of its recertification application and is found eligible, the State agency must reinstate the household. Under this option, benefits must be provided within 30 days after the application for recertification was filed or within 10 days of the date the household provided the required verification information or completed the interview, whichever is later.

Current regulations at 273.14(f)(2) provide that any application not submitted in a timely manner shall be treated as an application for initial certification, except for verification requirements. If the household does not submit a recertification form before its certification period expires, the household's benefits for the first month of the new certification period are prorated in accordance with 7 CFR 273.10(a)(2). However, Section 13916 of the 1993 Leland Act amended Section 8(c)(2)(B) of the Act, 7 U.S.C. 2017(c)(2)(B), to eliminate proration of first month's benefits if a household is recertified for food stamps after a break in participation of less than one month. Therefore, if a household submits an application for recertification after its certification period has expired, but before the end of the month after expiration, the application is not considered an initial application and the household's benefits for that first month are not prorated. We are proposing to include this new provision in revised section 7 CFR 273.14(e)(2)(ii).

4. Expedited Service

Section 11(e)(2) of the Act, 7 U.S.C. 2020(e)(2), states that when a household contacts a food stamp office to make a request for food stamp assistance, it shall be permitted to file an application form. There is no distinction made in the law between an application for initial certification and an application for recertification. Section 11(e)(9) of the Act, 7 U.S.C. 2020(e)(9), requires State agencies to provide coupons within five days after the date of application to destitute migrant or seasonal farmworkers, households with gross incomes less than $150 a month and liquid resources that do not exceed $100; homeless households; and households whose combined gross income and liquid resources are less than their monthly rent, mortgage and utilities. Since implementation of the expedited service provision of the Act, questions have arisen concerning whether expedited service requirements apply at recertification.

Nothing in the legislative history of the Act gives any indication as to whether Congress intended households eligible for expedited service to receive such service every time they are certified for the Program, only at initial certification, or when there has been a break in benefits. We originally interpreted the Act and regulations to require that expedited service screening requirements apply only at initial certification. Since the law makes no distinction between applications for initial certification and recertification, we have concluded that expedited service provisions should apply to all households at recertification. This policy was prompted by the realization that some households that move between the last time they were certified and the date of their required recertification might not receive uninterrupted benefits. We believe it was the intent of Congress to provide expedited service when a household would not receive its next allotment by its next normal issuance cycle.

Many State agencies have argued that expedited service at recertification is detrimental to recipient households because it interferes with their normal issuance cycle. Instead of receiving their benefits at the usual time each month, households recertified for expedited service often receive their benefits for the first month of the new certification period much earlier than normal. The next month they have to wait longer to receive benefits. In addition, to obtain expedited benefits, some households have to pick up their coupons at their local assistance office instead of having them mailed, which is an inconvenience to the household. We have determined that because of the requirements of Section 11(e)(2) of the Act, households may not be asked to waive their right to expedited service. Therefore, State agencies are not allowed to mail expedited issuance coupons, even at the household's request if such action would result in failure to meet the five-day requirement for delivery of benefits.

State agencies have also argued that expediting issuance for households at recertification leads to an increased administrative burden. In some States, more than 50 percent of participating households now meet the criteria for expedited service. This has placed a tremendous burden on State agencies experiencing severe budgetary constraints, making it difficult for them to meet the 30-day and 5-day requirements for initial applications. State agencies argue that applying expedited screening requirements at recertification only increases the application processing problem without providing a substantial benefit to most households.

In light of the issues discussed above, we have again reexamined our policy and have concluded that not all households must receive expedited service at recertification. Section 11(e)(4) of the Act, 7 U.S.C. 2020(e)(4), states that households that apply in a timely fashion must receive their benefits no later than one month after the receipt of their last allotment. We believe that this provision of the law, which ensures that a household that punctually applies for recertification will continue to receive its benefits in its normal issuance cycle, should take precedence over the requirement for expedited service.

We are proposing, therefore, to amend the regulations by including a new section, 7 CFR 273.14(f), which will clarify that households which punctually apply for recertification, or who apply late but within the certification period, are not entitled to expedited service. However, households which do not apply for recertification until the month after their certification period ends are entitled to expedited service if they are otherwise eligible for such service. A conforming amendment to 7 CFR 273.2(i)(4)(iv) is also proposed.

Retrospective Suspension—7 CFR 273.21(n)

Current regulations at 7 CFR 273.21(n) allow State agencies the option of suspending issuance of benefits to a household that becomes ineligible for one month. State agencies that do not choose suspension must terminate a household's certification when it becomes ineligible, and the household must reapply to reestablish its eligibility for the Program. Current regulations at 7 CFR 273.21(o) provide that when a household is suspended based on prospective ineligibility, the State agency shall not count any noncontinuing circumstances which caused the prospective ineligibility when calculating the household's benefits retrospectively in a subsequent month.

The need for suspension typically occurs when a household paid weekly (or biweekly) receives an extra check in a month with five (or three) paydays. Under current policy, State agencies which opt to suspend rather than terminate a household's participation

must anticipate prospectively which month the household will be ineligible and suspend the household's participation for that month. Many State agencies have received waivers that allow them to suspend the household for the issuance month corresponding to the budget month in which the household receives the extra check. This is the method used for suspension in the AFDC program. In an effort to achieve consistency between the AFDC and Food Stamp Programs, we are proposing to amend 7 CFR 273.21(n) to allow State agencies the option of prospective or retrospective suspension. The option to suspend and the method of suspending must be applied Statewide.

Implementation

The Department is proposing that the provisions of this rulemaking must be implemented no later than 180 days after publication of the final rule. The Department also proposes to allow variances resulting from implementation of the provisions of the final rule to be excluded from error analysis for 90 days from the required implementation date, in accordance with 7 CFR 275.12(d)(2)(vii).

List of Subjects

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food Stamps, Fraud, Grant programs—social programs, Penalties, Records, Reporting and recordkeeping requirements, Social Security.

7 CFR Part 274

Administrative practice and procedure, Food Stamps, Fraud, Grant programs—social programs, Reporting and recordkeeping requirements, State liabilities.

Accordingly, 7 CFR parts 273 and 274 are proposed to be amended as follows:

1. The authority citation of parts 273 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.2:

a. A new paragraph (c)(2)(iii) is added.

b. A new sentence is added to the end of paragraph (f)(1)(v).

c. The last sentence of paragraph (f)(8)(i)(A) is amended by removing the words "incomplete, inaccurate, inconsistent, or outdated" and adding in their place the word "questionable".

d. The second sentence of paragraph (f)(8)(i)(C) is amended by removing the words "incomplete, inaccurate, inconsistent, or outdated" and adding in their place the word "questionable".

e. Paragraph (f)(8)(ii) is amended by removing the words "incomplete, inaccurate, inconsistent, or outdated" and adding in their place the word "questionable".

f. Paragraphs (i)(4)(iii)(A), (i)(4)(iii)(B), and (i)(4)(iii)(C) are revised.

g. New paragraphs (i)(4)(iii)(D), (i)(4)(iii)(E), and (i)(4)(iii)(F) are added.

h. A new sentence is added at the end of paragraph (i)(4)(iv).

The additions and revisions read as follows:

§ 273.2. Application processing.

* * * * *

(c) *Filing an application.* * * *

(2) *Contacting the food stamp office.* * * *

(iii) In State agencies that elect to have Statewide residency, as provided in § 273.3, the application processing timeframes begin when the application is filed in any food stamp office in the State.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(v) *Social security numbers.* * * * A completed SSA Form 2853 shall be considered proof of application for an SSN for a newborn infant.

* * * * *

(i) *Expedited Service.* * * *

(4) *Special procedures for expediting service.* * * *

(iii) * * *

(A) For households applying on or before the 15th of the month, the State agency may assign a one-month certification period or assign a normal certification period. Satisfaction of the verification requirements may be postponed until the second month of participation. If a one-month certification period is assigned, the notice of eligibility may be combined with the notice of expiration or a separate notice may be sent. The notice of eligibility must explain that the household has to satisfy any verification requirements that were postponed. For subsequent months, the household must reapply and satisfy any verification requirements which were postponed or be certified under normal processing standards. During the interview, the State agency should give the household a recertification form and schedule an appointment for a recertification interview. If the household does not satisfy the postponed verification requirements and does not appear for the interview, the State agency does not need to contact the household again.

(B) For households applying after the 15th of the month, the State agency may assign a 2-month certification period or a normal certification period of no more than 12 months. Verification may be postponed until the third month of participation, if necessary, to meet the expedited timeframe. If a two-month certification period is assigned, the notice of eligibility may be combined with the notice of expiration or a separate notice may be sent. The notice of eligibility must explain that the household is obligated to satisfy the verification requirements that were postponed. For subsequent months, the household must reapply and satisfy the verification requirements which were postponed or be certified under normal processing standards. During the interview, the State agency should give the household a recertification form and schedule an appointment for a recertification interview. If the household does not satisfy the postponed verification requirements and does not attend the interview, the State agency does not need to contact the household again. When a certification period of longer than 2 months is assigned and verification is postponed, households must be sent a notice of eligibility advising that no benefits for the third month will be issued until the postponed verification requirements are satisfied. The notice must also advise the household that if the verification process results in changes in the household's eligibility or level of benefits, the State agency will act on those changes without advance notice of adverse action. If the State agency chooses to exercise the option to require a second application in accordance with the introductory text of paragraph (i)(4)(iii) of this section, it shall act on that application starting with the first month after the current certification period expires. If the household is eligible, the State agency shall issue benefits within five working days of the receipt of the necessary verification. When the postponed verification requirements are not completed within 30 days after the end of the household's last certification period, the State agency shall terminate the household's participation and shall issue no further benefits.

(C) Households which apply for initial month benefits (as described in § 273.10(a)) after the 15th of the month, are processed under standard processing timeframes, have completed the application and have satisfied all verification requirements within 30 days of the date of application, and have been determined eligible to receive

benefits for the initial month of application and the next subsequent month, shall be issued a combined allotment which includes prorated benefits for the month of application and benefits for the first full month of participation. The benefits shall be issued in accordance with § 274.2(c) of this chapter.

(D) Households which apply for initial benefits (as described in § 273.10(a)) after the 15th of the month, are processed under expedited service procedures, have completed the application, and have been determined eligible to receive benefits for the initial month and the next subsequent month, shall receive a combined allotment consisting of prorated benefits for the initial month of application and benefits for the first full month of participation within the expedited service timeframe. If necessary, verification will be postponed to meet the expedited timeframe. The benefits shall be issued in accordance with § 274.2(c) of this chapter.

(E) The provisions of paragraphs (i)(4)(iii)(C) and (i)(4)(iii)(D) of this section do not apply to households which have been determined ineligible to receive benefits for the month of application or the following month, or to households who have not satisfied the postponed verification requirements. Households eligible for expedited service may, however, receive benefits for the initial month and next subsequent month under the verification standards of paragraph (i)(4) of this section. Benefits of less than ten dollars ($10) shall not be issued to a household under the provisions of paragraphs (i)(4)(iii)(C) and (i)(4)(iii)(D) of this section.

(F) In a State with staggered issuance, if a household applies after the 15th of the month and is certified for more than two months, it shall be issued its third month's benefits on the first working day of the third calendar month, not the staggered issuance date. If the State agency chooses to exercise the option to require a second application in accordance with paragraph (i)(4)(iii) of this section and receives the application before the third month, it shall not deny the application but hold it pending until the third month. The State agency will issue the third month's benefits within five working days from receipt of the necessary verification information but not before the first day of the month. If the postponed verification requirements are not completed within 45 days of the date of application, the State agency shall terminate the household's participation and shall issue no further benefits.

(iv) * * * State agencies shall apply the provisions of this section at recertification if a household does not apply for recertification until the month after its certification period ends.

* * * * *

3. In § 273.3:

a. The existing undesignated paragraph is designated as paragraph (a), and is further amended by removing the first sentence and adding two sentences in its place.

b. Paragraph (b) is added.

The additions read as follows:

§ 273.3 Residency.

(a) A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in § 271.2 of this chapter) or office within the State. * * *

(b) When a household moves within the State, the State agency may require the household to reapply in the new project area or it may transfer the household's casefile to the new project area and continue the household's certification without reapplication. If the State agency chooses to transfer the case, it shall act on changes in household circumstances resulting from the move in accordance with § 273.12(c) or § 273.21. It shall also ensure that duplicate participation does not occur in accordance with § 272.4(f) of this chapter, and that the transfer of a household's case shall not adversely affect the household.

4. In § 273.6, a new paragraph (b)(4) is added to read as follows:

§ 273.6 Social security numbers.

* * * * *

(b) *Obtaining SSNs for food stamp household members.* * * *

(4) If the household is unable to provide proof of application for an SSN for a newborn, the household must provide the SSN or proof of application at the next recertification. If the household is unable at the next recertification to provide proof of application, the State agency shall determine if the good cause provisions of paragraph (d) of this section are applicable.

* * * * *

5. In § 273.8, the first sentence of paragraph (e)(2) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

(2) Household goods, personal effects, the cash value of life insurance policies, one burial plot per household member, and the value of one bona fide funeral agreement per household member, provided that the agreement does not exceed $1500 in equity value, in which event the value above $1500 is counted. * * *

* * * * *

7. In § 273.10:

a. The second sentence of paragraph (a)(1)(iv) is amended by adding the words "second full" after the words "benefits for the".

b. Paragraph (a)(1)(iv) is further amended by removing the third and fourth sentences.

c. Paragraph (c)(2)(iii) is revised.

d. A new sentence is added at the end of paragraph (c)(3)(ii);

e. A new sentence is added to the end of paragraph (f)(3), and four new paragraphs, (f)(3)(i), (f)(3)(ii), (f)(3)(iii), and (f)(3)(iv) are added; and

f. The first sentence of paragraph (g)(2) is amended by adding the words "if the household has complied with all recertification requirements" after "current certification period."

The additions and revision read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(c) *Determining income.* * * *

(2) *Income only in month received.* * * *

(iii) Households receiving income on a recurring monthly or semimonthly basis shall not have their monthly income varied merely because of changes in mailing cycles or pay dates or because weekends or holidays cause additional payments to be received in a month.

(3) *Income averaging.* * * *

(ii) * * * Contract income which is not the household's annual income and is not paid on an hourly or piecework basis shall be prorated over the period the income is intended to cover.

* * * * *

(f) *Certification periods.* * * *

(3) * * * To align the PA or GA and food stamp recertification, the State agency may do the following:

(i) When the household's eligibility for PA or GA has been determined, the State agency may review the household's food stamp eligibility. If eligibility factors remain the same, the household's certification period can be extended up to an additional 12 months to align the household's food stamp recertification with its PA/GA redetermination. The State agency would be required to send a notice informing the household of changes in its certification period. At the end of the

extended certification period the household must be sent a Notice of Expiration and must be recertified before being eligible for further food stamp assistance, even if the PA/GA redetermination is not set to expire. This procedure may also be used to align a household's PA/GA and food stamp certification periods if those certification periods are no longer aligned as a result of the household's failure to comply with the PA/GA redetermination requirements.

(ii) Except as specified in paragraph (f)(3)(iii) of this section, State agencies may assign households food stamp certification periods that expire the month following the household's required PA/GA redetermination, provided the food stamp certification period does not exceed 1 year. If a PA/GA household has not had its PA/GA redetermination by the end of the 11th month following its initial certification or its last redetermination for food stamps, the State agency shall send the household a notice of expiration of its food stamp certification period and recertify the household in accordance with the provisions of § 274.14 of this chapter.

(iii) State agencies which have a monthly reporting system and, therefore, allow more than 1 year to elapse before redetermining their PA/GA cases, but which can predict with certainty in which month the PA/GA redetermination will take place, may assign PA/GA food stamp households definite food stamp certification periods that expire at the end of the month following the month in which the PA/GA redetermination is scheduled. If for any reason the PA/GA redetermination is not made by the end of the month for which it was scheduled, the State agency shall send the household a notice of expiration of its food stamp certification period and recertify the household in accordance with the provisions of § 274.14 of this chapter.

(iv) If a household reports a change in circumstance for PA/GA, the State agency may review the household's food stamp eligibility at the same time. The household will be required to submit a recertification form for food stamps and to undergo a face-to-face interview. If the household is determined eligible, its old certification period shall be terminated and a new period not to exceed 12 months shall be assigned.

* * * * *

8. In § 273.11.

a. The heading of paragraph (b) is revised;

b. The introductory text of paragraph (b)(1)(ii) is revised.

c. Paragraph (b)(1)(ii)(B) is amended by removing the period at the end of the paragraph and adding in its place a semicolon and the word "or".

d. A new paragraph (b)(1)(ii)(C) is added;

e. A new paragraph (b)(2) is added.

The revisions and additions are as follows:

§ 273.11 Action on Households with Special Circumstances.

* * * * *

(b) *Households with income from boarders and day care.* (1) *Household with boarders.* * * *

(ii) Cost of doing business. In determining the income received from boarders, the State agency shall exclude the portion of the boarder payment that is a cost of doing business. Provided that the amount allowed as a cost of doing business shall not exceed the payment the household receives from the boarder for lodging and meals, the cost of doing business shall be equal to one of the following:

* * * * *

(C) a flat amount or fixed percentage of the gross income, provided that the method used to determine the flat amount or fixed percentage is objective and justifiable and is stated in the State's food stamp manual. However, if the applicant or recipient requests use of the verified actual amount, the State agency shall use the actual amount.

* * * * *

(2) *Income from day care.* Households deriving income from day care may elect one of the following methods of determining the cost of meals provided to the individuals:

(i) Actual documented costs of meals;

(ii) A standard per day amount based on estimated per meal costs; or

(iii) Current reimbursement amounts used in the Child and Adult Care Food Program.

* * * * *

9. In § 273.13, a new paragraph (b)(15) is added to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(15) The household's address is unknown and mail directed to it has been returned by the post office indicating no known forwarding address. The household's benefits must, however, be made available to it within five working days if the household contacts the State agency during the payment period covered by a returned benefit.

10. § 273.14 is revised to read as follows:

§ 273.14 Recertification

(a) *General.* No household may participate beyond the expiration of the certification period assigned in accordance with § 273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing recertification forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

(b) *Recertification process.*

(1) *Notice of expiration.*

(i) The State agency shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The State agency shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next- to-the-last month. Jointly processed PA and GA households need not receive a separate food stamp notice if they are recertified for food stamps at the same time as their PA or GA redetermination.

(ii) Each State agency shall develop a NOE. A model form (Form FCS–439) is available from FCS. The NOE must contain the following:

(A) the date the certification period expires;

(B) the date by which a household must submit an application for recertification in order to receive uninterrupted benefits;

(C) the consequences of failure to apply for recertification in a timely manner;

(D) notice of the right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address;

(E) information on alternative submission methods available to households which cannot come into the certification office or do not have an authorized representative and how to exercise these options;

(F) the address of the office where the application must be filed;

(G) the household's right to request a fair hearing if the recertification is denied or if the household objects to the benefit issuance;

(H) notice that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for food stamp recertification at an office of the Social Security Administration;

(I) notice that failure to attend an interview may result in delay or denial of benefits; and

(J) notice that the household is responsible for rescheduling a missed interview and for providing required verification information.

(iii) To expedite the recertification process, State agencies are encouraged to send a recertification form, an interview appointment letter, and a statement of needed verification required by § 273.2(c)(5) with the NOE.

(2) *Recertification form.*

(i) The State agency shall provide each household with a recertification form to obtain all information needed to determine eligibility and benefits for a new certification period. This form can only be used by households which are applying for recertification before the end of their current certification period. Recertification forms must be approved by FCS as required by § 273.2(b)(3). The recertification form must elicit from the household sufficient information regarding household composition, income and resources that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The information required by § 273.2(b)(1) (i), (ii), (iii), (iv) and (v) must be included on the recertification form. The information regarding the Income and Eligibility Verification System in § 273.2(b)(2) may be provided on a separate form. A combined form for PA and GA households may be used in accordance with § 273.2(j). Monthly reporting households shall be recertified as provided in § 273.21(q). State agencies may use the same form for households required to report changes in circumstances and monthly reporting households.

(ii) The State agency may request that the household bring the recertification form to the interview or return the form by a specified date (not less than 15 days after receipt of the form).

(3) *Interview.* (i) As part of the recertification process, the State agency shall conduct a face-to-face interview with a member of each household. The face-to-face interview may be waived in accordance with § 273.2(e). The State agency may also waive the face-to-face interview for a household that has no earned income if all of its members are elderly or disabled. The State agency has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. However, a household that requests a face-to-face interview must be granted one.

(ii) If a household receives PA/GA and will be recertified more than once in a 12-month period, the State agency may choose to conduct a face-to-face interview with that household only once during that period. The face-to-face interview shall be conducted at the same time that the household receives a face-to-face interview for PA/GA purposes. At any other recertification during that year period, the State agency may interview the household by telephone or conduct a home visit. However, a household that requests a face-to-face interview must be granted one.

(iii) If a household does not appear for an interview scheduled before it has submitted a recertification form, the State agency must reschedule the interview. State agencies shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires.

(4) *Verification.* Information provided by the household shall be verified in accordance with § 273.2(f)(8)(i). The State agency shall provide the household a notice of required verification as provided in 273.2(c)(5) and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 days to provide required verification information.

(c) *Timely application for recertification.*

(1) Households reporting required changes in circumstances that are certified for one month or certified in the second month of a two-month certification period shall have 15 days from the date the NOE is received to file a timely application for recertification.

(2) Other households reporting required changes in circumstances that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.

(3) For monthly reporting households, the filing deadline shall be either the 15th of the last month of the certification period or the normal date for filing a monthly report, at the State agency's option. The option chosen must be uniformly applied to the State agency's entire monthly reporting caseload.

(4) For households consisting of applicants or recipients of SSI who apply for food stamp recertification at offices of the SSA in accordance with § 273.2(k)(1), an application shall be considered filed for normal processing purposes when the signed application is received by the SSA.

(d) *Timely processing*

(1) Households that were certified for one month or certified for two months who are in the second month of the certification period and have met all required application procedures shall be notified of their eligibility or ineligibility. Eligible households shall be provided an opportunity to receive benefits no later than 30 calendar days after the date the household received its last allotment.

(2) Other households that have met all application requirements shall be notified of their eligibility or ineligibility by the end of their current certification period. In addition, the State agency shall provide households that are determined eligible an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

(e) *Delayed processing.*

(1) *Delays caused by the State agency* Households which have submitted an application for recertification in a timely manner but, due to State agency error, are not determined eligible in sufficient time to provide for issuance of benefits by the household's next normal issuance date shall receive an immediate opportunity to participate upon being determined eligible, and the allotment shall not be prorated. If the household was unable to participate for the month following the expiration of the certification period because of State agency error, the household is entitled to restored benefits.

(2) *Delays caused by the household.*

(i) If a household does not submit a new application by the end of the certification period, the State agency must close the case without further action.

(ii) If a recertification form is submitted more than one month after the filing deadline, it shall be treated the same as an application for initial certification. In accordance with § 273.10(a)(1)(ii), the household's benefits shall not be prorated unless there has been a break of more than one month in the household's certification.

(iii) A household which submits an application by the filing deadline but does not appear for an interview scheduled after the application has been filed, or does not submit verification within the required timeframe, loses its right to uninterrupted benefits. The State agency has three options for handling such cases:

(A) Send the household a denial notice as soon as the household fails to appear for an interview or submit required verification information. If the interview is completed, or the household provides the required

verification information within 30 days of the date of application and is determined eligible, the household must be reinstated and receive benefits within 30 calendar days after the application was filed or within 10 days of the date the interview is completed or required verification information is provided, whichever is later. In no event shall a subsequent period's benefits be provided before the end of the current certification period.

(B) Deny the household's recertification application at the end of the last month of the current certification period. The State agency may on a Statewide basis either require households to submit new applications to continue benefits or reinstate the households without requiring new applications if the households have been interviewed and have provided the required verification information within 30 days after the applications have been denied.

(C) Deny the household's recertification request 30 days after application. The State agency may on a Statewide basis either require households to submit new applications to continue benefits or reinstate households without requiring new applications if such households have been interviewed and have provided the required verification within 30 days after the applications have been denied.

(f) *Expedited service.* A State agency is not required to apply the expedited service provisions of § 273.2(i) at recertification if the household applies in a timely manner for recertification or applies late but within the certification period.

11. In § 273.21, paragraph (n)(1) is amended by adding a sentence to the end of the paragraph to read as follows:

§ 273.21 Monthly Reporting and Retrospective Budgeting (MRRB).

* * * * *

(n) *Suspension.* * * *

(1) * * * The State agency may on a Statewide basis either suspend the household's certification prospectively for the issuance month or retrospectively for the issuance month corresponding to the budget month in which the noncontinuing circumstance occurs.

* * * * *

PART 274—ISSUANCE AND USE OF COUPONS

12. In § 274.2:

a. Paragraphs (b)(2), (b)(3), and (b)(4) are removed.

b. Paragraphs (b)(1), (c), (d), and (e) are redesignated paragraphs (b), (d), (e), and (f), respectively

c. Two sentences are added to the end of newly redesignated paragraph (b).

d. A new paragraph (c) is added.

The additions read as follows:

§ 274.2 Providing benefits to participants.

* * * * *

(b) * * * For households entitled to expedited service, the State agency shall make available to the household coupons or an ATP card, not later than the fifth calendar day following the date the application was filed. Whatever system a State agency uses to ensure meeting this delivery standard shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the fifth calendar day following the day the application was filed.

(c) *Combined allotments.* For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (one) allotment, or as two separate allotments made available at the same time, in accordance with the timeframes specified in S273.2(i) of this chapter.

* * * * *

Dated: January 4, 1995.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 95–635 Filed 1–10–95; 8:45 am]

BILLING CODE 3410–30–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Proposed Requirements for Child-Resistant Packaging; Packages Containing 250 mg or More of Naproxen: Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of comment period.

SUMMARY: On November 14, 1994, the Commission issued a proposed rule under the Poison Prevention Packaging Act to require child-resistant packaging for naproxen preparations containing 250 mg or more of naproxen per package. The Commission had specified that comments should be submitted by January 30, 1995. After receiving a request to extend the comment period, the Commission has decided to do so, and it will permit comments until March 1, 1995.

DATES: Comments on the proposal should be submitted not later than March 1, 1995.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 502, 4330 East West Highway, Bethesda, Maryland 20814, telephone (301) 504–0800.

FOR FURTHER INFORMATION CONTACT: Jacqueline Ferrante, Ph.D., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0477 ext. 1199.

SUPPLEMENTARY INFORMATION: The Commission recently published in the Federal Register proposed requirements for special packaging (also known as child resistant packaging) for naproxen preparations containing 250 mg or more of naproxen per package. 59 FR 56445.

These proposed requirements were issued under the authority of the Poison Prevention Packaging Act (PPPA), 15 U.S.C. 1471–1476. The PPPA authorizes the Commission to establish standards for the special packaging of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible practicable, and appropriate for the substance. 15 U.S.C. 1472(a).

The November 14, 1994, Federal Register notice provides details concerning toxicity, dosage, and packaging of naproxen. The notice also discusses findings that the PPPA requires the Commission to make concerning (1) the hazard to children presented by the substances; (2) the technical feasibility, practicability, and appropriateness of special packaging; and (3) the reasonableness of the proposed standard.

The Commission received a request from the Syntex Corporation ("Syntex") asking for an extension of the comment period allowed for the proposed requirements. Syntex and Proctor & Gamble jointly have three years exclusivity to manufacture and market the only over-the-counter naproxen product. Syntex stated that since it has recently been acquired by Hoffmann-La Roche, Ltd., additional time is necessary for preparation and review of comments by the new management. Syntex

requested a 30 day extension to the comment period.

The Commission believes that this extension will allow a more complete response to the proposed requirements. It will permit the Commission to receive a more in depth response from a company that has a significant interest in the proposed rule. Granting a 30-day extension of the comment period should not increase the risk of young children being poisoned by naproxen because the two companies marketing naproxen preparations are voluntarily using child-resistant packaging.

Dated: January 6, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–705 Filed 1–10–95; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–72–92]

RIN 1545–AR23

Definition of Qualified Electric Vehicle, and Recapture Rules for Qualified Electric Vehicles, Qualified Clean-Fuel Vehicle Property, and Qualified Clean-Fuel Vehicle Refueling Property; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the definition of qualified electric vehicle, the recapture of any credit allowable for a qualified electric, and the recapture of any deduction allowable for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property.

DATES: The public hearing originally scheduled for Thursday, January 19, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 30 and 179A of the Internal Revenue Code. A notice of proposed rulemaking and public hearing appearing in the **Federal Register** for Friday, October 14, 1994, (59 FR 52105), announced that the public hearing on the proposed regulations would be held on Thursday, January 19, 1995, beginning at 10 a.m., in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C.

The public hearing scheduled for Thursday, January 19, 1995, is cancelled.

Cynthia E. Grigsby

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 95–597 Filed 1–10–95; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–049–2–5818b; FL–049–2–6132b; FL 51–5819b; FRL–5134–1]

Approval and Promulgation of Implementation Plans; Approval of Revisions to Florida Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of Florida for the purpose of establishing Reasonably Available Control Technique standards for stationary volatile organic compounds (VOC) and nitrogen (NO_X) sources and New Source Review Standards for NO_X. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by February 10, 1995

ADDRESSES: Written comments on this action should be addressed to Alan Powell, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399.

FURTHER INFORMATION CONTACT: Alan Powell, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE. Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4209. Reference file FL–49–5818.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: December 20, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–609 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[OR35–1–6188b, OR43–1–6523b, OR36–1–6298b; FRL–5113–8]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Oregon for the purpose of making revisions to the State of Oregon's Air Quality Control Plan Volume 2. Specifically, EPA is proposing to approve the revisions to the Oregon Administrative Rules (OAR) Chapter 340, Division 25 and revisions to Title 47 of Lane Regional Air Pollution Authority (LRAPA). The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act

requirements of section 110 of the Clean Air Act (CAA) and 40 CFR part 51. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by February 10, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

Oregon Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, Air & Radiation Branch (AT–082), EPA, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: November 16, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–611 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[IN 45–1–6618; FRL–5138–3]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: An important component of the Indiana State Implementation Plan (SIP) for Volatile Organic Compounds (VOCs) consists of a two-part VOC definition. For purposes of remaining consistent with Federal regulations, the State of Indiana submitted a revision to the SIP which incorporates the current Federal VOC definition requirements contained in the Code of Federal Regulations (CFR) part 51 except that, unlike the Federal definition, the Indiana rule contains the exclusion of "vegetable oils." Because the State has committed to correcting this deficiency by January 31, 1996, USEPA is proposing conditional approval of this SIP revision request. If the State fails to correct the deficiency, the conditional approval will convert to a disapproval.

DATES: Comments on this revision request and on the proposed USEPA action must be received by February 10, 1995.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Rosanne Lindsay at (312) 353–1151, before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Rosanne Lindsay at (312) 353–1151.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

The VOC definition, adopted by the Indiana Air Pollution Control Board on June 2, 1993, is in two parts, located under Title 326 Indiana Administrative Code (IAC) 1–2–48 (for nonphotochemically reactive hydrocarbon) and 326 IAC 1–2–90 (for VOC). The definition, at 326 IAC 1–2–48.1, is amended to add five halocarbon compounds and four classes of perfluorocarbons to the list of organic compounds considered to be "negligibly reactive" in the formation of Ozone. In 326 IAC 1–2–90.1, Indiana amends the definition by excluding five carbon compounds that have negligible photochemical reactivity. These amendments, as described, comport with the Federal requirements.

Indiana has also added an exclusion of vegetable oils to the VOC definition, which makes it inconsistent with the revised Federal definition of VOC promulgated as part of the February 3, 1992 (57 FR 3945) final rule. 40 CFR 51.100(s). The exclusion of vegetable oils is based on comments and material presented at a State hearing on March 22, 1993. During the hearing, representatives from Frito-Lay, National Food Processors Association, Corn Refiners Association, and Institute of Shortening and Edible Oils, Inc., provided a 1991 USEPA report entitled, "The Impact of Declaring Soybean Oil Exempt from VOC Regulations on the Coatings Program." Also included, in support of the exclusion, was an August 21, 1990, Memorandum from the Director of USEPA's Air Quality Management Division, to the Director of the Air, Pesticides, and Toxics Management Divisions, Region IV

II. Analysis of State Submittal

USEPA does not recognize the exclusion of vegetable oils from the definition of VOC, because this exclusion was not contained in the February 3, 1992 final rule (57 FR 3945). To the extent that the August 21, 1990 Memorandum and the 1991 USEPA report, cited above, are inconsistent with the February 3, 1992 rule, they are superseded by the February 3, 1992 final rule.

Vegetable processing sources cannot be exempted from the VOC definition rule, as proposed by the State of Indiana. Subject sources, however, may be able to seek source category exemptions under the generic non-Control Technology Guideline (non-CTG sources) RACT rule, if supported by documentation acceptable to the USEPA.

Based on EPA's preliminary analysis that the State's submittal was unapprovable, Indiana submitted to USEPA, a letter dated December 14, 1994, committing to the necessary rule revision. In accordance with an attached schedule, Indiana expects a final rule to be adopted and submitted to USEPA by January 1996.

III. Proposed Rulemaking Action and Solicitation of Public Comment

USEPA is proposing a conditional approval of the Indiana VOC definition rule because the State has committed to correct the rule so that it fully comports with USEPA requirements as established in the February 3, 1992, final rule. Upon a final conditional approval by EPA, if the State ultimately fails to meet its commitment to correct the deficiency, noted herein, by January 31, 1996, the date the State committed to in its commitment letter, then USEPA's action for the State's requested

SIP revision will automatically convert to a final disapproval.

Public comments are solicited on the requested SIP revision and on USEPA's proposed conditional approval. Public comments received by February 10, 1995 will be considered in the development of USEPA's final rulemaking action.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 29, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–690 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[ID–A–94–64; FRL–5137–6]

Designation of Areas for Air Quality Planning Purposes; State of Idaho

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to the Clean Air Act as amended in 1990, EPA is authorized to promulgate redesignation of areas as nonattainment for the PM–10 (particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers) National Ambient Air Quality Standards (NAAQS). In a prior action, EPA proposed to redesignate as nonattainment for PM–10 a portion of Kootenai County consisting of the City of Coeur d'Alene. In today's action, EPA is requesting public comment on a proposal to expand the proposed nonattainment boundary and redesignate a larger portion of Kootenai County, Idaho, from unclassifiable to nonattainment for PM–10. EPA is proposing that the portion of Kootenai County outside the exterior boundary of the Coeur d'Alene Indian Reservation be designated nonattainment and classified moderate for PM–10. Monitored violations of the PM–10 NAAQS have been recorded at monitoring sites in Coeur d'Alene and Post Falls, Idaho.

DATES: All written comments on this proposal should be submitted by March 13, 1995.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, U.S. EPA, Air Programs Development Section (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101.

Information supporting this rulemaking action can be found in Public Docket ID–A–94–64 at U.S. EPA, Air Programs Development Section, 1200 Sixth Avenue, Seattle, Washington 98101. The docket may be inspected from 8 A.M. to 4:30 P.M. on weekdays, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Body, Environmental Protection Agency (ATD–082), Air and Radiation Branch, 1200 6th Avenue, Seattle, Washington 98101, 206/553–0782.

SUPPLEMENTARY INFORMATION:

I. General

EPA is authorized to initiate redesignation of areas as nonattainment for PM–10 pursuant to section 107(d)(3) of the Act[1] on the basis of air quality data, planning and control considerations or any other air quality related considerations the Administrator deems appropriate. A nonattainment area is defined as any area that does not meet, or any area with sources that significantly contribute to ambient air quality in a nearby area that does not meet, the National Ambient Air Quality Standards (NAAQS) (see section 107(d)(1)(A)(i) of the Act).[2] Thus, in determining the appropriate boundary for a nonattainment area, EPA considers not only the areas where the violations occurred but also nearby areas which contain sources that could significantly contribute to such violations.

In the absence of technical information identifying particular sources contributing to violations of the NAAQS, EPA policy for PM–10 is to use political boundaries associated with the area where the monitored violations occurred and in which it is reasonably expected that sources contributing to the violations are located (see, for example, 57 FR 43846 at 43848 (Sept. 22, 1992)). PM–10 nonattainment boundaries are generally presumed to be, as appropriate, the county, township or other municipal subdivision in which the ambient particulate matter monitors recording the PM–10 violations are located. EPA has presumed that this would include both the areas in violation of the PM–10 NAAQS and areas containing sources that significantly contribute to the violations. Moreover, EPA tends to consider and propose more expansive nonattainment area political boundaries to ensure that sources contributing to the nonattainment problem are considered in the State's technical evaluation and analysis of the area's air quality problem. However, a boundary other than a county perimeter or other municipal boundary may be more appropriate. Affected States and Tribes may submit information demonstrating that, consistent with section 107(d)(1)(A)(i) of the Act, a boundary

[1] References herein are to the Clean Air Act, as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 ("the Act"). The Act is codified, as amended, at the U.S. Code in 42 U.S.C. 7401, *et seq.*

[2] EPA has construed the definition of nonattainment area to require some material or significant contribution in a nearby area. The Agency believes it is reasonable to conclude that something greater than a molecular impact is required.

other than a county perimeter or other municipal boundary is more appropriate. Additional guidance on this issue is provided in the PM–10 State Implementation Plan (SIP) Development Guideline (EPA–450/2–86–001).

On September 22, 1992, after notice to the State of Idaho, EPA proposed that the City of Coeur d'Alene be redesignated nonattainment for PM–10 based on monitored violations of the PM–10 NAAQS, at the Lakes Middle School monitoring site, located within the Coeur d'Alene city limits (see 57 FR 43846). Before EPA took final action on that proposal, the State notified EPA that additional violations of the PM–10 NAAQS had been recorded in the neighboring City of Post Falls and requested that the boundary of the nonattainment area be expanded. In today's action, EPA is proposing to redesignate the entire County of Kootenai, except for that portion located within the exterior boundary of the Coeur d'Alene Indian Reservation, as nonattainment for PM–10.

II. Background for PM–10

On July 1, 1987, EPA revised the NAAQS for particulate matter (52 FR 24643), by replacing total suspended particulate as the indicator for particulate matter with a new indicator called PM–10 that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. At the same time, EPA set forth regulations for implementing the revised particulate matter standards and announced EPA's SIP development policy elaborating PM–10 control strategies necessary to assure attainment and maintenance of the PM–10 NAAQS (see generally 52 FR 24672). EPA adopted a PM–10 SIP development policy dividing all areas of the country into three categories based upon their likelihood of violating the revised NAAQS: (1) Areas with a strong likelihood of violating the PM–10 NAAQS and requiring substantial SIP adjustment were placed in Group I; (2) areas that might well have been attaining the PM–10 NAAQS and whose existing SIP's most likely needed less adjustment were placed in Group II; (3) areas with a strong likelihood of attaining the PM–10 NAAQS and, therefore, needing adjustments only to the preconstruction review program and monitoring network were placed in Group III (52 FR at 24679–24682).

Pursuant to sections 107(d)(4)(B) and 188(a) of the Clean Air Act, as amended in 1990, areas previously identified as Group I (55 FR 45799 (Oct. 31, 1990)) and other areas which had monitored violations of the PM–10 NAAQS prior to January 1, 1989 were designated nonattainment and classified as moderate for PM–10 by operation of law on November 15, 1990. Formal codification in 40 CFR Part 81 (1992) of these areas was announced in a **Federal Register** notice dated November 6, 1991 (56 FR 56694) and supplemented on November, 30, 1992 (57 FR 56762). All other areas of the country, including Kootenai County, were designated unclassifiable for PM–10 by operation of law on November 15, 1990 (see section 107(d)(4)(B)(iii) of the Act).

III. Today's Action

As stated above, EPA is authorized to initiate redesignation of areas from unclassifiable to nonattainment for PM–10 pursuant to section 107(d)(3) of the Act on the basis of air quality data, planning and control considerations or any other air quality related considerations the Administrator deems appropriate. Pursuant to section 107(d)(3), EPA is today proposing to redesignate the entire County of Kootenai, except for that portion located within the exterior boundaries of the Coeur d'Alene Indian Reservation, as nonattainment for PM–10.

On January 31, 1991, EPA notified the State of Idaho pursuant to Section 107(d)(3) of the Act that Kootenai County (City of Coeur d'Alene) appeared to be violating the PM–10 NAAQS and requested the State to submit a proposed designation and boundary description for this area. On March 6, 1991, the State notified EPA that the City of Coeur d'Alene had measured violations of the PM–10 NAAQS and requested that the area within the city limits of Coeur d'Alene be redesignated nonattainment. EPA notified the public on April 22, 1991 of the reported violations and the letter from the state (see 56 FR 16274) and proposed to redesignate the City of Coeur d'Alene as nonattainment for PM–10 on September 22, 1992 (see 57 FR 43846). EPA requested public comment on all aspects of that proposal "including the appropriateness of the proposed designations and the scope of the proposed boundaries" (see 57 FR at 43853).

In September and October of 1992, additional violations of the PM–10 NAAQS were recorded at a second air quality monitoring site in the City of Post Falls, approximately six miles west of the Coeur d'Alene monitoring site. During the public comment period on EPA's proposal to redesignate the City of Coeur d'Alene as nonattainment, the State of Idaho commented that the September and October 1992 violations had occurred and requested that the boundary of the proposed nonattainment area be expanded to include the entire County of Kootenai. The State also requested that, in light of this new information, EPA provide further opportunity for public comment on the boundary of the proposed nonattainment area.

Based on the information provided by the State of Idaho and available air monitoring data, EPA is proposing that the entire County of Kootenai, except for that portion located within the exterior boundaries of the Coeur d'Alene Indian Reservation, be redesignated nonattainment for PM–10. Two monitored 24-hour PM–10 concentrations above the level of the NAAQS were recorded in 1989 and 1990 at the Lakes Middle School monitoring site, located within the city limits of Coeur d'Alene, resulting in expected exceedences of 7.5 and 2.04, respectively (refer to 40 CFR Part 50, Appendix K on procedures to calculate expected exceedences). There have been no reported 24-hour PM–10 concentrations above the level of the NAAQS within the City of Coeur d'Alene since 1990. Three monitored 24-hour PM–10 concentrations above the NAAQS were recorded at the Post Falls monitoring site during 1992, resulting in expected exceedences of 20 (see 40 CFR Part 50, Appendix K). There have been no reported 24-hour PM–10 concentrations above the level of the NAAQS since 1992. There have been no reported violations of the annual PM–10 standard in Kootenai County.

EPA is requesting public comment on its proposal to expand the nonattainment area to ensure that the views of all those interested in the proposed redesignation be considered.[3] The table below indicates how EPA is proposing to revise the PM–10

[3] Several comments in addition to the comment from the State of Idaho were received in response to EPA's September 22, 1992 proposal to redesignate the City of Coeur d'Alene nonattainment. The thrust of these comments is that there was no air quality problem in the City of Coeur d'Alene and that the area should not be redesignated. EPA's preliminary response to these comments is that available monitoring data, summarized in this notice and contained in the public docket, reveals PM–10 NAAQS violations in the area and supports the redesignation of the City of Coeur d'Alene and an expansion of the nonattainment area to include the rest of Kootenai County, excluding the Coeur d'Alene Indian Reservation. However, EPA will give full consideration to the comments submitted on EPA's September 22, 1992, proposal, as well as any additional comments submitted by these or other commenters, before taking final action on this proposal.

designation for a portion of Kootenai County, Idaho, in 40 CFR 81.313 from unclassifiable to nonattainment.

Designated area	Designation date	Designation type	Classification date	Classification type
Kootenai County (part)—The County of Kootenai excluding that portion located within the exterior boundary of the Coeur d'Alene Indian Reservation.	Proposing	Nonattainment	Proposing	Moderate.

EPA proposes that the Coeur d'Alene Indian Reservation be excluded from the nonattainment area because EPA currently has no evidence suggesting that air quality on the Reservation is in violation of the PM–10 NAAQS or that sources on the Reservation significantly contribute to PM–10 violations in nearby areas. Further, EPA's policy, which generally presumes PM–10 nonattainment boundaries to be concurrent with political boundaries, would weigh against including the Reservation as part of the Kootenai County nonattainment area or establishing the Reservation as its own nonattainment area in the absence of evidence that there is an air quality problem on the Reservation or that sources on the Reservation contribute significantly to violations on nearby State lands. Thus, EPA proposes, for purposes of this action, that the area of Kootenai County over which the State has regulatory authority govern the determination of political boundaries for the nonattainment area.[4] EPA specifically requests the State of Idaho, the Coeur d'Alene Tribe and the public to comment on the exclusion of the area within the exterior boundaries of the Coeur d'Alene Indian Reservation from the nonattainment area.

EPA notes that the State of Idaho and local governments in Kootenai County have made a joint commitment to develop and implement control measures for area sources of PM–10 in Kootenai County, such as agricultural field burning, open burning, residential woodburning and winter road sanding, beginning in September 1994 and no later than June 1995, regardless of EPA's final action on this proposed redesignation. EPA encourages the State to adopt any such control measures and submit them to EPA as part of the State Implementation Plan so that if they are federally approved, they will be federally enforceable. EPA will closely monitor the State's progress in curtailing PM–10 emissions and will consider such progress, any relevant submittals from the State and any federally-enforceable controls on PM–10 emissions in taking final action on this proposed redesignation.

The technical information supporting the redesignation request and the boundary selection are available for public review at the address indicated at the beginning of this notice.

IV. Implications of Today's Action

EPA is proposing to redesignate the County of Kootenai, excluding the area within the boundaries of the Coeur d'Alene Indian Reservation, from unclassifiable to nonattainment for PM–10. If Kootenai County, or a portion thereof, is redesignated nonattainment for PM–10 when EPA takes final action on today's proposal, then the area will be classified as "moderate" by operation of law (see section 188(a) of the Act). Areas designated nonattainment are subject to the applicable requirements of Part D, Title I of the Act. Within 18 months of the redesignation, the State would therefore be required to submit to EPA an implementation plan for the nonattainment area containing, among other things, the following provisions: (1) Provisions to assure that reasonably available control measures (including reasonably available control technology) will be implemented within four years of re-designation, (2) a permit program meeting the requirements of section 173 of the Act governing the construction and operation of new and modified major stationary sources, (3) either a demonstration (including air quality modeling) that the plan will provide for attainment of the PM–10 NAAQS as expeditiously as practicable, but no later than the end of the sixth calendar year after the area's designation as nonattainment, or a demonstration that attainment by such date is impracticable, (4) quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1) of the Act, toward timely attainment, and (5) provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors, unless EPA determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area (see, e.g., sections 188(c), 189(a), 189(c), 189(e) & 172(c) of the Act). EPA has issued detailed guidance on the statutory requirements applicable to moderate PM–10 nonattainment areas (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

If EPA ultimately redesignates any area as nonattainment in taking final action on this notice, EPA will establish a date by which the State must submit the contingency measures required by section 172(c)(9) of the Act (see 57 FR 13498 at 13510–12 and 13543–44). Section 172(b) provides that such date shall be no later than three years from the date of the nonattainment designation. EPA believes that 18 months provides a reasonable amount of time for the development of contingency measures. Thus, if EPA finalizes a nonattainment designation for this area, EPA would likely establish a schedule requiring that contingency measures be submitted with the other Part D

[4] Under Federal and EPA Indian policy, EPA treats Federally-recognized Indian tribes as sovereign authorities with the independent authority for Reservation affairs and not as political subdivisions of States. See April 29, 1994 Presidential Memorandum, "Government-to-Government Relations with Native American Tribal Governments," 59 FR 22,951 (May 4, 1994); "EPA Policy for the Administration of Environmental Programs on Indian Reservations" at p. 2 (November 8, 1984), reaffirmed by Administrator Carol M. Browner in a Memorandum issued on March 14, 1994; and 54 FR 43956 (Aug. 25, 1994) ("Indian Tribes: Air Quality Planning and Management"). Before EPA will recognize a State's attempt to regulate sources within the exterior boundaries of a reservation for purposes of a Clean Air Act program, the State must affirmatively establish that it has the legal authority to regulate such sources. See, e.g., 42 U.S.C. § 7410(a)(2)(E)(i) (each implementation plan must provide necessary assurances that the State will have adequate authority under State law to carry out such implementation plan); 42 U.S.C. § 7661a(b)(5) (State must demonstrate that it has adequate authority to issue and enforce permits for all sources required to have a permit under Title V); see also *Washington Department of Ecology* v. *EPA*, 752 F.2d 1467, 1472 (9th Cir. 1985) (upholding EPA's finding that the State offered no independent authority for claiming jurisdiction over Tribal lands and affirming EPA's associated disapproval of that portion of the State RCRA program covering Tribal lands).

requirements described above within 18 months from such designation.

V. Request for Public Comment

EPA is, by this notice, proposing that the PM–10 designation for Kootenai County, excluding the area within the exterior boundaries of the Coeur d'Alene Indian Reservation, be revised from unclassifiable to nonattainment. On September 22, 1992, EPA previously provided notice and opportunity for public comment on a proposed PM–10 nonattainment designation for the City of Coeur d'Alene, which is located within Kootenai County (see 57 FR 43846). In response to comments from the State of Idaho on that proposal, EPA is now providing an additional opportunity for public comment on the expansion of the boundaries to include all of Kootenai County, excluding the area within the exterior boundaries of the Coeur d'Alene Indian Reservation. EPA is requesting public comment on all aspects of this proposal including the appropriateness of the proposed designation and the scope of the proposed boundary. Written comments should be submitted to EPA at the address identified above by March 13, 1995.

VI. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare for proposed rules subject to notice and comment rulemaking an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities. 5 U.S.C. 603–604. The requirement for preparing such analysis is inapplicable, however, if the Administrator certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities (see 5 U.S.C. 605(b)). Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

The redesignation proposed in this notice does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the State must adopt new regulations, based on an area's nonattainment status, EPA will review the effect those actions have on small entities at the time the State submits those regulations. The Administrator certifies that the approval of the redesignation action proposed today will not have a significant economic impact on a substantial number of small entities.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this action from Executive Order 12866 review.

Authority: 42 U.S.C. 7401–7671g.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 28, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–699 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 21, 94, and 101

[WT Docket No. 94–148; FCC 94–314]

Microwave Fixed Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this action, the Commission proposed to simplify the rules for the common carrier and private operational fixed microwave services that are currently contained in separate Parts of the Commission's Rules, and to consolidate those rules into a new Part. The key objectives of this action are to restructure the fixed microwave rules so that they are easier for the public to understand and use, to conform similar rule provisions to the maximum extent possible, to eliminate redundancy, and to remove obsolete language from the Commission's Rules. The Commission is also reviewing the need for and impact of certain regulatory requirements and policies for the common carrier and private operational fixed microwave services.

DATES: Comments must be submitted on or before February 3, 1995. Reply comments must be submitted on or before February 21, 1995.

FOR FURTHER INFORMATION CONTACT: Robert James, Wireless Telecommunications Bureau, (202) 634–1706.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WT Docket No. 94–148, FCC 94–314, adopted December 9, 1994, and released December 28, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Summary of the Order

1. Common carrier microwave services and private operational fixed microwave services share many of the same frequency bands and use substantially the same equipment. As a result of recent changes that are discussed below, the interference standards, antenna standards, and coordination procedures for private and common carrier fixed microwave services have further converged. This rulemaking is an effort to conform filing, processing, operational, and technical requirements for services that are technically similar and, thereby, to gain significant economies and alleviate confusion to the public.

2. Communications services that use the microwave spectrum for fixed services include common carriers (currently regulated by Part 21 of the FCC Rules), common carrier multiple address systems (Part 22), broadcasters (Part 74), cable TV operators (Part 78), and private operational fixed users (currently regulated by Part 94). The radio frequency spectrum is allocated among these services on either a shared or an exclusive basis. When different service users have similar needs, they are sometimes required to share spectrum bands.

3. Of the services listed above, the common carrier and private operational fixed microwave users are the most similar in technical requirements and share the most frequency bands. The convergence of the common carrier and private operational fixed microwave technical standards has occurred over the last decade as a result of several rulemaking proceedings. See Second Report and Order in GEN Docket No. 79–188, 48 FR 50322 (1983); Third Report and Order in GEN Docket No. 82–334, 52 FR 07136 (1987); Third Report and Order in GEN Docket No. 82–243, 56 FR 34149 (1991); and First Report and Order in PR Docket No. 83–426, 50 FR 13338 (1985). Recently, a further convergence of these two services occurred as a result of the reallocation of five bands above 3 GHz

on a co-primary basis to the common carrier and private operational fixed microwave licensees that are relocating from the 1850–1990, 2110–2150, and 2160–2200 MHz bands (2 GHz bands) to accommodate Personal Communications Services (PCS) and other emerging technologies. See Second Report and Order in ET Docket No. 92–9, 58 Fed. Reg. 49220 (1993). Although the emerging technologies proceeding resolved all the technical issues necessary for this reallocation, there were other technical matters raised in the proceeding, which were not considered critical to the 2 GHz microwave users' relocation to other regions of the spectrum, that were left to be settled in a future proceeding.

4. Also, as a result of the emerging technologies spectrum reallocation and the resulting increase in frequency band-sharing, common carrier and private microwave industry members have united to develop joint interference standards and coordination procedures. For over a year, a subcommittee of the Telecommunications Industry Association's Fixed Point-to-Point Microwave Engineering Committee (TIA TR14.11 Interference Criteria Engineering Subcommittee) has held joint meetings with the National Spectrum Managers Association (NSMA), a group of frequency coordinators for Part 21 applicants, to determine interference criteria for Part 21 and Part 94 users. This collaboration has resulted in a revised TIA Telecommunications Systems Bulletin TSB 10–F, "Interference Criteria for Microwave Systems," (TSB 10–F) which was adopted by the microwave industry on May 31, 1994. Representatives from both the TIA fixed microwave group and the NSMA have met with Commission staff to discuss the benefits of common technical standards, processing procedures, and consolidated rules for common carrier and private operational fixed microwave users.

5. Another factor necessitating this proceeding is that the majority of the license application processing for the Part 21 and Part 94 microwave services is now being handled by the Wireless Telecommunications Bureau's Licensing Division in Gettysburg, Pennsylvania. Because the application processing for these services was formerly performed by different Commission offices, the processing practices and policies differed. See Public Notice, "New Application Processing Practices in the Common Carrier Point-to-Point Microwave and Broadcast Auxiliary Services," DA 93–77, January 27, 1993, 8 FCC Rcd. 775, (1993). This proceeding seeks to bring uniformity to the fixed microwave application processing procedures.

6. The Part 21 and Part 94 rules need to be consolidated, conformed, and updated to allow the microwave industry to operate as efficiently as possible without being hampered by obsolete regulations. Because of the commonality of major portions of the existing common carrier and private operational fixed microwave rules and the industry move to create common standards and coordination procedures, we believe it would be beneficial to consolidate these rules into one comprehensive part. At the same time, this proceeding provides us with an opportunity to improve the organization of the microwave rules, to simplify them, to eliminate unnecessary language, and to make other substantive amendments.

We expect that a new consolidated Part 101 will result in major benefits. First, the public will benefit because of a much simplified and streamlined licensing process. Second, the improvements in processing efficiency will save scarce Commission resources and free staff time to improve service to the public. Third, we expect the proposed rules to encourage more efficient use of the microwave spectrum. Finally, common technical standards for common carrier and private microwave equipment may lead to economies of scale in microwave equipment production and, thus, lower equipment prices to users.

7. Proposed Part 101 is approximately 65 percent the volume of the current common carrier and private radio fixed microwave rules. This reduction results from the elimination of repetitive sections such as definitions, application procedures, and processing procedures, the elimination of unnecessary language, and the consolidation of the remaining rules. In the paragraphs below we address the proposed changes for each subpart and section of the rules, other than proposed changes that are editorial in nature or that concern only renumbering of existing rule language.

8. We welcome comments on whether the scope of our consolidation effort is appropriate. We ask that comments identify the subject of their remarks, whenever possible, by citing the proposed section number of a rule (with cross-reference to the old rule as necessary). This identification will expedite and simplify our review of the comment on the many proposals contained in this Notice.

General Requirements

9. *Definitions.* We propose to make minor editorial changes in the definitions where appropriate. In instances where a definition now appears in more than one rule section and is phrased inconsistently, we propose to use the phrasing that we believe to be the most precise. In cases where a definition appears in Part 2 of the Rules as well as in another part, the proposed Part 101 definition adopts the Part 2 definition in order to conform with either the International Telecommunication Convention or the international Radio Regulations. Additionally, we propose to change the name and all relevant terms related to the Private Digital Termination System service to match the name and terms of the identical Common Carrier Digital Electronic Message Service. See proposed Section 101.3.

Applications and Licenses

10. *General Application Requirements.* We propose to eliminate several application showings that are currently required of common carrier microwave applicants under Part 21 of the rules, but which are not essential for processing these applications. We request comments on each of these proposals. First, we propose to eliminate the financial showing required under §§ 21.13(a)(2) and 21.17. Lack of financing has generally not been a problem in the common carrier services being transferred to Part 101, and we consider a certification of financial ability unnecessary in these services. Second, we propose eliminating the public interest showing required under § 21.13(a)(4). We tentatively conclude that the public interest will generally be served by granting applications in these services that meet all the Commission's other rules and requirements, and that separate statement form the applicant pursuant to § 21.13(a)(4) is unnecessary We also note that the Commission can still request a separate public interest showing if this is deemed necessary in any particular case. Third, we propose eliminating the requirement that applicants submit a copy of any franchise or other authorization when such authorizations are required by local law. See § 21.13(f). We request comments on whether we should replace this application showing with a rule, similar to that contained in Part 22 of the rules, stating that applicants must comply with all local franchise or authorization requirements, obtain any local authorizations by the end of the construction period, and notify the

Commission if local authorization is denied. See § 22.13(f). Fourth, we propose eliminating showings regarding control over the station, see § 21.13(g), and maintenance procedures, see § 21.15(e). We request comments on whether we should replace these showings with a general rule describing a licensee's responsibilities for maintenance and control of the station and requiring that maintenance contracts must be in writing. See § 22.205. We also request comments on whether we should continue to require the address and telephone number of a maintenance center or person responsible for technical operation, see § 21.15(e)(1) and Item 18 of FCC Form 494 ("Application for New or Modified Microwave Radio Station License Under Part 21"), or whether this requirement is unnecessary and should also be deleted. Fifth, we propose to eliminate the vertical profile sketch, see § 21.15(c), and the site availability showing, see § 21.15(a), as these showings are not necessary for processing and lack of site availability has not been a problem in the common carrier services being transferred to Part 101. Sixth, we request comments on whether the public interest showing currently required of applicants in the Point-to-Point Microwave Radio Service pursuant to § 21.706(a) should be retained or deleted. We also propose to allow electronic filing for all fixed microwave services authorized under Part 101 as is currently allowed for private land mobile applications. See proposed Sections 1.743, 1.913, and 101.37. Finally, we request comments on what requirements we should adopt regarding retention or posting of the station license. See *e.g.* §§ 21.201, 22.201, and 94.107.

11. *Licensee Qualifications and Consummation of Assignments and Transfers.* Under Part 21, applicants and licensees are currently required to provide ownership and character information on FCC Form 430 ("Licensee Qualification Report"), see § 21.11(a), and to disclose the real party in interest behind the application pursuant to § 21.13(a)(1). See also § 21.305. We request comment on precisely what ownership (including partnership) and character information we should continue to require of common carrier applicants and licensees under the new Part 101. In addition, under § 21.11 (d), (e), and (f), applicants are required to complete assignments or transfers of control within 45 days of the date of authorization and to notify the Commission within 10 days of consummation. In the common carrier services being transferred to Part 101, applicants frequently request extensions of time to complete assignments or transfers. Such requests are routinely granted. Based on this experience, we request comment on whether the time for consummation of assignments and transfers should be extended to 360 days or longer, or whether applicants should be allowed merely to notify the Commission of failure to consummate, rather than requiring applicants to file, and the Commission to grant, repeated extension requests. We also propose to eliminate the requirement for common carriers to notify the Commission within 10 days of consummation.

12. *Commencing Operation.* With regard to the requirement for stations to be placed in operation within a certain period after the date of grant, it has been common practice among some applicants to request and obtain a modification of their license and thereby obtain additional time within which to be in operation. Some applicants repeated this procedure several times, thereby extending their operational deadline far beyond the period contemplated by the rules. In response to these perceived abuses, the Commission's Private Radio Bureau Licensing Division issued a Public Notice clarifying that a station must be placed in operation within the time required by current § 94.51 irrespective of whether the licensee had been granted an amendment to its station authorization. We propose to codify this longstanding interpretation of our rule. See proposed Section 101.63.

13. Although current § 94.51 requires that private fixed microwave stations be placed in operation within a time certain, it does not define what constitutes operation for purposes of the rules. In the past, several applicants have argued that the transmission of color bars or other types of strictly test signals satisfies the rule's requirement of being in operation. This interpretation has been uniformly rejected by the staff. Applicants have also argued that the § 94.51 requirement of being in operation is satisfied as long as the station is simply capable of transmitting intelligence. The staff, however, has consistently informed the public that the mere capability of transmission does not satisfy the requirement of being in operation. We are proposing in Section 101.67(d) to make it clear that only the transmission of operational signals is sufficient to satisfy the "in operation" requirement and that neither the capability of transmission nor the transmission of color bars or similar test signals satisfies the requirement to be in operation. We are proposing to apply this requirement to both private and common carrier fixed microwave users, as the underlying basis for this proposal, efficient spectrum usage, applies equally to both groups. We request comment on whether this requirement is necessary or applicable for common carrier licensees under proposed Part 101.

Technical Standards

14. *Frequency Availability Chart.* A new frequency availability chart has been placed in the proposed rules (proposed Section 101.101) for the convenience of licensees and applicants. In addition to showing the frequency availability for private and common carrier users, it also shows other services, such as broadcast, cable, PCS, MDS, and ITFS, that share the same bands. More specific technical information for the common carrier and private microwave services are contained in rule Subparts G through J.

15. *Coordination Procedures and Interference Standards.* In the Second Report and Order in ET Docket 92–9, the Commission adopted the current Part 21 coordination procedures and the current Part 94 interference standards for the relocated common carrier and private operational fixed microwave users. As stated above and in the Second Report and Order, the common carrier and private microwave industry members have united to develop joint interference standards and coordination procedures. We propose, therefore, to apply the same coordination procedures and interference standards to all bands for both private and common carrier fixed microwave services. In addition, we propose to modify the present coordination procedures and interference protection standards to be consistent with the TIA industry standards. See proposed §§ 101.103 and 101.105.

16. *Transmitter Power Limitations.* In addition to merging the transmitter power table from Parts 21 and 94, we also propose to eliminate the values for maximum allowable transmitter power, while retaining the values for Equivalent Isotropic Radiated Power (EIRP). See proposed § 101.113. We are proposing to allow a maximum EIRP of +55 dBW for all point-to-point microwave bands from 4 GHz to 40 GHz, to allow for increased path reliability on long paths and to set a common standard for all bands. See proposed § 101.113. This proposal is based partly on TIA recommendations. Comsearch also proposed a maximum allowable EIRP of +55 dBW in an earlier

proceeding. Comsearch points out that in Part 25 of the Rules, the terrestrial station EIRP used to determine frequency coordination distance in the 4, 6, and 11 GHz bands is +55 dBW, which corresponds with the International Telecommunications (ITU) Radio Rules and Regulations. The Commission decided not to act on that portion of Comsearch's petition, instead deferring consideration of maximum authorized power, antenna standards, and ATPC to a future proceeding. We seek comment on whether increasing the transmitter power limitations as proposed would have any negative impact on any radio users.

17. *Automatic Transmitter Power Control.* ATPC is a feature of digital microwave radio that automatically adjusts transmitter output power based on path fading detected at the far-end receiver(s). In the emerging technologies/relocation proceeding, commenters proposed that ATPC should be explicitly authorized in the rules. In response, the Commission clarified in the rules that ATPC is permitted up to a 3 dB increase in power and encouraged industry groups to explore in greater detail under what circumstances ATPC should be authorized and whether a greater increase in power than 3 dB would be appropriate. We have reviewed the ATPC guidelines in TSB 10–F and are still uncertain of the necessity of including explicit provisions for it use in the rules. We seek comment on whether it is necessary to have TIA's recommendations for ATPC implementation included in our Rules. TSB 10–F contains provisions for up to three different power level specifications: maximum transmit power, coordinated transmit power, and nominal transmit power. We also seek comment on how these recommendations for ATPC should be implemented under our current licensing scheme, which authorizes only a single operating power level on each license, with that power being the one used in the coordination process. If the use of ATPC as described in TSB 10–F were to be permitted, what changes would the Commission have to make to its forms, licenses, and data base?

18. *Antenna Standards.* All antenna standards for Part 101 services have been consolidated into one rule section (proposed section 101.115). Few substantive changes to the antenna standards are proposed. In the Docket 92–9 proceeding, commenting parties raised concerns about our existing antenna standards, stating that the category A standards should be updated and that a new detailed definition of congested areas should be specified to maximize efficiency and permit full use of available bands. The Commission does not have sufficient information at this time to propose specific changes to these standards.

Developmental Authorizations

19. We propose to eliminate the general requirement that applicants report on any patents applied for as a result of a developmental authorization. This information is in the public domain when the patent is granted, and our requirement is, therefore, duplicative. We also propose to modify the language concerning the confidentiality of developmental reports to make it consistent with our general rules on requests for confidentiality. The consolidated rules continue the prohibition on providing service for hire with a developmental grant now placed on common carriers and extends the prohibition against commercial operation of a developmental grant to private radio operations.

20. In this Notice, we have proposed to amend the regulations for the common carrier and private operational fixed microwave services by consolidating and simplifying their present rule parts, contained respectively in Parts 21 and 94 of the Commission's Rules, to create a new Part 101. Our specific proposals are contained in the rules appendix. We solicit comment on them. We also invite comment on any additional changes that can make the Commission's microwave rules more "user friendly" and help the staff provide improved service to the public.

21. *Initial Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

A. Reason for Action

This rulemaking proceeding is initiated to obtain comment regarding consolidation and simplification of the microwave rules not contained in parts 21 and 94 of title 47 of the Code of Federal Regulations.

B. Objectives

This action would reduce redundancy now contained in the rules and remove obsolete rules and language. It would also simplify and clarify the requirements for filing license and other authorization applications, the processing of applications and other requests, and the operation of common carrier and private operational fixed microwave stations.

C. Legal Basis

The proposed action is authorized by Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

D. Description, Potential Impact, and Number of Small Entities Affected

This reorganization and revision of the common carrier and private operational fixed microwave rules will reduce the volume of the rules by approximately 25 percent and make them easier to use and understand. Both the reduction in volume and consolidation of the rule should improve their usefulness as they will be more easily understood by, and save research time for, the public. The benefits would accrue to all interested parties, large and small entities alike. We invite specific comment by interested parties on the likely magnitude of the impact on small radio manufacturers and suppliers.

E. Reporting, Record Keeping, and Other Compliance Requirements

There should be an overall decrease in reporting, record keeping, and other compliance requirements. The use of electronic filing alone should greatly reduce the amount of paperwork required to be filed and increase speed of service.

F. Federal Rules That Overlap, Duplicate or Conflict With These Rules

None.

G. Significant Alternatives Minimizing Impact on Small Entities Consistent With Stated Objectives

The objective of this proceeding is to minimize confusion, research time, record keeping and recording for users of microwave radio frequencies. We are unaware of other alternatives that would be as desirable. We solicit comments on this point.

22. *Other Matters.* This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

23. This action is taken pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i) and 303(r).

24. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before February 3, 1995, and reply comments on or before February 21, 1995. All relevant and timely comments will be

considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers.

47 CFR Part 2

Communications equipment.

47 CFR Part 21

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

47 CFR Part 94

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 101

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–647 Filed 1–10–95; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 73

[MM Docket No. 87–455; RM–5899, RM–6223, RM–6224, RM–6225, RM–6226, RM–7111]

Radio Broadcasting Services; Perry, Cross City, Holiday, Avon Park, Sarasota, and Live Oak, FL, and Thomasville, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document grants a Motion for Severance filed by Women in Florida Broadcasting, Inc. concerning the action in this proceeding upgrading Station WDFL, Channel 292A, Cross City, Florida, to specify operation on Channel 295C1. See 54 FR 30549 (July 21, 1989).

EFFECTIVE DATE: January 11, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket 87–455, adopted December 27, 1994, and released January 6, 1995. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center(Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this action may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–645 Filed 1–10–95; 8:45 am]

BILLING CODE 6712–01–F

---

47 CFR Part 80

[WT Docket No. 94–153; FCC 94–328]

Designate Prince William Sound as a Radio Protection Area for Mandatory Vessel Traffic Services (VTS)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rules to add Prince William Sound to the United States Coast Guard (Coast Guard) designated radio protection areas for mandatory VTS and establish marine VHF Channel 11 as the VTS frequency for Prince William Sound. This action is in response to a request from the Coast Guard. The designation of Prince William Sound as a VTS area will allow the Coast Guard to manage vessel traffic in a more efficient manner.

DATES: Comments must be submitted on or before February 24, 1995; reply comments on or before March 13, 1995.

FOR FURTHER INFORMATION CONTACT: James Shaffer, (202) 418–0680, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making FCC 94–328, adopted December 16, 1994, and released January 3, 1995. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M. Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, Suite 140, Washington, DC 20037, telephone (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. The Coast Guard filed a petition (RM–8199), Public Notice No. 1932, requesting that the Commission amend Part 80 of the Rules, 47 CFR part 80, to add Prince William Sound to the Coast Guard designated radio protection areas for mandatory VTS and establish marine VHF Channel 11 (156.550 MHz) as the VTS frequency for Prince William Sound.

2. As a result of the Oil Pollution Act of 1990, Pub. L. 101–380, 104 Stat. 484, the Coast Guard plans to implement a mandatory Automated Dependent Surveillance (ADS) system for cargo ships, *e.g.* oil tankers, that operate in Prince William Sound. The ADS will operate as part of the proposed VTS system and is scheduled to begin operation in July 1994. An ADS system works as follows: the vessel determines its position using a highly accurate differential GPS receiver and automatically transmits its position, identification and the time of the position to the Coast Guard using digital selective calling (DSC) techniques on VHF marine Channel 70 (156.515 MHz). The Coast Guard needs Channel 11 to supplement Channel 70 ADS use and for voice VTS communications in support of vessel traffic control operations.

3. Designating Prince William Sound as a VTS area will allow the Coast Guard to manage vessel traffic in that area more efficiently and protect the marine environment by preventing vessel collisions and groundings. We are proposing, therefore, to add Prince William Sound to the Commission's list of designated radio protection areas for VTS systems specified in Section 80.383. The radio protection area will be defined as "The rectangle between North latitudes 61 degrees 17 minutes and 59 degrees 22 minutes and West longitudes 149 degrees 39 minutes and 145 degrees 36 minutes."

4. Additionally, we propose to permit private coast stations currently authorized to operate on Channel 11 within the proposed Prince William Sound VTS area to continue operation until the end of their current license terms on a noninterference basis. The staff will help affected licensees find suitable alternative channels. No fee will be charged for affected stations that apply for modification for an alternative channel before their next renewals.

5. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The change proposed herein will have a beneficial effect on the marine community by allowing the Coast Guard to manage vessel traffic in the Prince William Sound area in a more efficient manner. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601–612 (1980).

List of Subjects in 47 CFR Part 80

Communications equipment, Marine Safety.

Federal Communication Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–646 Filed 1–10–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Parts 923 and 970

RIN 1991–AB05

Acquisition Regulation; Acquisition and Use of Environmentally Preferable Products and Services

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) proposes to amend the Department of Energy Acquisition Regulation (DEAR) to provide for the acquisition and use of environmentally preferable products and services.

DATES: Written comments must be received on or before March 13, 1995.

ADDRESSES: Comments on the proposed rule should be addressed to the U.S. Department of Energy, Procurement Policy Division (HR–521.1), Attention: P. Devers Weaver, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: P. Devers Weaver, Procurement Policy Division (HR–521.1), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585; telephone 202–586–8250.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, Public Law 89–272, 42 U.S.C. 6962, requires procuring agencies to establish a preference for the acquisition of products made with recovered materials. The Environmental Protection Agency (EPA) has promulgated guidelines to implement section 6002 of RCRA. These guidelines, for products that are designated "environmentally preferable," including retread tires, re-refined lubricating oil, and recycled paper, are set forth at Title 40 of the Code of Federal Regulations, Parts 247 through 253. Also, Executive Order 12873 of October 20, 1993, Federal Acquisition, Recycling, and Waste Prevention, requires management and operating contractors in their contracting practices to comply with RCRA requirements that are applicable to Federal agencies. Implementing RCRA, the Office of Federal Procurement Policy on November 2, 1992, issued its Policy Letter No. 92–4, Procurement of Environmentally-Sound and Energy Efficient Products.

RCRA requires all Federal agencies to develop "affirmative procurement programs" (APPs) to assure the purchase of materials covered by the EPA guidelines. DOE issued its APP in May 1994 in the document "Affirmative Procurement Program For Products Containing Recovered Materials," providing DOE guidance for compliance with RCRA and the Executive Order.

The Department proposes to amend the DEAR to provide a contract clause, Acquisition and Use of Environmentally Preferable Products and Services. The clause is to be incorporated in DOE management and operating contracts, to promote the acquisition and use of environmentally preferable products and services, in accordance with specified Department of Energy and other Federal policies.

II. Section-by-Section Analysis

1. Section 923.471 describes DOE policy to acquire items composed of the highest percentage of recovered/recycled materials without adversely affecting performance requirements.

2. To subpart 970.23, section 970.2304 is added.

Section 970.2304–1 extends the requirements at subpart 923.4 on the acquisition and use of environmentally preferable products and services to management and operating contracts.

3. Sections 970.5204–YY and 970.2304–2 provide a clause and a requirement for the use of the clause, Acquisition and Use of Environmentally Preferable Products and Services. The clause provides for compliance with Executive Order 12873, certain RCRA and EPA requirements, and certain DOE requirements involving the acquisition and use of environmentally preferable products and services. Paragraph (a)(4) of the clause at 970.5204–YY refers to an "Affirmative Procurement Program" guidance document. A copy of this guidance document is available, without charge, upon informal written request to: Director, Waste Minimization Division (EM–334), U.S. Department of Energy, Washington, DC 20585–0002. (Please do not use telephone or fax to request the document.)

III. Public Comments

DOE invites interested persons to participate by submitting data, views, or arguments with respect to the proposed DEAR amendments set forth in this rule. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this rule. All comments received will be available for public inspection during normal work hours. All written comments received by the date indicated in the **DATES** section of this notice will be carefully assessed and fully considered prior to the effective date of these amendments as a final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to its determination in accordance with 10 CFR 1004.11.

IV. Procedural Requirements

A. Review Under Executive Order 12866

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

B. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Pursuant to Subpart D of 10 CFR Part 1021, National Environmental Policy Act Implementing Procedures, the Department of Energy has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment. This rule establishes a clause and practices for the purchase of goods and services and does not require preparation of an environmental impact statement or an environmental assessment under categorical exclusion A6 of Subpart D.

C. Review Under the Paperwork Reduction Act

To the extent that new information collection or recordkeeping requirements are imposed by this rulemaking, they are provided for under Office of Management and Budget paperwork clearance package No. 1910–0300.

D. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

E. Review Under Executive Order 12612

Executive Order 12612 entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The Department of Energy has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

F. Public Hearing Determination

DOE has concluded that the proposed rule does not involve any significant issues of law or fact. Therefore, consistent with 5 U.S.C. 553, DOE has not scheduled a public hearing.

G. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that this rule meets the requirements of sections 2(a) and 2(b) of Executive Order 12778.

List of Subjects in 48 CFR Parts 923 and 970

Government procurement.

Issued in Washington, D.C. on January 6, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set forth in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 923—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

1. The authority citation for Part 923 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. New subpart 923.4 is added as follows:

Subpart 923.4—Use of Recovered Materials

923.471 Policy.

The DOE policy is to acquire items composed of the highest percentage of recovered/recycled materials practicable (consistent with published minimum content standards), without adversely affecting performance requirements; consistent with maintaining a satisfactory level of competition; and consistent with maintaining cost effectiveness and not having a price premium paid for products containing recovered/recycled materials.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

3. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

4. Section 970.2304 is added to read as follows:

970.2304 Use of Recovered/Recycled Materials.

970.2304–1 General.

The policy for the acquisition and use of environmentally preferable products and services is described at 48 CFR part 923, subpart 923.4.

970.2304–2 Contract clause.

The contracting officer shall insert the clause at 970.5204–YY, Acquisition and Use of Environmentally Preferable Products and Services, in management and operating contracts.

5. To subpart 970.52 add section 970.5204–YY as follows:

970.5204–YY Acquisition and Use of Environmentally Preferable Products and Services.

As prescribed in 970.2304–2, insert the following clause in management and operating contracts.

Acquisition and Use of Environmentally Preferable Products and Services

(a) In the performance of this contract, the Contractor shall comply with the requirements of the following issuances:

(1) Executive Order 12873 of October 20, 1993, entitled "Federal Acquisition, Recycling, and Waste Prevention,"

(2) Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6962, Pub. L. 94–580, 90 Stat. 2822),

(3) Title 40 of the Code of Federal Regulations, Subchapter I, Parts 247 through 253 (Solid Wastes, Guidelines for the procurement of certain products that contain recovered/recycled materials) and such other Subchapter I Parts or Comprehensive Procurement Guidelines as the Environmental Protection Agency may issue from time to time as guidelines for the procurement of products that contain recovered/recycled materials,

(4) "U.S. Department of Energy Affirmative Procurement Program for Products Containing Recovered Materials" and related guidance document(s), as they are identified in writing by the Department.

(b) The Contractor shall prepare and submit reports on matters related to the use of environmentally preferable products and services from time to time in accordance with written direction (e.g., in a specified format) from the Contracting Officer.

(c) In complying with the requirements of paragraph (a), the Contractor shall coordinate its concerns and seek implementing guidance on Federal and Departmental policy, plans, and program guidance with the DOE recycling point of contact, who shall be identified by the Contracting Officer. Reports required pursuant to paragraph (b) shall be submitted through the DOE recycling point of contact.

(End of clause)

[FR Doc. 95–681 Filed 1–10–95; 8:45 am]

BILLING CODE 6450–01–U

Notices

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States.

DATES: Thursday, January 19, 1995, at 9:30 a.m.

LOCATION: Office of the Chairman, Administrative Conference of the United States, Suite 500, 2120 L Street NW., Washington, D.C. (Library, 5th Floor).

FOR FURTHER INFORMATION CONTACT: Deborah S. Laufer, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee will meet to continue discussion of when federal government lawyers and other government employees may participate in public service activities. There are possible restrictions in the Code of Professional Responsibility, in agency regulations governing outside activities, and in government-wide rules concerning use of government instrumentalities.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should call the Office of the Chairman of the Administrative Conference at least one day before the meeting. The committee chair, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available upon request.

January 5, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–765 Filed 1–10–95; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

RIN: 0584–AB97

Food Stamp Program: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Consumer Service, USDA.

ACTION: General notice.

SUMMARY: By this notice, the Department of Agriculture is updating the maximum food stamp allotments for participating households in Alaska, Hawaii, Guam, and the Virgin Islands. These annual adjustments, required by law, take into account changes in the cost of food and statutory adjustments.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Regulations Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, Alexandria, Virginia 22302, (703) 305–2496.

SUPPLEMENTARY INFORMATION

Publication

As required by law, State agencies implemented this action on October 1, 1994 based on advance notice of the new amounts. Based on regulations published at 47 FR 46485 (October 19, 1982) annual statutory adjustments to the maximum allotment levels, income eligibility standards, and deductions are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Executive Order 12866

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

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule and related Notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

Ellen Haas, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through increases in food stamp benefits issued to participating households. However, this money will be distributed among the relevant area's food vendors as the food stamps are used by households, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to review by the Office of Management and Budget.

Background

Thrifty Food Plan (TFP) and Allotments

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets most dietary standards. The cost of the TFP is adjusted monthly to reflect changes in the costs of the food groups.

TFPs for Alaska and Hawaii are based upon an adjusted average for the six-month period that ends with June 1994. Since the Bureau of Labor Statistics (the source of food price data) no longer publishes monthly information to compute Alaska and Hawaii TFPs, the adjusted average provides a proxy for actual June 1994 TFP costs. The adjusted average is equal to January-June 1994 TFP costs for Alaska and Hawaii increased by the average percentage difference between the cost of the TFP in Alaska and Hawaii in June and the January-June average from 1976 through 1986 (a 1.53 percent increase over January-June costs in Alaska and a 1.82 percent increase in Hawaii).

For the period January through June 1994, the average cost of the TFP was $459.90 in Alaska, a decrease since last year, and $615.30 in Hawaii. The proxies for actual June 1994 TFP costs were $466.94 in Alaska and $626.50 in Hawaii. The June 1994 cost of the TFP was $553.20 in Guam and $482.50 in the Virgin islands.

The TFP is also the basis for establishing food stamp allotments. Food stamp allotments are adjusted periodically to reflect changes in food cost levels. Section 3(o)(11) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2012(o)(11)) provides for an adjustment on October 1, 1994, based upon 103 percent of the June 1994 cost of the TFP for a family of four persons consisting of a man and woman ages 20–50 and children ages 6–8 and 9–11.

The maximum food stamp benefit or allotment is paid to households which have no net income. For households which have some income, their allotment is determined by reducing the maximum allotment for their household size by 30% of the household's net income. To obtain the maximum food stamp allotment for each household size, the TFP costs for the four-person household were increased by 3 percent, divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar.

Because the decrease in the Alaska TFP would have caused a subsequent drop in maximum food stamp allotments, on October 13, 1994, the President signed into law P.L. 103–345. This law prohibits the Secretary from reducing food stamp allotments for Alaska on October 1, 1994 based on a TFP cost that was lower than the cost of the TFP for Alaska in June 1993. This law is effective September 30, 1994. As a result of this action, the food stamp allotments for Alaska published in this notice are the same as last year's.

Pursuant to section 3(o)(3) of the Food Stamp Act (7 U.S.C. 2012(o)(3), maximum food stamp benefits for Guam and the Virgin Islands cannot exceed those in the 50 States and D.C., so they are based upon the lower of their respective TFPs or the TFP for rural II Alaska. In addition, the urban Alaska allotment is the higher of the allotment that was in effect in urban areas on October 1, 1985 or 100.79 percent of the adjusted Anchorage TFP (see 50 FR 18456, dated May 1, 1984, and 51 FR 16281, dated May 2, 1986).

The following table shows new allotments for Alaska, Hawaii, Guam, and the Virgin Islands.

MAXIMUM ALLOTMENT AMOUNTS [1]—OCTOBER 1994, AS ADJUSTED

Household size	Urban Alaska [2]	Rural I Alaska [3]	Rural II Alaska [4]	Hawaii	Guam [5]	Virgin Islands [5]
1	$147	$188	$229	$193	$170	$149
2	271	345	420	354	313	273
3	388	495	602	508	448	391
4	492	628	765	645	569	496
5	585	746	908	766	767	590
6	702	895	1090	919	811	708
7	776	990	1204	1016	897	782
8	887	1131	1377	1161	1025	894
Each additional member	+111	+141	+172	+145	+128	+112

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, a 1.03 percent increase in the TFP and rounding, except Alaska which by P.L. 103–345 has been held at the 1993–94 levels.
[2] These levels are 100.79 percent of the Anchorage TFP, as adjusted.
[3] These levels are 128.52 percent of the Anchorage TFP, as adjusted.
[4] These levels are 156.42 percent higher than the Anchorage TFP, as adjusted.
[5] Adjusted to reflect changes in the cost of food in the 48 States and DC, which correlate with price changes in these areas. Maximum allotments in these areas cannot exceed those in rural II Alaska.

Maximum allotments for the 48 States and DC were published in a separate notice in the **Federal Register**. These adjustments were announced sooner than the adjustments for Alaska, Hawaii, Guam and the Virgin Islands because the data to accomplish the update for the 48 States and DC were available sooner than the data for the other areas covered by this notice.

(7 U.S.C. 2011–2032)

Dated January 4, 1995.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 95–637 Filed 1–10–95; 8:45 am]

BILLING CODE 3410–30–U

RIN: 0584–AB96

Food Stamp Program: Maximum Allotments for the 48 States and D.C., and Income Eligibility Standards and Deductions for the 48 States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Consumer Service, USDA.

ACTION: General notice.

SUMMARY: The purpose of this notice is to update for Fiscal Year 1995: (1) the maximum allotment levels, which are the basis for determining the maximum amount of food stamps which participating households receive, (2) the gross and net income limits for food stamp eligibility which certain households may have, (3) the standard deduction available to certain households, and (4) the homeless household shelter expense. These adjustments, required by law, take into account changes in the cost of living and statutory adjustments.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Regulations Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, Alexandria, Virginia 22302, (703) 305–2496.

SUPPLEMENTARY INFORMATION

Publication

As required by law, State agencies must implement this action on October 1, 1994 based on advance notice of the new amounts. In accordance with regulations published at 47 FR 46485–46487 (October 19, 1982), annual statutory adjustments to the maximum allotment levels, income eligibility

standards, and deductions are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Executive Order 12866

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

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

Ellen Haas, the Under Secretary for Food, Nutrition, and Consumer Services, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

Income Eligibility Standards

The eligibility of households for the Food Stamp Program, except those in which all members are receiving public assistance (PA) or supplemental security income benefits (SSI), is determined by comparing their incomes to the appropriate income eligibility standards (limits). Households containing an elderly or disabled member need to have net incomes below the net income limits, while households which do not contain an elderly or disabled member must have net incomes below the net income limit *and* gross incomes below the gross income limit.

Households in which all members are receiving PA or SSI are categorically eligible; their incomes do not have to be below the income limits.

In addition, elderly individuals (and their spouses) who are unable to prepare meals because of certain disabilities, may be considered separate households, even if they are living and eating with another household. 7 U.S.C. Sec. 2012(i). The Food Stamp Act limits separate household status to those persons who meet both of the following requirements:

(1) Their own income may not exceed the net income eligibility standards, and

(2) The income of those with whom they reside may not exceed 165 percent of the poverty line.

The net and gross income limits are derived from the Federal income poverty guidelines. The net income limit is 100 percent of the guidelines; the gross income limit is 130 percent of the guidelines. The guidelines are updated annually. Based on that update, the Food Stamp Program's income eligibility standards are updated annually. The effective date of October 1 is required by the Food Stamp Act.

The revised income eligibility standards are as follows:

FOOD STAMP PROGRAM OCTOBER 1, 1994–SEPTEMBER 30, 1995

Household size	48 States [1]	Alaska	Hawaii
Net Monthly Income Eligibility Standards (100 Percent of Poverty Level)			
1	$614	$767	$706
2	820	1,025	944
3	1,027	1,284	1,181
4	1,234	1,542	1,419
5	1,440	1,800	1,656
6	1,647	2,059	1,894
7	1,854	2,317	2,131
8	2,060	2,575	2,369
Each additional member	+207	+259	+238
Gross Monthly Income Eligibility Standards (130 Percent of Poverty Level)			
1	$798	$997	$918
2	1,066	1,333	1,227
3	1,335	1,669	1,536
4	1,604	2,005	1,844
5	1,872	2,340	2,153
6	2,141	2,676	2,462
7	2,410	3,012	2,771
8	2,678	3,348	3,079
Each additional member	+269	+336	+309
Gross Monthly Income Eligibility Standards for Households Where Elderly Disabled Are a Separate Household (165 Percent of Poverty Level)			
1	$1,012	$1,265	$1,165
2	1,353	1,692	1,557
3	1,694	2,118	1,949
4	2,035	2,544	2,341
5	2,376	2,970	2,733
6	2,717	3,397	3,124
7	3,058	3,823	3,516
8	3,399	4,249	3,908

FOOD STAMP PROGRAM OCTOBER 1, 1994–SEPTEMBER 30, 1995—Continued

Household size	48 States[1]	Alaska	Hawaii
Each additional member	+341	+427	+392

[1] Includes District of Columbia, Guam, and the Virgin Islands.

Thrifty Food Plan (TFP) and Allotments

The TFP is a plan for the consumption of foods of different types (food groups) that households might use to provide nutritious meals and snacks for household members. The plan suggests amounts of food for men, women, and children of different ages, and it meets dietary standards. The cost of the TFP is adjusted monthly to reflect changes in the costs of the food groups.

The TFP is also the basis for establishing food stamp allotments. Nationally, food stamp allotment levels are adjusted periodically to reflect changes in food cost levels. Section 3(o)(11) of the Food Stamp Act (7 U.S.C. Sec. 2012(o)(11)), provides for an adjustment on October 1, 1994, based upon 103 percent of the June 1994 cost of the TFP for a family of four persons consisting of a man and woman ages 20–50 and children ages 6–8 and 9–11. In June 1994, the cost of the TFP was $375.30 in the 48 States and D.C.

To obtain the maximum food stamp benefit for each household size, June 1994 TFP costs for the four-person household (of $375.30) were increased by 3 percent, divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar. The maximum benefit, or allotment, is paid to households which have no net income. For households which have some income, the individual household's allotment is determined by reducing the maximum allotment for the household's size by 30 percent of the individual household's net income.

The following tables show the new allotments for the 48 States and D.C.

ALLOTMENT AMOUNTS[1]—OCTOBER 1994 AS ADJUSTED

Household size	48 States and D.C.
1	$115
2	212
3	304
4	386
5	459
6	550
7	608
8	695
Each additional person	+87

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, a 3 percent increase in the TFP and rounding.

Minimum Benefit

Pursuant to Section 8(a) of the Food Stamp Act, the $10 minimum monthly benefit provided to all one- and two-person households must be adjusted on each October 1 to reflect the percentage change in the TFP for the 12-month period ending the preceding June, with the result rounded to the nearest $5. In order to implement this provision of the law, the minimum benefit is adjusted each year as follows: (1) the percentage change in the TFP from June of the previous year to June of the current year (prior to rounding) is calculated; (2) this percentage change is multiplied by the previous "unrounded" minimum benefit to obtain a new unrounded benefit amount; and (3) the new unrounded minimum benefit is then rounded to the nearest $5 in accordance with the statutory provisions.

The unrounded cost of the TFP was $364.895 in June 1993 and $375.3158 in June 1994. The change from June 1993 to June 1994 is 1.028558 percent, which when multiplied by $11.24974, the unrounded minimum benefit in Fiscal Year 1993, results in a new unrounded minimum benefit of $11.56999. Rounded to the nearest $5, the minimum benefit for Fiscal Year 1995 is $10.

Deductions

Food stamp benefits are calculated on the basis of an individual household's net income. Deductions serve to lower household net income and thus to increase household benefits. When a household's net income decreases, its food stamp benefits increase.

Adjustment of the Standard Deduction

Section 5(e) of the Food Stamp Act provides that, in computing household income, households shall be allowed a standard deduction. 7 U.S.C. Sec. 2014(e). Section 5(e) also requires that the standard deduction be adjusted periodically. The deduction for the 48 States and D.C. was last adjusted effective October 1, 1993. Section 5(e)(4) requires that the adjustment in the level of the standard deduction shall take into account changes in the Consumer Price Index for All Urban Consumers (CPI–U) published by the Bureau of Labor Statistics (BLS) for items other than food. (7 U.S.C. Sec. 2014(e)(4). The adjustments are rounded to the nearest lower dollar pursuant to the requirements of Section 5(e). There are separate standard deductions for the 48 States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands.

The following table shows the deductions resulting from the last adjustment, the unrounded results of this adjustment, and the new deduction amounts that go into effect on October 1, 1994.

STANDARD DEDUCTIONS FOR ALL HOUSEHOLDS

	Previous standard deductions (effective 10–1–93)	New unrounded numbers (10–1–94)	Standard deductions (effective 10–1–94)
48 States and DC	$131	$134.53	$134
Alaska	223	229.47	229
Hawaii	185	189.93	189
Guam	262	269.03	269
Virgin Islands	115	118.70	118

Adjustment of the Shelter Deduction

Section 13912 of the Mickey Leland Childhood Hunger Relief Act, Chapter 3, Title XIII, Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, enacted August 10, 1993, (the Leland Act) amended section 5(e) of the Food Stamp Act to change procedures for adjusting the excess shelter deduction cap. Prior to the Leland Act, the excess shelter deduction cap was adjusted annually based on changes in the shelter, fuel and utilities components of housing costs in the CPI–U published by BLS. The Leland Act, however, mandated increases in the shelter cap effective July 1, 1994, and October 1, 1995, and an elimination of the cap effective January 1, 1997. The shelter cap amounts effective for Fiscal Year 1995 were announced in a General Notice published in the **Federal Register** on March 14, 1994 at 59 FR 11761, and in a proposed rule on Excess Shelter Expense Limit and Standard Utility Allowances published in the **Federal Register** on November 22, 1994. For the convenience of the reader, however, we are restating those amounts below

MAXIMUM SHELTER DEDUCTIONS FOR HOUSEHOLDS WITHOUT ELDERLY OR DISABLED MEMBER

[Effective 07–01–94 through 09–30–95]

48 States and DC	$231
Alaska	402
Hawaii	330
Guam	280
Virgin Islands	171

(7 U.S.C. 2011–2032)

Adjustment of the Homeless Household Shelter Expense

Section 11(e)(3)(E) of the Food Stamp Act requires the Secretary to prescribe rules requiring state agencies to develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but which are not receiving free shelter throughout the month. 7 U.S.C. Sec. 2020(e)(3)(E). In recognition of the difficulty State agencies may face in gathering the necessary information to compute standard shelter estimates for their States, the Secretary offered a standard estimate which may be used by all State agencies in lieu of their own estimates.

In the Deduction and Disaster Provisions from the Mickey Leland Memorial Domestic Hunger Relief Act final rule, published at 56 FR 63613 (December 4, 1991), the Department stated that it would annually adjust the homeless household shelter expense each October 1 using the same changes in the shelter, fuel and utilities component of the CPI used in indexing the shelter cap. This year's homeless household shelter expense is $139.

Dated: January 4, 1995.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 95–636 Filed 1–10–95; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Canned Pineapple Fruit From Thailand

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

EFFECTIVE DATE: January 11, 1995.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or John Brinkmann, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–0186 or 482–5288, respectively.

PRELIMINARY DETERMINATION: We preliminarily determine that canned pineapple fruit (CPF) from Thailand is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the "Act")(1994). The estimated margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on June 28, 1994 (59 FR 34408), the following events have occurred.

On July 25, 1994, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731–TA–706).

On August 3, 1994, we named the following four companies as the respondents in this investigation: Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd. (collectively "Dole"); The Thai Pineapple Public Co., Ltd. ("TIPCO"); Siam Agro Industry Pineapple and Others Co., Ltd. ("SAICO"); and Malee Sampran Factory Public Co., Ltd. ("Malee"). These four companies accounted for at least 60 percent of the exports of CPF to the United States during the period of investigation (POI) (January through June 1994) (see Memorandum from Team to Richard W. Moreland, dated August 3, 1994). Therefore, in accordance with 19 CFR 353.42(b)(1994), we issued antidumping duty questionnaires to the four companies on August 5, 1994.

Section A of the Department's questionnaire requesting general information concerning the company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all markets was received from the four respondents on September 2, 1994. We analyzed each respondent's home market and third country sales of the subject merchandise in accordance with 19 CFR 353.48(a)(1994), and determined that the home market was not viable for any of the respondents. Germany was selected as the appropriate third country market for all respondents in accordance with 19 CFR 353.49(b)(1994).

On August 10, 1994, Dole requested that the POI be modified to coincide with its fiscal half-year accounting period. We accepted Dole's proposal on August 18, 1994, and modified the POI for Dole to cover that period from January 2, 1994, through June 18, 1994 (see Memorandum from Gary Taverman to Barbara R. Stafford, dated August 18, 1994). The POI was not modified for the other three respondents.

On August 10 and 24, 1994, Dole claimed that for purposes of reporting U.S. sales, it was impossible for the company to distinguish between its pineapple grown and canned in Thailand and its pineapple grown and canned in the Philippines. Therefore, Dole requested that it be allowed to report all of its U.S. sales of CPF, including those of Philippine origin, for each product category. Dole then proposed that an allocation ratio based on 1993 shipments to the United States be applied to determine the share of Thai-origin CPF sold during the POI. By doing so, Dole stated the Department could calculate a less than fair value margin for Dole's U.S. sales of Thai-origin merchandise during the POI based on a ratio of Thai origin to Thai and Philippine origin merchandise.

In addition, Dole requested that it be allowed to exclude all sales of 5.5 ounce cans of crushed pineapple which accounted for an insignificant volume of its U.S. sales. Dole claimed that this product is a unique product which is

not produced by any other canned pineapple producer in the world nor sold by Dole in any other markets. On September 6, 1994, we granted Dole's requests concerning the reporting of its U.S. sales, but reserved our decision on the appropriate methodology for calculating a less than fair value margin for Dole's Thai-origin merchandise until we had an opportunity to review further its submissions (see Memorandum from Gary Taverman to Richard W. Moreland, dated September 6, 1994).

Sections B and C of the Department's questionnaire which request home-market sales listings and U.S. sales listings, respectively, were received from Dole, TIPCO, and SAICO on September 20, 1994. Malee's Section B and C responses were received on September 22, 1994.

Supplemental questionnaires regarding Sections A, B and C of the Department's questionnaire were issued to Dole on October 14, 1994, and to TIPCO, SAICO, and Malee on October 18, 1994.

On October 21, 1994, we received a timely request from Maui Pineapple Company, Ltd. and the International Longshoremen's and Warehousemen's Union (the petitioners) to postpone the preliminary determination until no later than 210 days after the date of the filing of the petition in this investigation, pursuant to 19 CFR 353.15(c)(1994). On October 26, 1994, finding no compelling reason to deny the request, we granted this request and postponed this final determination until January 4, 1995 (59 FR 54546, November 1, 1994).

Dole submitted supplemental responses to Sections A, B and C of the questionnaire on November 4, and December 21, 1994. Supplemental responses from TIPCO, SAICO, and Malee were submitted on November 8, 1994.

On November 21 and 23, 1994, respondents TIPCO, SAICO, and Malee requested that the Department confirm their selection of invoice date as the proper date of sale for all reported sales. We issued a decision on this issue on November 29, 1994 (see Memorandum from Richard W. Moreland to Barbara R. Stafford, dated November 29, 1994). Subsequently, on December 8, 1994, the Department modified this decision (see memoranda to file dated December 5, December 7, and December 8, 1994), and granted respondents' request to use invoice date as the date of sale for all reported sales. This issue is discussed further in the "Date of Sale" section below.

Cost of Production Allegation

On September 29, 1994, the petitioners alleged that TIPCO, SAICO, and Malee sold the subject merchandise in Germany during the POI at prices below the cost of production (COP). The petitioners filed a similar allegation against Dole on September 30, 1994.

Based upon our analysis of these allegations, we found that there are reasonable grounds to believe or suspect that TIPCO, SAICO, Malee, and Dole sold CPF in Germany at prices which were below the COP. Accordingly, on October 21, 1994, we initiated COP investigations against these four respondents pursuant to section 773(b) of the Act (1994) (see Memorandum from Richard W. Moreland to Barbara R. Stafford, dated October 21, 1994).

Section D of the Department's questionnaire requesting cost of production and constructed value data was issued to the four respondents on November 7, 1994. Dole's Section D response was received on December 19, 1994. Section D responses from TIPCO, SAICO, and Malee were received on December 27, 1994. Because this information was received too late to be considered for purposes of the preliminary determination, we will analyze this data and use it in the final determination to determine whether any of the respondents made third country sales at prices below the COP.

Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act (1994), Dole requested on January 4, 1995, that in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination until no later than 135 days after the date of publication of an affirmative preliminary determination in the **Federal Register**. Pursuant to 19 CFR 353.20(b) (1994), because our preliminary determination is affirmative and Dole is a significant producer of CPF, and no compelling reasons for denial exist, we are postponing the date of the final determination until the 135th day after the date of publication of this notice in the **Federal Register**.

Scope of the Investigation

The product covered by this investigation is canned pineapple fruit (CPF). For the purposes of this investigation, CPF is defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers CPF packed in a sugar-based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (*i.e.*, juice-packed). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

As stated above, the POI is January 1, through June 30, 1994, for TIPCO, SAICO, and Malee; and January 2, through June 18, 1994, for Dole (see "Case History" section above).

Such or Similar Comparisons

We determined that all products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the third country market to compare to U.S. sales, we made similar merchandise comparisons on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department of Commerce.

In accordance with 19 CFR 353.58(1994), we made comparisons at the same level of trade, where possible. Where we were not able to match sales at the same level of trade, we made comparisons without regard to the level of trade.

Dole stated that its various customers categories (*i.e.*, retail, foodservice and industrial) constituted three separate levels of trade. However, based on information contained in its response, we preliminarily determine that Dole sold CPF to two distinct levels of trade in both the U.S. and German markets. The first level is comprised of sales to customers in the retail and foodservice sectors (Level I); the second is comprised of sales to customers in the industrial sector (Level II).

We have reached this conclusion based on the reported functional differences of Dole's customers. See Import Administration Policy Bulletin 92/1 dated July 29, 1992. Level I customers can be characterized as large national and regional chains which resell CPF to local or independent retail stores or food service outlets. Level II customers can be characterized as companies that use CPF as an ingredient in the production of other food products.

Date of Sale

TIPCO, SAICO, and Malee requested that the Department determine whether their proposed date of sale methodology (*i.e.*, invoice date) was appropriate based on information contained in their respective questionnaire responses. After an analysis of this information, additional data presented by the respondents concerning this issue, as well as the arguments raised by the petitioners, we instructed TIPCO, SAICO, and Malee to report the original order date as the date of sale unless there was a change to the essential terms of sale (*i.e.*, price and/or quantity) prior to the date of invoicing. For those sales where there was a modification to the price and/or quantity, we asked these respondents to report the invoice date as the date of sale. The invoice date was selected, rather than the actual date of the modification, in order to reduce the administrative burden claimed by respondents in obtaining the actual order modification date.

In response to the Department's instructions, respondents have argued that both the buyer and seller do not consider the terms to be fixed until the date of shipment and that the Department should accept the date of invoice as the date of sale for all sales. The questionnaire responses, which indicate that the contracts or initial agreements do not establish that the terms are binding and that either party can change the order at any time up to the invoice date, support this assertion.

The Department considers the date of sale to be the date upon which all material terms of the contract for sale are set, especially price and quantity (see *General Electric Co.* versus *United States*, Slip Op. 93–55 at 4 (CIT, April 21, 1993); *Toho Titanium Co.* versus *United States*, 743 F. Supp. 888, 890 (CIT 1990)). Our review of the record in light of the arguments subsequently presented by the respondents indicates that the material terms of any order can be changed prior to the invoice date. Further, we note that, for a significant number of sales during the POI, price or quantity did change prior to the invoice date. Therefore, upon further examination of the facts of this issue, the Department has determined that the invoice date is the appropriate date of sale for all TIPCO, SAICO, and Malee sales.

Fair Value Comparisons

To determine whether sales of CPF from Thailand to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

As noted in the "Case History" section above, Dole has reported all of its U.S. sales of subject merchandise, including those of Philippine origin, for each product category where Dole had shipments from both Thailand and the Philippines to the United States during 1993. In order to calculate a less than fair value margin based on an estimated quantity of Dole's U.S. sales of Thai-origin merchandise during the POI, we have weighted the dumping margin for each product category by the ratio of the shipments of subject merchandise from Thailand to the total volume shipped from both Thailand and the Philippines during the last seven accounting periods of 1993 (*i.e.*, July 19 through December 31, 1993). We used the July-December accounting periods as the basis for establishing the ratio rather than the entire 1993 period because Dole's average inventory turnover rate is reported to be six to seven months.

For certain U.S. and German market sales, Dole reported its re-sale of subject merchandise purchased from unrelated producers in Thailand. Section 773(a)(1) of the Act (1994) specifies that FMV be calculated based on sales of "such or similar merchandise". The term "such or similar merchandise" is defined by section 771(16) of the Act (1994) as merchandise which is produced in the same country and by the same person as the merchandise which is the subject of the investigation. Therefore, we cannot use sales of CPF produced by persons other than Dole when calculating FMV. Accordingly, we have excluded all of Dole's German sales of subject merchandise it did not produce from our calculation of FMV.

Similarly, in calculating USP, we also determined that it is appropriate to exclude all of Dole's U.S. sales of the subject merchandise it did not produce. However, because we were unable to determine which particular U.S. sales were of merchandise produced by firms other than Dole, we have weighted the dumping margin for each product category identified by Dole. We weighted the dumping margin by applying a ratio of the volume of Dole-produced product to the combined total volumes of Dole-produced and purchased product shipped to the United States during 1993, allowing us to calculate a margin based on an estimated quantity of Dole-produced product. We note that this weighing period is different than that used to weigh Thai- and non-Thai produced merchandise. However, the only information available for purposes of weighing these sales was for the whole calendar year 1993.

In addition, we preliminarily determined that Dole should have reported as U.S. sales certain shipments made during the POI which Dole claimed were pursuant to a long-term agreement negotiated prior to the POI (see *Toho Titanium Co.* versus *United States*, 743 F. Supp. 888, 891 (CIT 1990); *General Electric Co.* v. *United States*, Slip. Op. 93–55 at 4 (CIT, April 21, 1993). Based upon our analysis of the agreement, it appears that the price terms are indefinite and subject to Dole's control. Because these shipments were not reported, we are applying the average of all positive margins to one-half of the maximum quantity specified in the agreement to be purchased during 1994 (*i.e.*, we have divided the yearly maximum quantity in half to correspond to our six-month POI). Dole will be required to report these shipments for the final determination.

United States Price

For TIPCO, SAICO, and Malee, we based USP on purchase price (PP), in accordance with section 772(b) of the Act (1994), because all of each company's U.S. sales to the first unrelated purchaser took place prior to importation into the United States and exporter's sales price (ESP) methodology, in those instances, was not otherwise indicated.

SAICO failed to report certain U.S. sales in its revised Section C response which we determined to be sales made during the POI. We included these sales, as they were included in SAICO's initial submission of Section C response, and made appropriate adjustments for charges based on the information available (see Concurrence Memorandum, dated January 4, 1995).

For Dole, where sales to the first unrelated purchaser took place after importation into the United States, we based USP on ESP, in accordance with section 772(c) of the Act (1994). For a small number of Dole's U.S. sales which took place prior to importation into the United States, we preliminarily determine USP to be based on ESP because: (1) The merchandise was introduced into the physical inventory of Dole's U.S. warehouses after importation and, thus, was not shipped directly from the cannery in Thailand to the unrelated U.S. customer; (2) all the selling activities associated with Dole's U.S. sales, including these sales, are handled in the United States through Dole's U.S. sales office by unrelated brokers located in the United States; and (3) it appears that Dole's canneries in Thailand have no control over the prices

charged to the U.S. customers. Therefore, because Dole's U.S. sales office acts as more than a processor of sales-related documentation, we consider these U.S. sales to be ESP transactions. (See Final Determination of Sales at Less Than Fair Value: New Minivans From Japan, 57 FR 21937, 21945 (May 26, 1992).

Malee

For Malee, we calculated PP based on FOB and C&F prices charged to unrelated customers in the United States. We made deductions in accordance with section 772(d)(2)(A) of the Act (1994), where appropriate, for foreign brokerage and handling, foreign inland freight, and ocean freight. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges.

SAICO

For SAICO, we calculated PP based on FOB prices charged to unrelated customers in the United States. We made deductions in accordance with section 772(d)(2)(A) of the Act (1994), where appropriate, for foreign inland freight, foreign inland insurance, and foreign brokerage and handling. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges.

TIPCO

For TIPCO, we calculated PP based on FOB and C&F prices charged to unrelated customers in the United States. We made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for rebates. In addition, we made deductions for the following movement expenses in accordance with section 772(d)(2)(A) of the Act (1994): foreign brokerage and handling, port charges, foreign inland freight, and ocean freight. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges and warranty expenses.

Dole

We calculated Dole's ESP sales based on packed, FOB Dole's warehouse and delivered prices to unrelated customers in the United States. We made deductions in accordance with 19 CFR 353.56(a)(2)(1994), where appropriate, for discounts, rebates, and direct selling expenses including unrelated commissions, credit and warranty expenses. We also made deductions in accordance with 19 CFR 353.41(d)(2)(i) (1994), where appropriate, for foreign brokerage and handling, freight expenses, U.S. brokerage and handling, U.S. duty and harbor fees. For purposes of this preliminary determination, we considered certain advertising expenses to be direct selling expenses and have deducted them in accordance with 19 CFR 353.56(a)(2)(1994). In addition, we deducted indirect selling expenses, including inventory carrying expenses, market development and warehousing expenses in accordance with 19 CFR 353.56(a)(2)(1994). The "in and out" warehousing expense claimed by Dole as a direct selling expense was reclassified as an indirect selling expense because, based on information on the record, it was not possible to determine that this expense directly applies to the sales under investigation. An amount for revenue Dole earned on certain sales where it charged its customers for special delivery terms was added to USP in order to offset the additional expenses incurred by Dole on the delivery of these sales.

We recalculated Dole's reported credit expenses in instances where Dole had not reported a shipment and/or payment date because the merchandise had not yet been shipped and/or paid for at the time of the filing of this response. For those sales missing both a shipment and payment date, we used the average credit days of all transactions with a reported shipment and payment date. For those sales with a missing payment date only, we inserted the date of the preliminary determination.

We excluded from our analysis Dole's U.S. sales of distressed merchandise because the quantity involved was insignificant and Dole made no comparable third country sales of distressed merchandise during the POI (see Concurrence Memorandum, dated January 4, 1995).

Foreign Market Value

In order to determine whether there were sufficient sales of CPF in the home market to serve as a viable basis for calculating FMV, we compared each respondents' volume of home market sales of subject merchandise to the volume of third country sales in accordance with section 773(a)(1)(B) of the Act (1994). As noted in the "Case History" section above, we found that the home market was not viable for any of the respondents. We selected Germany as the appropriate third country market for all four respondents in accordance with 19 CFR 353.49(b) (1994).

For each of the respondents, we made adjustments, where appropriate, for physical differences in the merchandise, in accordance with 19 CFR 353.57 (1994). In addition, in accordance with section 773(a)(1) of the Act (1994), we deducted third country packing costs and added U.S. packing costs for all respondents.

For TIPCO, SAICO, and Malee, we adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2) (1994) as follows: Where commissions were paid on some third country sales used to calculate FMV, we deducted from FMV both (1) indirect selling expenses attributable to those sales on which commissions were not paid; and (2) commissions. The total deduction was capped by the amount of the commission paid on the U.S. sales in accordance with 19 CFR 353.56(b)(1) (1994). Where no commissions were paid on third country sales used to calculate FMV, in accordance with 19 CFR 353.56(b)(1) (1994), we deducted the lesser of either 1) the amount of the commission paid on the U.S. sale; or 2) the sum of the weighted average indirect selling expenses paid on the third country sales. Finally, the amount of the commission paid on the U.S. sale was added to FMV in accordance with 19 CFR 353.56(a)(2) (1994).

Malee

For Malee, we calculated FMV based on FOB and C&F prices charged to unrelated customers in Germany. In light of the decision of the Court of Appeals for the Federal Circuit (CAFC) in *Ad Hoc Committee of AS-NM-TX-FL Producers of Gray Portland Cement* v *United States*, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer deducts third country movement charges from FMV pursuant to its inherent power to fill in "gaps" in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a) (1994). Accordingly, in the present case, we deducted post-sale third country market movement charges from FMV under the circumstance-of-sale provision. This adjustment included foreign brokerage and handling, foreign inland freight, and ocean freight. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges.

We made a circumstance-of-sale adjustment for differences in credit expenses, pursuant to section 773(a)(4)(B) of the Act (1994) and 19 CFR 353.56(a)(2) (1994).

SAICO

We based FMV on FOB prices charged to unrelated customers in Germany. We deducted post-sale movement charges from FMV under the circumstance-of-sale provision of 19 CFR 353.56(a)

(1994). The charges included foreign inland freight, foreign inland insurance, and foreign brokerage and handling. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges.

We made a circumstance-of-sale adjustment for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2) (1994). For third-country sales with missing payment dates, we used the date of the preliminary determination of this investigation in order to calculate imputed credit.

TIPCO

We based FMV on FOB prices charged to unrelated customers in Germany. We deducted post-sale movement charges from FMV under the circumstance-of-sale provision of 19 CFR 353.56(a) (1994). The charges included foreign inland freight, foreign brokerage and handling, port charges, and liner fees. We also made deductions in accordance with section 773(a)(4)(B) of the Act (1994), where appropriate, for bank charges.

We made a circumstance-of-sale adjustment for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2) (1994).

Dole

We calculated FMV based on packed, ex-warehouse, C&F port of import, ex-quay and delivered prices to unrelated customers.

Pursuant to section 773(a)(4)(B) of the Act (1994) and 19 CFR 353.56(a)(2)(1994), we made circumstance-of-sale adjustments for unrelated commissions as well as credit, bank, and merchandising expenses. We deducted post-sale movement charges from FMV under the circumstance-of-sale provision of 19 CFR 353.56(a) (1994). The charges included freight expenses, foreign brokerage and handling, European Community (EC) duty and EC brokerage and handling. For movement expenses where it was not possible to determine from information on the record how the expense directly applies to the sales under investigation (i.e., movement expenses associated with sales made on an ex-warehouse or delivered basis), we assumed all expenses to be indirect selling expenses for purposes of the preliminary determination. We deducted from FMV the weighted-average third country indirect selling expenses including, where appropriate, pre-sale movement expenses, warehousing and inventory carrying costs in accordance with 19 CFR 353.56(b)(2)(1994). In accordance with 19 CFR 353.56(b) (1) and (2) (1994), because commissions were paid in both the United States and third country markets, the deduction for third country indirect selling expenses was capped by the sum of U.S. indirect selling expenses. We recalculated Dole's reported credit expense in instances where Dole had not reported a shipment and/or payment date because the merchandise had not yet been shipped and/or paid for at the time of the filing of this response. For those sales missing both a shipment and payment date, we used the average credit days of all transactions with a reported shipment and payment date. For those sales missing a payment date only, we inserted the date of the preliminary determination.

As noted above, in accordance with sections 773(a)(1) and 771(16) of the Act (1994), we excluded from our analysis certain reported sales of subject merchandise which was not produced by Dole.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act (1994), we will verify information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act (1994), we are directing the Customs Service to suspend liquidation of all entries of CPF from Thailand, as defined in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** (except those that represent sales by Dole). The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturers/producers/exporters	Margin percent
Dole	0.30 (De minimus)
TIPCO	7.81
SAICO	9.55
Malee	1.12
All Others	6.73

ITC Notification

In accordance with section 733(f) of the Act (1994), we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.

In accordance with 19 CFR 353.38 (1994), case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than May 1, 1995, and rebuttal briefs no later than May 3, 1995. A hearing, if requested, will be held on May 8, 1995, at the U.S. Department of Commerce in Room 4830. Parties should confirm by telephone the time, date, and place of the hearing 48 hours prior to the scheduled time. In accordance with 19 CFR 353.38(b) (1994), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (1994) and 19 CFR 353.15(a)(4) (1994).

Date: January 4, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–687 Filed 1–10–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–003]

Ceramic Tile From Mexico; Amended Final Results of Countervailing Duty Administrative Review

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

ACTION: Amended Final Result of Countervailing Duty Administrative Review.

SUMMARY: On August 8, 1994, the Department of Commerce (the Department) submitted to the Court of International Trade (CIT) the final results of redetermination pursuant to a remand in *Ceramica Regiomontana*.

S.A., et al. (Slip Op. 94–74, May 5, 1994). On September 14, 1994, the CIT affirmed our redetermination (Slip Op. 94–142). In accordance with that affirmation, we are hereby amending the final results of the countervailing duty administrative review of ceramic tile from Mexico, covering the period January 1, 1986, through December 31, 1986. During the above period, the country-wide rate for ceramic tile for the companies that are not *de minimis* is 4.02 percent *ad valorem*.

EFFECTIVE DATE: January 11, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone:(202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1989 (54 FR 19930), the Department published the final results of administrative review of the countervailing duty order on ceramic tile from Mexico, covering the period January 1, 1986, through December 31, 1986. For purposes of the final results, the Department calculated the "all others" countervailing duty rate by weight averaging the benefits received by companies, excluding zero rate and *de minimis* firms. The resultant countervailing duty rate applicable to non-*de minimis* firms was 4.28 percent *ad valorem*.

On May 5, 1994, the CIT, in *Ceramica Regiomontana S.A.* v. *United States* (Slip Op. 96–74, May 5, 1994), remanded to the Department for redetermination the final results of this review. The CIT ordered the Department to "recalculate the country-wide countervailing duty rate applicable to non-*de minimis* firms by weight averaging the benefits received by all companies by their proportion of exports to the United States, inclusive of zero rate firms and *de minimis* firms pursuant to the methodology set forth in *Ipsco* v. *United States*, 899 F.2d 1192 (Fed. Cir. 1990)."

Final Remand Results

On August 8, 1994, the Department filed with the CIT its final results of redetermination upon remand, in which the Department complied with the CIT's order and recalculated the "all others" countervailing duty rate by weight averaging the benefits received by all of the 42 companies, including 36 *de minimis* or zero rate firms subject to the 1986 review. The resultant "all others" rate of 4.02 percent *ad valorem*, which included *de minimis* and zero rate firms, was assigned to the remaining six non-*de minimis* firms—Barros Tlaquepaque, Ceramica Regiomontana, Ceramica y Pisos Industriales de Culiacan, Ima Regiomontana, Industrias Intercontinental and O.H. Internacional.

Final Results of Redetermination

On September 14, 1994, the CIT affirmed the Department's redetermination upon remand (Slip Op. 94–142). In accordance with that affirmation, we are hereby amending the final results of the administrative review for the period January 1, 1986, through December 31, 1986. We determined that the "all others" countervailing duty rate for companies that are not *de minimis* is 4.02 percent *ad valorem*.

The Department shall determine, and the Customs Service shall assess, countervailing duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

This notice is in accordance with section 516(a)(e) of the Act.

Dated: December 29, 1994.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95–688 Filed 1–10–95; 8:45 am]

BILLING CODE 3510–DS–P

U.S. Geological Survey, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–124. *Applicant:* U.S. Geological Survey, Denver, CO 80225. *Instrument:* Open Split Interface Attachment for Mass Spectrometer. *Manufacturer:* Finnigan MAT, Germany *Intended Use:* See notice at 59 FR 59212, November 16, 1994.

Comments: None received. *Decision.* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the previously imported instrument.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 95–691 Filed 1–10–95; 8:45 am]

BILLING CODE 3510–DS–F

University of California, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211 U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–125. *Applicant:* University of California, San Diego, CA 92121. *Instrument:* Seasor System. *Manufacturer:* Chelsea Instruments Ltd., United Kingdom. *Intended Use:* See notice at 59 FR 59212, November 16, 1994.

Comments: None received. *Decision.* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides an instrument platform that can be towed to depths of 400 m at speeds to 10 knots with a dive/climb rate to 2.5 m/second. A university research department advised December 14, 1994 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 95–692 Filed 1–10–95; 8:45 am]

BILLING CODE 3510–DS–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement, Certification Requirements and Establishment of a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

January 6, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa and certification requirements and a guaranteed access level.

EFFECTIVE DATE: January 11, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Export Visa Arrangement of December 27, 1994 between the Governments of the United States and the Republic of El Salvador establishes an export visa arrangement and certification requirements for certain textile products, produced or manufactured in El Salvador and exported from El Salvador on and after January 2, 1995. Goods exported during the period January 2, 1995 through March 3, 1995 shall not be denied entry for lack of a visa. All goods exported after March 3, 1995 must be accompanied by an appropriate visa or certification.

Beginning on January 11, 1995, the U.S. Customs Service will start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Categories 340/640 that are destined for El Salvador and subject to the GAL established for Categories 340/640 the period beginning on January 2, 1995 and extending through December 31, 1995. These products are governed by Harmonized Tariff item number 9802.00.8015 and Chapter 61 Statistical Note 5 and Chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule. Interested parties should be aware that shipments of cut parts in Categories 340/640 must be accompanied by a form ITA–370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in El Salvador in order to qualify for entry under the Special Access Program.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Facsimiles of the visa and certification stamps for the Government of the Republic of El Salvador are on file at the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room 3104, Washington, DC.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa and certification requirements set forth in the letter published below to the Commissioner of Customs.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 6, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and pursuant to the Export Visa Arrangement of December 27, 1994 between the Governments of the United States and the Republic of El Salvador; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 11, 1995, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton and man made fiber textile products in Categories 340/640, produced or manufactured in El Salvador and exported from El Salvador on and after January 2, 1995 for which the Government of the Republic of El Salvador has not issued an appropriate export visa or certification fully described below. Should additional categories, merged categories or part categories be added to the bilateral agreement, the entire category(s) or part category(s) shall be included in the coverage of this arrangement on an agreed effective date. However, goods exported during the period January 2, 1995 through March 3, 1995 shall not be denied entry for lack of a visa. All goods exported after March 3, 1995 must be accompanied by an appropriate visa or certification.

A visa must accompany each commercial shipment of the aforementioned textile products, unless under the Special Access Program. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for El Salvador is "SV"). The first two codes shall be followed by the number "1" and a five-digit serial number identifying the shipment; e.g., 5SV100002.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation, as amended.

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 340/640 may be visaed as 340/640 or if the shipment consists solely of 340 merchandise, the shipment may be visaed as "Cat. 340," but not as "Cat. 640").

The complete name and address of the actual manufacturer of the textile product must be included on the visa document. If a textile product has been processed by more than one manufacturer, the complete name and address of the last firm to substantially transform the article into a new and different article of commerce must be listed on the visa document.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable then a new visa and correct visa must be obtained from the Government of the Republic of El Salvador, or a visa waiver may be issued by the U.S

Department of Commerce at the request of the Government of the Republic of El Salvador, and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from El Salvador has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Each shipment of textile products which has been assembled in the Republic of El Salvador wholly from components cut in the United States from U.S.-formed fabric which is subject to the Guaranteed Access Level shall be so certified by the Government of the Republic of El Salvador. This certification shall be presented to the U.S. Customs Service before entry, or withdrawal from warehouse for consumption, into the customs territory of the United States (the 50 states, the District of Columbia and Puerto Rico).

A certification must accompany each commercial shipment of the aforementioned textile products. A rectangular stamped marking in blue ink will appear on the front of the original commercial invoice. The original certification shall not be stamped on duplicate copies of the invoice. The original invoice with the original certification stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or certification may not be used for this purpose.

Each certification shall include the following information:

1. The certification number. The certification number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for El Salvador is "SV"). The first two codes shall be followed by the number "2" and a five-digit serial number identifying the shipment; e.g., 5SV200002.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation, as amended.

U.S. Customs shall not permit entry if the shipment does not have a certification number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the certification is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the certification is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable level.

Entry of textile products subject to the certification system outlined above into the customs territory of the United States will be permitted only for those shipments accompanied by:

A. A valid certification by the Government of the Republic of El Salvador.

B. A completed copy of the CBI Export Declaration (U.S. Department of Commerce Form ITA-370P) with a proper declaration by the Republic of El Salvador assembler that the articles were subject to assembly in the Republic of El Salvador from parts described on that CBI Export Declaration; and

C. A proper importer's declaration.

Any shipment which is not accompanied by a valid and correct certification in accordance with the foregoing provisions shall be denied entry by the Government of the United States. If U.S. Customs determines that the certification is invalid because of an error, and the remaining documentation fulfills requirements for entry under the Caribbean Basin Textile Special Access Program, then a new certification from the Government of the Republic of El Salvador must be obtained or a visa waiver issued by the U.S. Department of Commerce at the request of the Government of the Republic of El Salvador must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

Any shipment found not to be in compliance with the provisions of the Special Access Program relating to trade in textile products wholly assembled of U.S. components cut from U.S. formed fabrics, may be permanently denied entry under this program.

Effective on January 11, 1995, you are directed to establish a Guaranteed Access Level for cotton and man-made fiber textile products in Categories 340/640 at 1,000,000 dozen for the period beginning on January 1, 1995 and extending through December 31, 1995.

Beginning on January 11, 1995, you are directed to start signing the first section of the form ITA-370P for shipments of U.S. formed and cut parts in Categories 340/640 that are destined for El Salvador and subject to the GAL established for Categories 340/640 the January 1, 1995 through December 31, 1995 period.

Visaed merchandise and products eligible for the Caribbean Basin Textile Special Access Program may not appear on the same invoice.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less do not require a visa or certification for entry and shall not be charged to agreement levels.

Facsimiles of the visa stamps are enclosed with this letter.

The actions taken concerning the Government of the Republic of El Salvador with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

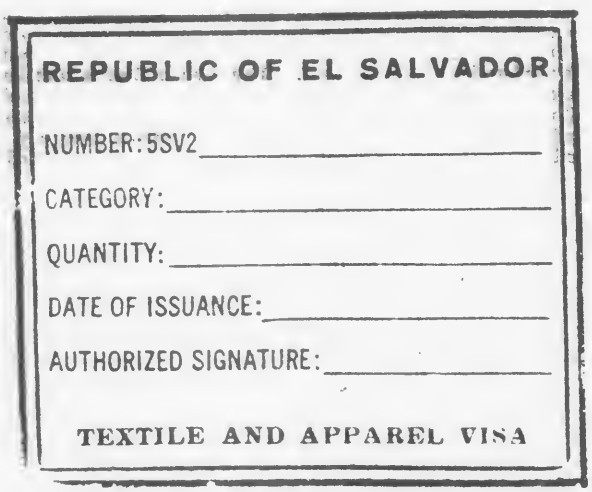
Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-F

MINISTERIO DE ECONOMIA
REPUBLICA DE EL SALVADOR, C. A.



[FR Doc. 95–706 Filed 1–6–95; 3:40 pm]
BILLING CODE 3510–DR–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Marine Mammals

AGENCY: Advanced Research Projects Agency, DOD.

ACTION: Notice of public hearing on draft environmental impact statement.

SUMMARY: The Advanced Research Projects Agency (ARPA) in cooperation with the National Marine Fisheries Service (NMFS) will hold a public hearing on a Draft Environmental Impact Statement (DEIS) for the Kauai Acoustic Thermometry of Ocean Climate (ATOC) Project and its associated Marine Mammal Research Program (MMRP).

DATES: The public hearing will take place on February 10, 1995, at 6:00 PM, at the Mabel Smyth Building, 510 S. Beretania Street, Honolulu, Hawaii.

ADDRESSES: For a copy of the Draft EIS, contact Marilyn E. Cox, Campus Planning Office, 0006, 9500 Gilman Drive, University of California, San Diego, La Jolla, CA 92093. Telephone (619) 534–3860.

FOR FURTHER INFORMATION CONTACT: All non-government organizations and scientists who wish to present prepared testimony should contact Mr. Eugene Nitta, Protected Species Program Coordinator, Pacific Ocean Area-NMFS at (808) 973–2937 at least 48 hours in advance of the hearing so that a general agenda can be prepared. A written copy of each testimony to be presented is requested on the day of the hearing. It is advised to use slides or overheads only if absolutely necessary during presentations, and copies of any slides or overheads are requested to be made available to Mr. Nitta on the day of the hearing.

Other people who are interested in making a statement at this hearing should bring a written copy of the statement to the hearing, and will be given an opportunity to make such statements following the prepared testimonies. Anyone who needs additional information or requires special accommodations to attend the public hearing should contact the person named above at least seven (7) days in advance of the hearing. Comments on the Draft EIS will be accepted until February 20, 1995.

SUPPLEMENTARY INFORMATION: On April 15, 1994, notice was published in the **Federal Register** that the ARPA, in cooperation with the NMFS, intended to prepare an EIS, pursuant to the National Environmental Policy Act (NEPA), on an application for a scientific research permit to allow harassment of marine mammals and sea turtles by a low frequency sound source associated with the ATOC program in waters off Kauai, Hawaii, and to monitor the effects thereof. The ATOC project is a basin scale research effort to determine long-term ocean climate changes by using acoustic sound paths in the sea's deep "sound channel" to precisely measure average ocean temperatures. A two-year research program is proposed to be carried out to study any potential effects of the ATOC sound transmissions on marine mammals and sea turtles. Two sound sources are currently proposed; one off the north shore of Kauai, Hawaii (which is the subject of this Draft EIS) and the other offshore California near Point Sur (the subject of a separate draft EIS).

Dated: January 6, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–648 Filed 1–10–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Policy Board Advisory Committee; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Policy Board Advisory Committee meeting scheduled 5 and 6 January 1995 as announced in the **Federal Register** on Wednesday, December 14, 1994, 59 FR 64395 was cancelled.

Dated: January 5, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–603 Filed 1–10–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Determination to Establish the Advisory Committee on External Regulation of Department of Energy Nuclear Safety

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), and Title 41, Code of Federal Regulations, Subpart 101–6, Final Rule on Federal Advisory Committee Management, I hereby certify the Advisory Committee on External Regulation of DOE Nuclear Safety is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR subpart 101–6.10.

The purpose of the Committee is to provide the Secretary of Energy, the White House Office of Environmental Policy and the Office of Management and Budget with advice, information, and recommendations on whether and how new and existing Department of Energy facilities and operations, except those operations covered under Executive Order 12344, might be externally regulated to improve nuclear safety. The Committee will provide an organized forum for a diverse set of affected Federal agency representatives and non-Federal experts and stakeholders to conduct an in-depth assessment of the technical, regulatory, institutional, and resource issues.

Committee members will be chosen to ensure an appropriately balanced membership to bring into account a diversity of viewpoints, including representatives from States and tribal governments, national and local environment, safety, and health organizations, labor unions, Department of Energy operating contractors, affected Federal agencies, and others who may significantly contribute to the deliberations of the committee. All meetings of this Committee will be noticed ahead of time in the Federal Register.

Further information regarding this Advisory Committee may be obtained from Tom Isaacs, Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, 1726 M Street NW., Washington, DC 20006 (telephone: 202–254–3826).

Issued in Washington, DC on January 6, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer

[FR Doc. 95–683 Filed 1–10–95; 8:45 am]

BILLING CODE 6450–01–M

Environmental Management Site Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex Plant.

DATES: Tuesday, January 24, 1995 1:30 pm–6:30 pm.

ADDRESSES: West Texas A&M University, Canyon, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Pantex Plant Citizens' Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:00 pm News conference
1:30 pm Welcome—Agenda Review—Introductions
- selection of members of plutonium center advisory committee
- selection of participants in Feb 14–15 SSAB workshop

1:50 pm Updates
- occurrence report from DOE
- other DOE updates: HEU storage, igloos, plutonium
- Vulnerability Study

2:30 pm Monitoring Roundtable/Panel Discussion
4:15 pm Break
5:00 pm Working Group Reports
6:00 pm Next Meeting—Wednesday, February 22, 1995
6:30 pm Adjourn

Public comment will be taken periodically throughout the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo college Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on January 6, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer

[FR Doc. 95–684 Filed 1–10–95; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center; Notice of Intent To Grant Partially Exclusive Patent License

AGENCY: Department of Energy (DOE), Morgantown Energy Technology Center (METC).

ACTION: Notice.

SUMMARY: Notice is hereby given of an intent to grant to Industrial Filter and Pump Manufacturing Company of Cicero, Illinois, a partially exclusive license to practice, limited to applications in the chemical process industry, the invention described in U.S. Patent No. 5,167,676, titled "Apparatus and Method for Removing Particulate Deposits From High Temperature Filters."

The Department may grant exclusive or partially exclusive licenses in Department-owned inventions, if it determines that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license.

DATE: Written comments or nonexclusive license applications are to be received at the address listed below no later than March 13, 1995.

ADDRESSES: Technology Transfer Program Division, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505.

FOR FURTHER INFORMATION: Lisa A. Jarr, Technology Transfer Program Division, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505–0880, Telephone: (304) 285–4555.

SUPPLEMENTARY INFORMATION: Industrial Filter and Pump Manufacturing Company of Cicero, Illinois, has applied for a partially exclusive license to practice the invention embodied in U.S. Patent No. 5,167,676, and has a plan for commercialization of the invention.

The invention is owned by the United States of America, as represented by the Department of Energy (DOE). The proposed license will be partially exclusive, subject to a license and other rights retained by the U.S. Government and other terms and conditions to be negotiated. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Technology Transfer Program Division, Department of Energy, Morgantown Energy Technology Center, Morgantown, WV 26505, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously, for application in the chemical process industry.

The proposed license will be partially exclusive, i.e. limited to application in the chemical process industry, subject to a license and other rights retained by the U.S. Government, and subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, this 4th day of January, 1995.

Thomas F. Bechtel,

Director, METC.

[FR Doc. 95–686 Filed 1–10–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Basic Energy Sciences Advisory Committee Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, § 101–6.1015, and following consultation with the Committee Management Secretariat,

General Services Administration, notice is hereby given that the Basic Energy Sciences Advisory Committee has been renewed for a two-year period beginning in January 1995. The Committee will provide advice to the Director of Energy Research on the basic energy sciences program.

The Secretary has determined that the renewal of the Basic Energy Sciences Advisory Committee is essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this advisory committee can be obtained from Rachel Samuel at (202) 586–3279.

Issued in Washington, DC on January 6, 1995.

JoAnne Whitman,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–685 Filed 1–10–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP95–115–000]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

January 5, 1995.

Take notice that on December 30, 1994, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of February 1, 1995:

Sixth Revised Sheet No. 32
Sixth Revised Sheet No. 33

CNG states that the purpose of this filing is to file CNG's initial surcharge under Section 18.2.B. of the General Terms of CNG's FERC Gas Tariff. Specifically, CNG has recalculated this surcharge to reflect the inclusion of $693,512.28 of stranded Account No. 858 charges incurred from implementation of restructured services on October 1, 1993 to September 30, 1994. CNG is proposing to collect these costs over a three-month amortization period.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene 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 and 385.211. All motions or protests should be filed on or before January 12, 1995. 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. 95–619 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–116–000]

CNG Transmission Corp.; Notice of Filing of Storage Study

January 5, 1995.

Take notice that on December 30, 1994, CNG Transmission Corporation (CNG), in compliance with the Commission's requirement in CNG's restructuring proceeding in Docket No. RS92–14–000, filed a study entitled "Storage After One Year Of Operations Under Restructured Services." The storage study identifies the various uses of CNG's retained working gas storage capacity during the first year of operations under Order No. 636.

CNG states that it has served its filing upon affected firm service customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before January 27, 1995. 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. 95–620 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–114–000]

Colorado Interstate Gas Company; Filing of Report on Utilization of Storage

January 5, 1995.

Take notice that on December 30, 1994, as required by the Commission's Orders issued April 22, 1993,[1] and September 3, 1993,[2] in Docket No. RS92–4–000, Colorado Interstate Gas Company (CIG), submits for filing its report on utilization of storage, utilization of upstream capacity, and development of market centers.

CIG states that the report shows CIG's level of retained storage and upstream capacity (principally on Wyoming Interstate Company Ltd.) are essential to system operations.

CIG states that it began service under the Commission's Order No. 636 on October 1, 1993.

CIG states that copies of the filing have been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All motions or protests should be filed on or before January 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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. 95–626 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–45–001]

Colorado Interstate Gas Company; Tariff Compliance Filing

January 5, 1995.

Take notice that on December 29, 1994, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of December 14, 1994:

[1] 63 FERC (CCH) ¶61,101 (1993).
[2] 64 FERC (CCH) ¶61,227 (1993).

Substitute First Revised Sheet No. 259
Substitute Second Revised Sheet No. 359
First Revised Sheet No. 360

CIG states that the new tariff sheets are being filed in accordance with the December 14, 1994, order in this proceeding. In the December 14 order, the commission conditioned acceptance of CIG's November 14, 1994, filing on a compliance filing by CIG to revise the tariff to: (1) include provisions for the proration of monthly charges for releasing shippers and replacement shippers when service is for less than a month at points where different rates apply because of discounting, (2) clarify that the new provisions relating to capacity release proposed in this proceeding shall be effective for replacement capacity contracts executed on or after January 1, 1995, (3) reflect the information Order No. 566–A requires to be posted on the electronic bulletin board with respect to affiliate discounts.

CIG states that a copy of this filing was served upon all parties in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–628 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–118–000]

Columbia Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

January 5, 1995.

Take notice that on December 30, 1994, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective February 1, 1995.

Third Revised Sheet No. 31
First Revised Sheet No. 31A
Fourth Revised Sheet No. 262
Second Revised Sheet No. 480

Columbia states that the instant filing is being tendered to report to the Federal Energy Commission, and to all parties in Docket Nos. RP94–1–005, et al., and RP93–161–005, the actual WACOG Surcharge collections for the surcharge period September 1, 1993 through October 31, 1994, and to cancel the rate and provisions pursuant to Section 45 Unrecovered WACOG Surcharge of the General Terms and Conditions of Columbia's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–622 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–119–000]

Columbia Gas Transmission Corp.; Notice of Filing of Report on First Year Storage Operations Under Order No. 636

January 5, 1995.

Take notice that on December 30, 1994, Columbia Gas Transmission Corporation (Columbia), tendered for filing its report on "First Year Storage Operations Under Order No. 636" for the twelve month period November 1, 1993 through October 31, 1994.

Columbia states that the purpose of this filing is to comply with the Commission's orders on Columbia's Order No. 636 restructuring.[1] Those orders required Columbia to file a report on storage operations during the first year after restructuring within 60 days after the effective date of Columbia's implementation of Order No. 636.

[1] Columbia Gas Transmission Corp. *et al.*, 64 FERC ¶ 61,060 at p. 61,508 (1993), Columbia Gas Transmission Corp. *et al.*, 64 FERC ¶ 61,365 at p. 63,501 (1993), and Columbia Gas Transmission Corp. *et al.*, 65 FERC ¶ 61,344 at p. 62,723 (1993).

Columbia states that it implemented Order No. 636 on November 1, 1993.

Columbia states that copies of its filing are available for inspection at its offices at 1700 MacCorkle Avenue SE., Charleston, West Virginia; 700 Thirteenth Street NW., Suite 900, Washington, D.C. and have been mailed to all jurisdictional firm customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 27, 1995. 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. 95–623 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–219–000]

Columbia Gulf Transmission Company; Informal Technical Conference

January 5, 1995.

Take notice that an informal technical conference will be convened in this proceeding on January 12, 1995, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Edith A. Gilmore at (202) 208–2158 or Hollis J. Alpert at (202) 208–0783

Lois D. Cashell,

Secretary

[FR Doc. 95–630 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ95–1–23–000 and TM95–6–23–000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

January 5, 1995.

Take notice that on December 30, 1994, Eastern Shore Natural Gas Company (ESNG), tendered filing certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective February 1, 1995.

ESNG states that the above referenced tariff sheets are being filed pursuant to § 154.308 of the Commission's regulations and Parts 21, 23 and 24 of General Terms and Conditions of ESNG's FERC Gas Tariff to reflect a reduction in ESNG's jurisdictional sales rates. ESNG states that the sales rates set forth the reflect an overall decrease of ($0.4060) per dt in the Demand Charge overall decrease of (0.5370) per dt in the Commodity Charge, as measured against ESNG's Annual PGA. Docket No. TA95–1–23–000, et. al. with rates in effect as of November 1, 1994.

Further, the above referenced tariff sheets are being filed pursuant to Section 154.309 of the Commission's regulations and Section 24 of the General Terms and Conditions of ESNG's FERC Gas Tariff to track storage rate changes made by Transcontinental Gas Pipe Line Corporation (Transco) and Columbia Gas Transmission Corporation (Columbia) where appropriate.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining the appropriate 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 intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–624 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–325–000]

Panhandle Eastern Pipe Line Company; Informal Settlement Conference, January 5, 1995

Take notice that an informal settlement conference will be convened in this proceeding on January 19, 1995, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) (1994).

For additional information, contact Carmen Gastilo at (202) 208–2182 or Kathleen Dias at (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 95–629 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–29–002]

Southern Natural Gas Company; Stranded Cost Recovery Filing

January 5, 1995.

Take notice that on December 30, 1994, Southern Natural Gas Company (Southern), submitted for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to comply with the Commission's Order Rejecting Filing issued on November 30, 1994:

First Revised Sheet No. 32
First Revised Sheet No. 33
First Revised Sheet No. 34
Third Revised Sheet No. 41
Second Revised Sheet No. 42
Third Revised Sheet No. 53
Second Revised Sheet No. 204
Original Sheet No. 204a
Second Revised Sheet No. 205

In its November 30 Order, the Commission rejected Southern's recovery filing in Docket No. RP95–29–000, noting that Southern failed to include tariff sheets to apprise customers of amounts owed. Additionally, the Commission exercised its authority under Section 5 of the Natural Gas Act to require Southern to delete Section 32 from its Tariff effective November 1, 1994, stating that from that date Southern may recover stranded costs, including Account No. 858 costs, only by means of a reservation surcharge applicable to its current firm customers.

Without prejudice to its request for rehearing, Southern is filing the tariff sheets referenced herein to amend Section 32 of the General Terms and Conditions of its Tariff effective November 1, 1994 in compliance with the Commission's November 30 Order to reflect a demand surcharge for each of its stranded costs, i.e. Account No. 858 costs and Southern Energy LNG minimum bill costs. Billing Determinants for these stranded costs are set forth on Sheet Nos. 29–31 and 32–34, respectively.

Southern states that copies of the filing were served upon Southern's intervening customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure.

All such protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 95–625 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–117–000]

Viking Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

January 5, 1995.

Take notice that on December 30, 1994, Viking Gas Transmission Company (Viking), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 6, to be effective January 1, 1995.

Viking states that the purpose of this filing is to update the reference period that is used in determining whether a customer is a "low load factor" or "high load factor" customer for purposes of calculating the Gas Research Institute ("GRI") charge applicable to that customer.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining that 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. 95–621 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–28–001]

Williams Natural Gas Company; Proposed Changes in FERC Gas Tariff

January 5, 1995.

Take notice that on December 30, 1994, Williams Natural Gas Company (WNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 30, 1995:

Substitute Second Revised Sheet Nos. 227
Original Sheet Nos. 227A–227B
Substitute Second Revised Sheet No. 228
Substitute First Revised Sheet No. 229
Substitute Original Sheet Nos. 229A–229C

WNG states that on October 31, 1994, it made a filing to amend Article 9 of the General Terms and Conditions of its tariff to provide for daily balancing penalties at receipt and delivery points where 95 percent of volumes are measured by electronic flow measurement equipment. By order issued November 30, 1994, the Commission accepted and suspended the tariff sheets to become effective the earlier of April 30, 1995 or when the Commission completes its review of the technical conference required by the order, subject to refund and the outcome of the technical conference. WNG was required by the order to file revised tariff sheets that modify the language in Section 9.1(d) of the tariff to provide the specific conditions and procedures under which WNG will allow intra-day nominations. WNG states that Sheet Nos. 227–227B in the instant filing are being filed to comply with the order. Sheet Nos. 228–229C are being filed for pagination purposes.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the docket referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20462, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before January 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–627 Filed 1–10–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00400; FRL–4930–5]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal will hold a 2–day meeting, beginning January 30, 1995, and ending January 31, 1995. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

DATES: The Group will meet on Monday, January 30, 1995, from 8:30 a.m. to 5 p.m., and Tuesday, January 31, 1995, from 8:30 a.m. until noon.

ADDRESSES: The meeting will be held at: The DoubleTree Hotel, National Airport—Crystal City, 300 Army-Navy Drive, Arlington, VA, 703–892–4100.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1100, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–5306.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Water Quality and Pesticide Disposal includes the following:

1. Reports from the SFIREG Working Committee members on State Water Quality and Pesticide Disposal Projects
2. Summary of the State Management Plan Rule.
3. Status of issues resolution conference calls.
4. Status of the Restricted Use Rule.
5. Discussion of the registration of potential leachers.
6. Update on acetochlor registration.
7. Discussion of registrant technical bulletins containing state-specific restrictions.
8. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: January 4, 1995.

Allan S. Abramson,

Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 95–657 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00398; FRL–4926–7]

Coordination of Labeling Issues Changes; Notice of Availability and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments on the Agency's proposed policy to coordinate all EPA-initiated labeling changes through the newly formed Labeling Unit and to establish an annual date by which registrants will normally implement labeling changes specified in Pesticide Regulation (PR) Notices, **Federal Register** Notices, or other documents. This policy is described in a draft PR Notice entitled, "Coordination of Labeling Issues and Changes" which is available upon request. Interested parties may request a copy of the Agency's proposed policy as set forth in the **ADDRESSES** unit of this notice.

DATES: Written comments, identified by the docket number [OPP–00398], must be received on or before February 27, 1995.

ADDRESSES: The draft PR Notice is available from Melissa L. Chun, By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location

and telephone number: 6th Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, (703)308–8318.

Submit written comments to: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed text and any written comments will be available for public inspection in Rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Melissa L. Chun (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Westfield Building, 2800 Crystal Drive, Arlington, VA, (703)308–8318.

SUPPLEMENTARY INFORMATION: The draft PR Notice describes the role of the Labeling Unit in coordinating the Agency's pesticide labeling activities and generally specifies October 1 as the annual compliance date for all EPA-initiated label changes designated by FR Notice, PR Notice, or other mechanism. The policy outlined in the draft PR Notice will help streamline the Agency's processing of labeling changes, improve the coordination of EPA's labeling activities and lessen the economic impact on registrants of making labeling changes throughout the year. This **Federal Register** notice announces the availability of the draft PR Notice and solicits comment on the proposed policy. If, after reviewing any comments, EPA determines that changes are warranted, the Agency will revise the draft PR Notice prior to release.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 30, 1994.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–655 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180955; FRL 4926–8]

Receipt of Applications for Emergency Exemptions to use Propazine; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Texas Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139–40–2) to treat up to 1,823,000 acres of sorghum to control pigweed. The Applicant proposes the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before January 26, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180955," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." 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 Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8791.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicants claim that this has left sorghum growers in most of Texas with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. Until 1993, the year an exemption was first requested, growers were using existing stocks of propazine. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicant states that, since growers used existing stocks of propazine between the time of its voluntary cancellation and the availability of propazine under an emergency exemption, yields have not shown a decrease. However, the Applicant claims that significant economic losses will occur without the availability of propazine.

The Applicant proposes to apply propazine at a maximum rate of 1.2 lbs. active ingredient (a.i.), (2.4 pts. of product) per acre, by ground or air, with a maximum of one application per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 2,187,600 lbs. of active ingredient (546,900 gal. of product) in Texas. This is the third time

that Texas has applied for this use of propazine on sorghum under section 18 of FIFRA. Texas was issued exemptions for this use for the past two growing seasons.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Texas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: December 22, 1994.

Lois Rossi,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–588 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30376; FRL–4927–3]

Sandoz Agro, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Zoecon 9023 Flybait Station, an insecticide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by February 10, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30376] and the file symbol (2724–UAR) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), attention Product Manager (PM) 10, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: PM 10, Robert Brennis, Rm. 210, CM #2, (703–305–6788).

SUPPLEMENTARY INFORMATION: EPA received an application from Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018, to register the pesticide product Zoecon 9023 Flybait Station for general use indoors and nonfood areas in dairy barns, loafing sheds, poultry houses, and other agriculture facilities where houseflies are a nuisance (File Symbol 2724–UAR). This product contains the active ingredient [2H-1,3-thiazine, tetrahydro-2-(nitromethylene)] at 5 percent, an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: December 21, 1994.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–656 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200087–007.

Title: Port of Oakland/Maersk Pacific Ltd. Terminal Agreement.

Parties:

Port of Oakland
Maersk Pacific Ltd.

Synopsis: The proposed amendment deletes approximately 1.4 acres and restates the monthly rental for the Container Freight Station effective January 1, 1995.

Agreement No.: 224–2000259–010.

Title: Jacksonville Port Authority/ Crowley American, Transport, Inc. Terminal Agreement.

Parties:

Jacksonville Port Authority
Crowley American Transport, Inc.

Synopsis: The proposed amendment extends the term of the Agreement.

Agreement No.: 224–200904.

Title: Port Authority of New York & New Jersey/Sea-Land Service, Inc. Container Incentive Agreements.

Parties:

Port Authority of New York & New

Jersey ("Port")
Sea-Land Service, Inc. ("Sea-Land").

Synopsis: The Agreement provides for the Port to pay Sea-Land an incentive of $15.00 for each import container and $25.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1995, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Agreement No.: 224–200905.

Title: Port Authority of New York & New Jersey/Evergreen America Corporation Container Incentive Agreement.

Parties:
Port Authority of New York & New Jersey ("Port")
Evergreen American Corporation ("EAC").

Synopsis: The Agreement provides for the Port to pay EAC an incentive of $15.00 for each import container and $25.00 for each export container loaded or unloaded from a vessel at the Port's marine terminals during calendar year 1995, provided each container is shipped by rail to or from points more than 260 miles from the Port.

Dated: January 5, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary

[FR Doc. 95–594 Filed 1–10–95; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573. within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200906.

Title: Southdown, Inc./Eastern Cement Corp. Stevedoring Terminal Agreement.

Parties:
Southdown, Inc. ("Southdown")
Eastern Cement Corp. ("Eastern")

Filing Agent: Charles H. Still, Jr. Bracewell & Patterson, L.L.P., Suite 2900, South Tower Pennzoil Place, 711 Louisiana St., Houston, TX 77002–2781.

Synopsis: The proposed Agreement provides that Eastern will lease equipment from and perform stevedoring services to Southdown at the Port of Palm Beach.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary

Dated: January 5, 1995.

[FR Doc. 95–598 Filed 1–10–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Huntington Bancshares Incorporated, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 3, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Huntington Bancshares Incorporated, Columbus, Ohio; to acquire 100 percent of the voting shares of Security National Corporation, Maitland, Florida, and thereby indirectly acquire Security National Bank, Maitland, Florida.

In connection with this application, Huntington Bancshares of Florida, Inc., Columbus, Ohio, has applied to become a bank holding company.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Synovus Financial Corp., Columbus, Georgia; and TB&C Bancshares, Inc., Columbus, Georgia, to merge with Citizens & Merchants Corporation, Douglasville, Georgia, and thereby indirectly acquire Citizens & Merchants State Bank, Douglasville, Georgia.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Old National Bancorp, Evansville, Indiana; to merge with Citizens National Bank Corporation, Tell City, Indiana, and thereby indirectly acquire The Citizens National Bank of Tell City, Tell City, Indiana.

Board of Governors of the Federal Reserve System, January 5, 1995

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–640 Filed 1–10–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[Docket No. 9271]

B.A.T. Industries p.l.c., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, B.A.T Industries and Brown & Williamson Tobacco Corporation to consummate the proposed acquisition of American Tobacco Company, but would require them to divest, within twelve months, six American Tobacco discount cigarette brands. If the required divestitures are

not completed on time, the consent agreement would permit the Commission to appoint a trustee to complete the transactions. In addition, the consent agreement would require the respondents, for ten years, to obtain Commission approval before acquiring any interest in a cigarette manufacturer or any assets used to manufacture or distribute cigarettes in the United States.

DATES: Comments must be received on or before March 13, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joseph Krauss, FTC/H–324, Washington, DC 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The agreement herein, by and between B.A.T Industries p.l.c., Brown & Williamson Tobacco Corporation, by their duly authorized officers, hereafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent B.A.T Industries p.l.c. (BAT) is a public limited company incorporated under the laws of England, with its headquarters and principal place of business located at Windsor House, 50 Victoria Street, London, England, SW1H 0NL.

2. Respondent Brown & Williamson Tobacco Corporation (B&W) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its headquarters and principal place of business located at 1500 Brown & Williamson Tower, P.O. Box 35090, Louisville, Kentucky, 40232

3. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and have filed an answer to said complaint denying said charges.

4. Respondent B&W, and for the purposes only of this agreement and any proceedings arising out of, or to enforce, this agreement, the order herein, and the Preservation Agreement attached hereto as Appendix I, respondent BAT, admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

5. Respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision containing the Order herein, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the Commission's complaint, or that the facts as alleged in the complaint, other than jurisdictional facts, are true.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to divest in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to divest shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to-order to respondent's attorneys, at the addresses as stated in this agreement, shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

9. Respondents have read the complaint and order contemplated hereby. Respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That, as used in this order, the following definitions shall apply:

A. *BAT* means B.A.T Industries p.l.c its subsidiaries, divisions, and groups. including Brown & Williamson Tobacco Corporation, its subsidiaries, divisions, and groups, and affiliates controlled by Brown & Williamson Tobacco Corporation ("B&W"), their successors and assigns, and their directors, officers, employees, agents, and representatives.

B. *American Brands* means American Brands, Inc., its subsidiaries, divisions, and groups, including The American Tobacco Company ("ATC"), their successors and assigns, and their directors, officers, employees, agents, and representatives.

C. *Commission* means the Federal Trade Commission.

D. *Acquisition* means the acquisition of ATC from American Brand by BAT.

E. The *Reidsville Assets* means all real property, fixtures and equipment at ATC's location at North Scales Street, Reidsville, NC 27320, including but not limited to, the following:

1. All machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

2. Inventory and storage capacity;

3. All rights, titles and interests in and to owned or leased real property, together with appurtenances, licenses and permits;

Provided however That the Reidsville Assets shall not include:

98.50/30—(MISTY 100's) (3) Modules; Maker/Protos, Packer/Focke 350
120/32—(MISTY 120's) (2) Modules; Maker/Protos, Packer/Focke 350
120/32—(CARLTON 120's) (1) (Module; Maker/Protos, Packer/Focke 350

Plus supporting equipment dedicated to the above identified brand styles including, but not limited to, plug makers, wrappers if separate, case packers, and routine maintenance parts and specific size parts.

F. *ATC Value Brands* means the following brands of cigarettes in the U.S.: Montclair, Riviera, Malibu, Bull Durham, Crowns, and Special Tens.

G. *ATC Full Revenue Brands* means the following brands of cigarettes in the U.S.: Tareyton, Silva Thins and Tall.

H. *ATC Brands* means the ATC Value Brands together with the ATC Full Revenue Brands.

I. *B&W Brand* means the following brand of cigarettes in the U.S.: Belair

J. The term *Assets* means the following tangible and intangible assets exclusively relating to the manufacture, distribution and sale of those of the ATC Value Brands, the ATC Full Revenue Brands (excluding any Reidsville Assets) or the B&W Brand actually being divested (collectively the "Brands") including, to the extent they exist, but not limited to:

1. The Brand profit and loss statements, Brand contribution statements, and Brand advertising, promotional and marketing spend records for each Brand since January 1, 1990;

2. All trademarks, trade dress, trade secrets, technical information, intellectual property, patents, technology, know-how, tobacco content formulae, designs, specifications, drawings, processes and quality control data exclusively related to any of the Brands;

3. A bill of materials for each of the Brands, consisting of full manufacturing standards and procedures, quality control specifications, specifications for raw materials and components, including lists of authorized sources for materials and components;

4. All dedicated molds and equipment currently in use for each of the Brands;

5. A list of all direct customers who have bought the Brands from ATC or B&W at any time from January 1, 1990, including names, addresses, and telephone numbers of the individual customer contacts, and the unit and dollar amounts of sales, by Brand, to each customer;

6. All current and projected advertising, promotional and marketing information, materials and programs specifically dedicated to the sale and distribution of each of the Brands;

7. All inventories of finished goods, packaging and raw materials uniquely relating to each of the Brands;

8. All names of manufacturers and suppliers under contract with ATC or B&W who produce for, or supply to, ATC or B&W in connection with the manufacture or sale of each of the Brands;

9. A copy of all product testing required by any regulatory authority specific to the Brands from January 1, 1990, including but not limited to tar and nicotine content testing as required by the FTC and all regulatory registrations and correspondence; and

10. All price lists for each of the Brand from January 1, 1990.

II

It is further ordered That:

A. BAT and B&W shall divest absolutely and in good faith, within 12 months of the date this order becomes final, the ATC Value Brands Assets. BAT and B&W shall also divest to the proposed acquirer of the ATC Value Brands Assets, the Reidsville Assets and the ATC Full Revenue Brands Assets. BAT and B&W shall also divest:

1. Such additional ancillary assets, formerly of ATC, and effect such arrangements in respect thereof, as are necessary to assure the marketability and the viability of the Reidsville Assets for the manufacture of cigarettes in the United States for sale and consumption in the United States; and

2. Such additional ancillary physical assets and legal rights, formerly of ATC, as are exclusive to those ATC Brands being divested and are necessary to assure the marketability and the viability of those ATC Brands;

Provided however, if the divestiture of only the ATC Value Brands Assets is approved by the Commission pursuant to Paragraph II. B., and the divestiture does not include the Reidsville Assets and/or the ATC Full Revenue Brands Assets, the obligations of BAT and B&W to divest under this order shall be satisfied upon the divestiture of the ATC Value Brands Assets.

B. BAT and B&W shall divest hereunder only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture provided herein is to remedy the lessening of competition resulting from the proposed acquisition as alleged in the Commission's complaint and, therefore, if the Reidsville Assets are divested, they shall be used only for the production of cigarettes in the U.S. principally for sale and consumption in the U.S.

C. Pending divestiture as provided in this Paragraph II, BAT and B&W shall:

1. Take such actions as are necessary to maintain the viability and marketability of the Reidsville Assets by preventing the destruction, removal, wasting, deterioration, sale, transfer, encumbrance or impairment of any of the Reidsville Assets except for ordinary wear and tear, and

2. Take such actions as are necessary to maintain the viability and marketability of the ATC Brands Assets by preventing the destruction, sale, transfer, encumbrance or impairment of any of the ATC Brands Assets.

D. BAT and B&W shall comply with all terms of the Preservation Agreement, attached to this order and made a part hereof as Appendix I. The Preservation Agreement shall continue in effect until the date this order becomes final.

III

It is further ordered That:

A. If BAT and B&W have not divested, absolutely and in good faith and with the Commission's prior approval, as provided in Paragraph II. A., the Commission may appoint a trustee to divest the ATC Value Brands Assets, the B&W Brand Assets and the Reidsville Assets. Upon divestiture under this Paragraph III, the Reidsville Assets shall be used for the production of cigarettes in the U.S. principally for sale and consumption in the U.S. *provided, however*, that if the Commission has not approved or disapproved a proposed divestiture within 120 days of the date the application for such divestiture has been placed on the public record, the running of the divestiture prior shall be tolled until the Commission approves or disapproves the divestiture. In the event that the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, BAT and B&W shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by BAT and B&W to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III. A. of the order, BAT and

B&W shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of BAT and B&W, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If BAT and B&W have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to BAT and B&W of the identity of any proposed trustee, BAT and B&W shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Reidsville Assets, the ATC Value Brands Assets and the B&W Brand Assets.

3. Within twenty (20) days after appointment of the trustee, BAT and B&W shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approve the trust agreement described in Paragraph III B. 3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Reidsville Assets, the ATC Value Brands Assets and the B&W Brand Assets or to any other revelant information, as the trustee may request, and shall take all reasonable steps to ensure that the confidentiality is maintained of matters and documents so designated by either of the respondents. BAT and B&W shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. BAT and B&W shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by BAT and B&W shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract (which may include provision for the contract manufacture of cigarettes) that is submitted to the Commission, subject to BAT's and B&W's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer as set out in Paragraph II B. of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by BAT and B&W from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of BAT and B&W, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of BAT and B&W, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the BAT and B&W, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Reidsville Assets, the ATC Value Brands Assets and the B&W Brand Assets.

8. BAT and B&W shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claims, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee. BAT and B&W shall be responsible for the defense of any and all claims against the trustee under this subsection and the trustee shall do and omit nothing which may prejudice such defense.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Reidsville Assets, the ATC Value Brands Assets and the B&W Brand Assets.

12. The trustee shall report in writing to BAT and B&W and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

13. The trustee shall note, in his or her recommendation to the Commission, whether the proposed acquirer, or any other entity controlling or commonly controlled by the proposed acquirer, has, directly or indirectly, in any jurisdiction in the world and at any time within the last five years, had goods that it manufactured or supplied seized, impounded or destroyed by any authority pursuant to a claim of infringement of any intellectual property or other right over or in respect to those goods.

IV

It is further ordered That, for a period of ten (10) years from the date this order becomes final, BAT and B&W shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition, or within the two years preceding such acquisition, in the manufacture in the United States of cigarettes for consumption in the United States, or

B. Acquire any assets used for or previously used for (and still suitable for use for) the manufacture, distribution, or sale in the United States of cigarettes.

Provided, however, that this Paragraph IV shall not apply to

transactions entered into in the ordinary course of business.

V

It is further ordered That:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until BAT and B&W have fully complied with the provisions of Paragraphs II and III of this order, BAT and B&W shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with Paragraphs II and III of this order. BAT and B&W shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. BAT and B&W shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One year (1) from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, BAT and B&W shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with Paragraph IV of this order.

VI

It is further ordered That BAT and B&W shall notify the Commission at least thirty (30) days prior to any proposed change in the corporations, such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporations, that in each case may affect compliance obligations arising out of the order.

VII

It is further ordered That, for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege, BAT and B&W shall permit any duly authorized representative of the Commission:

A. Upon written notice to counsel, access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of BAT and B&W relating to any matters contained in this order; and

B. Upon five days' written notice to counsel and without restraint or interference from BAT and B&W, to interview officers, directors, or employees of BAT and B&W, who may have counsel present.

Appendix I

Preservation Agreement

This Preservation Agreement is by and between B.A.T. Industries p.l.c., a public limited company incorporated under the laws of England, with its headquarters and principal place of business located at Windsor House, 50 Victoria Street, London, England, SW1H 0NL ("BAT"), Brown & Williamson Tobacco Corporation, a corporation incorporated under the laws of the State of Delaware with its headquarters and principal place of business located at 1500 Brown & Williamson Tower, PO Box 35090, Louisville, Kentucky ("B&W"), and the Federal Trade Commission, an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises for Agreement

Whereas, BAT pursuant to an agreement dated April 26, 1994, agreed to purchase substantially all of the outstanding stock of the American Tobacco Company ("ATC"), a whole owned subsidiary of American Brands, Inc.; and

Whereas, the Commission has reason to believe that the agreement would violate section 5 of the Federal Trade Commission Act, and that, if consummated, would violate section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act, statutes enforced by the Commission, and the Commission has issued its administrative complaint challenging the agreement; and

Whereas, if the parties accept the attached Agreement Containing Consent Order ("Consent Agreement"), the Commission is required to place it on the public record for a period of sixty (60) days for public comment and may subsequently withdraw such acceptance pursuant to the provisions of § 3.25(f) of the Commission's rules; and

Whereas, the Commission is concerned that if an agreement is not reached preserving the *status quo ante* of the Reidsville Assets and the ATC Brands Assets during the period prior to final acceptance of the Order by the Commission (after the 60-day comment period), any divestiture resulting from any proceeding challenging the legality of the acquisition might not be possible, or might produce a less than effective remedy; and

Whereas, the Commission is concerned that if the acquisition is consummated, it will be necessary to preserve the continued viability and marketability of the Reidsville Assets and the ATC Brands Assets, as defined in the Consent Agreement; and

Whereas, the purpose of this Preservation Agreement and of the Consent Agreement is to preserve the Reidsville Assets and the ATC Brands Assets until the date this Order becomes final, in order to remedy any anticompetitive effects of the acquisition; and

Whereas, BAT's and B&W's entering into this Preservation Agreement shall in no way be construed as an admission by BAT and B&W that the acquisition is anticompetitive or illegal; and

Whereas, BAT and B&W understand that no act or transaction contemplated by this Preservation Agreement shall be deemed immune or exempt from the provisions of the antitrust laws, or the Federal Trade Commission Act by reason of anything contained in this Preservation Agreement;

Now, therefore, in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Agreement, it will not seek further relief from the parties with respect to the acquisition, except that the Commission may exercise any and all rights to enforce this Preservation Agreement, and the Consent Agreement to which this Preservation Agreement, is annexed and made a part thereof, and the final order in this proceeding, and, in the event the required divestiture is not accomplished, to appoint a trustee to seek the divestiture of the Reidsville Assets, the ATC Value Brands Assets and the B&W Brand Assets as provided in the Consent Agreement, the parties agree as follows:

Terms of Agreement

1. BAT and B&W agree to execute, and upon its issuance, to be bound by the attached Consent Agreement.

2. BAT will be free to close the acquisition with American Brands immediately after the Commission's approval of the Consent Agreement for placement on the public record for comment.

3. BAT and B&W agree that from the date this Preservation Agreement is signed by BAT and B&W until the earliest of the dates listed in subparagraphs 3.a and 3.b they will

comply with the provisions of this Preservation Agreement:

a. Three business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of § 3.25(f) of the Commission's rules; or

b. The day the order becomes final.

4. From the time BAT and B&W sign this Preservation Agreement until the date the order becomes final, BAT and B&W shall:

a. Take such actions as are necessary to maintain the viability and marketability of the Reidsville Assets by preventing the destruction, removal, wasting, deterioration, sale, transfer, encumbrance or impairment of any of the Reidsville Assets except for ordinary wear and tear, and

b. Take such actions as are necessary to maintain the viability and marketability of the ATC Brands Assets by preventing the destruction, sale, transfer, encumbrance or impairment of any of the ATC Brands Assets.

5. BAT and B&W also waive all rights to contest the validity of this agreement.

6. For the purpose of determining or securing compliance with this agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to counsel for BAT or B&W, BAT or B&W shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of BAT or B&W, in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of BAT or B&W relating to compliance with this agreement; and

b. Upon five (5) days' notice to BAT or B&W and without restraint or interference from them, to interview officers or employees of BAT or B&W, who may have counsel present, regarding any such matters.

7. This agreement shall not be binding on the Commission until approved by the Commission.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("the Commission") has accepted, subject to final approval, an agreement containing a proposed consent order from B.A.T Industries p.l.c. ("BAT") and Brown & Williamson Tobacco Corporation ("B&W"). The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation of this matter concerns the acquisition of The American Tobacco Company ("ATC"), a wholly-owned subsidiary of American Brands, Inc. by BAT. B&W, BAT's wholly-owned subsidiary, and ATC are the third and fifth largest manufacturers of cigarettes, respectively, in the United States. In its administrative complaint, the Commission alleges, among other things, that the United States cigarette market is highly concentrated and would become substantially more concentrated as a result of the acquisition. The Commission also alleges that it has reason to believe that the acquisition would have anticompetitive effects and would violate section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act. The agreement containing consent order would, if finally accepted by the Commission, settle charges that the acquisition may substantially lessen competition in the manufacture and sale of cigarettes in the United States.

The order, accepted for public comment, contains provisions requiring BAT and B&W to divest certain brands of cigarettes and cigarette manufacturing facilities. The order requires BAT and B&W to divest, within twelve (12) months, six discount cigarette brands, formerly owned by ATC, including Montclair, Riviera, Malibu, Bull Durham, Crowns and Special Tens. The order also requires BAT and B&W to divest to the purchaser of the discount brands, three former ATC full revenue brands, Tareyton, Silva Thins and Tall, and the former-ATC cigarette manufacturing facility located at Reidsville, North Carolina. Under the terms of the divestiture, BAT and B&W may satisfy the divestiture requirements without divesting the full revenue brands and/or the Reidsville facility, if the Commission approves the divestiture of only the discount brands as satisfying the remedial concerns of the order. The purpose of the divestiture is to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint and, therefore, if the Reidsville facility is divested, it is to be used only for the production of cigarettes in the United States principally for sale and consumption in the United States.

Under the terms of the order, if BAT and B&W fail to complete the divestiture within the required period, the Commission may appoint a trustee to divest the six discount cigarette brands, the Reidsville facility and Belair, a B&W full revenue cigarette.

Any proposed divestiture pursuant to the order must be approved by the Commission after the divestiture proposal has been placed on the public record for reception of comments from interested persons. The Preservation Agreement executed as part of the agreement containing the consent order requires BAT and B&W, until the order becomes final, to take actions as are necessary to maintain the viability and marketability of the former ATC brands of cigarettes and the Reidsville facility.

For a period of ten years from the date the order becomes final, the order prohibits BAT and B&W from acquiring, without prior Commission approval, stock or assets of, or interests in, any company engaged in the manufacture and sale of cigarettes in the United States.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–693 Filed 1–10–95; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Notice of Transmittal of the United States General Accounting Office Compliance Report to the President and the Congress Covering Reports Issued During the Session of Congress Ending December 1, 1994

Pursuant to the Omnibus Budget Reconciliation Act of 1990, Section 254(b), the United States General Accounting Office hereby reports that it has submitted its Compliance Report covering reports issued during the session of Congress ending December 1, 1994 to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives.

Susan J. Irving,

Associate Director, Budget Issues, Accounting and Information Management Division.

[FR Doc. 95–612 Filed 1–10–95; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: December, 1994

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services during the month of December, 1994. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since December 1, 1994. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Requests for copies of a project or comments on the project should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade, SW., Aerospace Building, 7th Floor West, Washington DC 20447, FAX: (202) 205–3598, PHONE: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

II. Listing of New and Pending Proposals for the Month of December, 1994.

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of December 1994.

Waiver Title: Arizona—Employing and Moving People Off Welfare and Encouraging Responsibility Program.

Description: Would not increase benefits for additional children conceived while receiving AFDC; limit benefits to adults to 24 months in any 60 month period; allow recipients to deposit up to $200/month (with 50% disregarded) in Individual Development Accounts; require minor mothers to live with parents; extend Transitional Child Care and Medicaid to 24 months and eliminate the 100-hour rule for AFDC–U cases. Also, in a pilot site, would provide individuals with short-term subsidized public or private OJT subsidized by grant diversion which includes cashing-out Food Stamps.

Date Received: 8/3/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Gail A. Parin, (602) 542–4702.

Waiver Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: Reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Waiver Title: California—AFDC and Food Stamp Compatibility Demonstration Project.

Description: Would make AFDC and Food Stamp policy more compatible by making AFDC households categorically eligible for Food Stamps; allowing recipients to deduct 40 percent of self-employment income in reporting monthly income; disregarding $100 per quarter in non-recurring gifts and irregular/infrequent income; disregarding undergraduate student assistance and work study income if payments are based on need; reinstating food stamp benefits discontinued for failure to file a monthly report when good cause is found for the failure; and simplifying vehicle valuation methodology.

Date Received: 5/23/94.

Type AFDC.

Current Status: Pending.

Contact Person: Michael C. Genest. (916) 657–3546.

Waiver Title: California—Assistance Payments Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project by: Exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in *Beno v Shalala.*

Date Received: 8/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Michael C. Genest. (916) 657–3546.

Waiver Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Eloise Anderson, (916) 657–2598.

Waiver Title: California—School Attendance Demonstration Project.

Description: In San Diego County, require AFDC recipients ages 16–18 to attend school or participate in JOBS.

Date Received: 12/5/94.

Type: AFDC.

Current Status: New.

Contact Person: Michael C. Genest (916) 657–3546.

Waiver Title: Georgia—Work for Welfare Project.

Description: Work for Welfare Project. In 10 pilot counties would require every

non-exempt recipient and non-supporting parent to work up to 20 hours per month in a state, local government, federal agency or nonprofit organization; extends job search; and increases sanctions for JOBS noncompliance. On a statewide basis, would increase the automobile exemption to $4,500 and disregard earned income of children who are full-time students.

Date Received: 6/30/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Nancy Meszaros, (404) 657–3608.

Waiver Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Faith Spencer, (913) 296–0775.

Waiver Title: Maine—Project Opportunity.

Description: Increase participation in Work Supplementation to 18 months; use Work Supplementation for any opening; use diverted grant funds for vouchers for education, training or support services; and extend transitional Medicaid and child care to 24 months.

Date Received: 8/5/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Susan L. Dustin, (207) 287–3106.

Welfare Title: Maryland—Welfare Reform Project.

Description: Statewide, eliminate increased AFDC benefit for additional children conceived while receiving AFDC and require minor parents to reside with a guardian. In pilot site, require able-bodied recipients to do community service work after 18 months of AFDC receipt; impose full-family sanction on cases where JOBS non-exempt parent fails to comply with JOBS for 9 months; eliminate 100-hour rule and work history requirements for AFDC–UP cases; increase both auto and resource limits to $5000; disregard income of dependent children; provide one-time payment in lieu of ongoing assistance; require teen parents to continue education and attend family health and parenting classes; extend JOBS services to unemployed non-custodial parents; and for work supplementation cases cash-out food stamps.

Date Received: 3/1/94.
Type: AFDC.
Current Status: Pending.
Contact Person. Katherine L. Cook, (410) 333–0700.

Waiver Title: Massachusetts—Employment Support Program.

Description. Would end cash assistance to most AFDC families, requiring recipients who could not find full-time unsubsidized employment after 60 days of AFDC receipt to do community service and job search to earn a cash "subsidy" that would make family income equal to the applicable payment standard; provide direct distribution of child support collections to, and cash-out food stamps for, those who obtain jobs; continue child care for working families as long as they are income-eligible (but requiring sliding scale co-payment); restrict JOBS education and training services to those working at least 25 hours per week; extend transitional Medicaid for a total of 24 months; and require teen parents to live with guardian or in a supportive living arrangement and attend school.

Date Received: 3/22/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Joseph Gallant, (617) 727–9173.

Waiver Title: Missouri—Families Mutual Responsibility Plan.

Description: Require minor parents in live at home or in other adult-supervised setting; disregard parental income of minor parents if less than 100% of Federal Poverty Guidelines; disregard earnings of minor parents if they are students; provide option to standard filing unit requirements for households with minor parents; eliminate work history and 100-hour rule for two-parent families under 21 yrs old; exclude the value of one automobile.

Date Received: 8/15/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Greg Vadner, (314) 751–3124.

Waiver Title: Montana—Achieving Independence for Montanans.

Description: Would establish: (1) Job Supplement Program consisting of a set of AFDC-related benefits to assist individuals at risk of becoming dependent upon welfare; (2) AFDC Pathways Program in which all applicants must enter into a Family Investment Contract and adults' benefits would be limited to a maximum of 24 months for single parents and 18 months for AFDC-UP families; and (3) Community Services Program requiring 20 hours per week for individuals who reach the AFDC time limit but have not achieved self-sufficiency The office culture would also be altered in conjunction with a program offering a variety of components and services; and simplify/unify AFDC and Food Stamp intake/eligibility process by: (1) Eliminating AFDC deprivation requirement and monthly reporting and Food Stamp retrospective budgeting; (2) unifying program requirements; (3) simplifying current income disregard policies. Specific provisions provide for cashing out food stamps, expanding eligibility for two-parent cases, increasing earned income and child care disregards and resource limits, and extending transitional child care

Date Received: 4/19/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Penny Robbe, (406) 444–1917

Waiver Title: Nebraska—Welfare Reform Waiver Demonstration.

Description: Would assign recipients with mental, emotional or physical barriers to self-sufficiency or who do not have parental responsibility for the children to a Non-Time-Limited Program and require all other recipients to choose either a Time-Limited, High Disregards Program or a Time-Limited, Alternative Benefit Program. Under all three programs would eliminate increase in benefits for birth of children conceived while receiving AFDC; raise resource limits to $5,000 and exclude

the value of one vehicle; require school attendance; deem, to the family, income of parents living with a minor parent in excess of 300% of the poverty level, but where minor parent lives independently, secure support from the minor's parents. Under the Time-Limited, High Disregards Program, would provide cash assistance for a total of 24 months during a 48 month period (with provisions for certain exemptions and extensions); cash-out Food Stamps; reduce AFDC payments, but replace earned income disregards with a disregard of 60% of earned income; require all adult wage earners to participate in educational job skills training, work experience, intensive job search, or employment; make employment a JOBS component, but only for a job deemed to lead to self-sufficiency; extend job search requirements; require both parents in two-parent families to participate in JOBS; impose first JOBS sanction for at least one month, the second for at least 90 days and the third permanently; extend transitional Medicaid and child care to 24 months; eliminate 100 hour rule and work place attachment requirements for AFDC-UP cases. Under the Time-Limited, Alternative Benefit Program the same provisions would apply except that recipients of this program would have somewhat higher benefits, but with the current earned income disregards.

Date Received: 10/4/94.
Type: Combined AFDC/Medicaid.
Current Status: Pending.
Contact Person: Dan Cillessen, (402) 471–9270.

Waiver Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.

Date Received: 9/20/93
Type: AFDC.
Current Status: Pending.
Contact Person: Avis L. Crane, (603) 271–4255.

Waiver Title: New Mexico—Untitled Project.

Description: Would increase vehicle asset limit to $4,500; disregard earned income of students; develop an AFDC Intentional Program Violation procedure identical to Food Stamps; and allow one individual to sign declaration of citizenship for entire case.

Date Received: 7/7/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Scott Chamberlin, (505) 827–7254.

Waiver Title: North Dakota—Training, Education, Employment and Management Project.

Description: Would require families to develop a social contract specifying time-limit for becoming self-sufficient; combine AFDC, Food Stamps and LIHEAP into single cash payment with simplified uniform income, expense and resource exclusions; increase income disregards and exempt stepparent's income for six months; increase resource limit to $5,000 for one recipient and $8,000 for families with two or more recipients; exempt value of one vehicle; eliminate 100-hour rule for AFDC-UP;impose a progressive sanction for non-cooperation in JOBS or with child support; require a minimum of 32 hours of paid employment and non-paid work; require participation in EPSDT; and eliminate child support pass-through.

Date Received: 9/9/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Kevin Iverson, (701) 224–2729.

Waiver Title: Ohio—A State of Opportunity Project.

Description: Three demonstration components proposed would test provisions which: Divert AFDC and Food Stamp benefits to a wage pool to supplement wages of at least $8/hour; eliminate 100-hour rule for UP cases; provide fill-the-gap budgeting for 12 months from month of employment; increase child support pass-through to $75; provide a one-time bonus of $150 for paternity establishment; provide an additional 6 months of transitional child care; increase automobile asset limit to $4,500 equity value; require regular school attendance by 6 to 19 year olds; continue current LEAP demo waivers (i.e., eliminate many JOBS exemptions and provide incentive payments and sanctions); and disregard JTPA earnings without time limit.

Date Received: 5/28/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Joel Rabb, (614) 466–3196.

Waiver Title: Oklahoma—Mutual Agreement, A Plan for Success.

Description:—Five pilot demonstrations would test provisions which: (1) Eliminate 100-hour rule for UP cases; (2) increase auto asset level to $5,000; (3) time-limit AFDC receipt to cases with non-exempt JOBS participants to 36 cumulative months in a 60 month period followed by mandatory workfare program; (4) provide intensive case management; and (5) apply fill-the-gap budgeting.

Date Received: 2/24/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Raymond Haddock, (405) 521–3076.

Waiver Title: Oregon—Expansion of the Transitional Child Care Program.

Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.

Date Received: 8/8/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Jim Neely, (503) 945–5607.

Waiver Title: Oregon—Increased AFDC Motor Vehicle Limit.

Description: Would increase automobile asset limit to $9,000.

Date Received: 11/12/93.
Type: AFDC.
Current Status: Pending.
Contact Person: Jim Neely, (503) 945–5607.

Waiver Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.
Type: AFDC.
Current Status: Pending.
Contact Person: Patricia H. O'Neal, (717) 787–4081.

Waiver Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.
Type: AFDC.
Current Status: New.
Contact Person: Patricia H. O'Neal, (717) 787–4081.

Waiver Title: South Carolina Self-Sufficiency and Parental Responsibility Program.

Description: In pilot sites, would increase earned income disregards; disregard earned income of children, interest, dividends, and payments by the Employment Security Commission or DOD, and allow stepparents same earnings disregard as recipients; relax parental deprivation requirements for AFDC–U cases; disregard the cash value of one vehicle and life insurance and increase resource limit to $3,000; and require participants to comply with individualized, time-limited, self-sufficiency plan as a condition of welfare receipt, placing recipients in public or private work experience if an unsubsidized job is not found.

Date Received: 6/13/94.
Type: AFDC/Medicaid.
Current Status: Pending.
Contact Person: Linda Martin, (803) 737–6010.

Waiver Title: Virginia—Welfare to Work Program.

Description: Statewide, would provide one-time diversion payments to qualified applicants in lieu of AFDC, change first time JOBS non-compliance sanction to a fixed period of one month or until compliance and remove the conciliation requirement; require paternity establishment as condition of eligibility; remove good cause for non-cooperation with child support and exclude from AFDC grant caretakers who cannot identify, misidentify, or fail to provide information on the father; require minor parents to live with an adult guardian; require AFDC caretakers without a high school diploma, aged 24 and under, and children, aged 13–18, to attend school; require immunization of children; allow $5,000 resource exemption for savings for starting business; and increase eligibility for Transitional and At-Risk Child Care. Also: require non-exempt participants to sign an Agreement of Personal Responsibility as a condition of eligibility and assign to a work site under CWEP for a number of hours determined by dividing AFDC grant plus the value of the family's Food Stamp benefits by the minimum wage; eliminate increased AFDC benefit for additional children born while a family received AFDC; time-limit AFDC benefits to 24 consecutive months; increase earned income disregards to allow continued eligibility up to the federal poverty level; provide 12 months transitional transportation assistance; modify current JOBS exemption criteria for participants; eliminate the job search limitation; and eliminate the deeming requirement for sponsored aliens when the sponsor receives food stamps. In 12 sites, would operate sub-component paying wages in lieu of AFDC benefits and Food Stamps for CWEP and subsidized employment, increase eligibility for transitional Medicaid; plus other provisions.

Date Received: 12/2/94.
Type: AFDC/Medicaid.
Current Status: New.
Contact Person: Larry B. Mason, (804) 692–1900.

Waiver Title: Washington—Success Through Employment Program.

Description: Eliminate 100-hour rule and work history requirements for AFDC–UP cases and subtract client earnings from 55 percent of the State need standard rather than the payment standard

Date Received 11/16/93
Type: AFDC.
Current Status Pending.
Contact Person Laurel Evans, (206) 438–8268.

III. Listing of Approved Proposals Since December 1, 1994

Waiver Title. Indiana—Manpower Placement and Comprehensive Training Program.

Contact Person James M. Hmurovich, (317) 232–4704.

Waiver Title: Mississippi—A New Direction Demonstration Program.

Contact Person Larry Temple (703) 538–2440.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562, Assistance Payments—Research.)

Dated: January 4, 1995

Howard Rolston,

Director, Office of Policy and Evaluation.

[FR Doc. 95–616 Filed 1–10–95; 8:45 am]
BILLING CODE 4184–01–P

[Program Announcement No. 93631–95–01]

Developmental Disabilities: Request for Public Comments on Proposed Developmental Disabilities Funding Priorities for Projects of National Significance for Fiscal Year 1995

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Notice of request for public comments on developmental disabilities funding priorities for Projects of National Significance for Fiscal Year 1995

SUMMARY: The Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), announces that public comments are being requested on funding priorities for Fiscal Year 1995 Projects of National Significance.

We welcome specific comments and suggestions on these proposed funding priorities as well as recommendations for additional priority areas which will assist in bringing about the increased independence, productivity, and integration into the community of individuals with developmental disabilities.

DATES: The closing date for submission of public comments is March 13, 1995

ADDRESSES: Comments should be sent to: Bob Williams, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, Room 329–D, HHH Building, 200 Independence Avenue SW., Washington, D.C. 20201

FOR FURTHER INFORMATION CONTACT: Adele Gorelick, Program Development Division, Administration on Developmental Disabilities, 202/690–5982.

SUPPLEMENTARY INFORMATION:

Part I. Background

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is located within the Administration for Children and Families (ACF), Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific constituency it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, we see:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, individuals with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including those with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

Two issues are of particular concern with these projects. First, there is a

pressing need for networking and cooperation among specialized and categorical programs, particularly at the service delivery level, to ensure continuation of coordinated services to people with developmental disabilities. Second, project findings and successful innovative models of projects need to be made available nationally to policy makers as well as to direct service providers.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities (ADD) is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1994 Amendments (Pub. L. 103–230) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C.6000, *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such,
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for individuals with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks to enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential; to support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination; to engage in leadership activities in their communities; as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

C. Description of Projects of National Significance

Under Part E of the Act, demonstration (and in some cases, cooperative agreement) grants and technical assistance contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including:

—technical assistance for the development of information and referral systems;
—educating policy makers;
—Federal interagency initiatives;
—the enhancement of participation of racial and ethnic groups in public and private sector initiatives in developmental disabilities;
—transition of youth with developmental disabilities from school to adult life; and
—special pilots and evaluation studies to explore the expansion of programs under part B (State developmental disabilities councils) to individuals with severe disabilities other than developmental disabilities.

Section 162(c) of the Act requires that ADD publish in the **Federal Register** proposed priorities for grants and contracts to carry out Projects of National Significance. The Act also requires a period of 60 days for public comment concerning such proposed priorities. After analyzing and considering such comments, ADD must publish in the **Federal Register** final priorities for such grants and contracts, and solicit applications for funding based on the final priorities selected.

The following section presents the proposed priority areas for Fiscal Year 1995 Projects of National Significance. We welcome specific comments and suggestions as well as suggestions for additional priority areas. We would also like to receive suggestions on topics which are timely and relate to specific needs in the developmental disabilities field.

Please be aware that the development of final funding priorities is based on the public comment response to this notice, current agency and departmental priorities, needs in the field of developmental disabilities and the developmental disabilities network, etc., as well as the availability of funds for this fiscal year

Part II. Fiscal Year 1995 Proposed Priority Areas for Projects of National Significance

ADD is interested in all comments and recommendations which address areas of existing or evolving national significance related to the field of developmental disabilities.

ADD also solicits recommendations for project activities which will advocate for public policy change and community acceptance of all individuals with developmental disabilities and families so that such

individuals receive the culturally competent services, supports, and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

ADD is also interested in activities which promote the inclusion of all individuals with developmental disabilities, including individuals with the most severe disabilities, in community life; which promote the interdependent activity of all individuals with developmental disabilities and individuals who are not disabled; and which recognize the contributions of these individuals (whether they have a disability or not), as such individuals share their talents at home, school, and work, and in recreation and leisure time.

No proposals, concept papers or other forms of applications should be submitted at this time. Any such submission will be discarded.

ADD will not respond to individual comment letters. However, all comments will be considered in preparing the final funding solicitation announcement and will be acknowledged and addressed in that announcement.

Please be reminded that, because of possible funding limitations, not all of the proposed priority areas listed below may be published in the final funding solicitation for this fiscal year.

Comments should be addressed to: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services, Room 329–D HHH Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Proposed Fiscal Year 1995 Priority Area 1: ADD and ACYF Family and Youth Services Bureau (FYSB) Collaboration Between Youth Service Providers and Disabilities Advocates To Enhance Services to Youth With Developmental Disabilities

The Family and Youth Services Bureau within the Administration on Children, Youth and Families (ACYF) and the Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), have established a Memorandum of Understanding (MOU) designed to foster collaboration between grantee programs to provide improved access to services for youth with developmental disabilities who are at-risk of running away or becoming involved in delinquent behavior. Access to supports and services lead to self-actualization, self-determination, and independence through employment.

An important goal of the MOU is to fund projects that demonstrate the need for and effectiveness of collaborations between the ADD and FYSB grantee programs to enable at-risk youth with developmental disabilities to achieve their full potential and grow to be successful, independent adults. Employment is an important outcome for at-risk youth with developmental disabilities. It is proposed that FYSB and ADD will jointly fund three grants in FY 1995, each for a three-year project period and each at a level of $150,000 per year.

Applicants must document that the proposed project will be designed and implemented through collaborative efforts by FYSB and ADD funded grantees. Successful applicants would propose projects to:

- Improve coordination of services through information-sharing and networking efforts;
- Enhance service delivery through the identification of existing barriers to service provision, and
- Improve service provision through the identification of appropriate training materials and the development of collaboration strategies for comprehensive service provision to at-risk youth.

Proposed Fiscal Year 1995 Priority Area 2: Americans With Developmental Disabilities and the Criminal Justice System

Individuals with developmental disabilities (especially mental retardation), both as victims and those accused and convicted of committing crimes, are becoming increasingly involved in the criminal justice system. Moreover, these individuals often face unequal justice at the hands of police and the courts precisely because the current system is not educated or prepared to respond or adapt to their disabilities and self-advocates have not been considered as essential elements of the educational process.

According to a recent Justice Department report, youth in general are at physical and emotional risk in most facilities where they are held. Nearly one-half of the facilities surveyed exceeded their design capacity and only 20 to 26 percent had adequate bed space, health care, security, or suicide control. Youth with developmental disabilities are especially unprepared and unprotected in this stressed environment.

The Americans with Disabilities Act requires police departments to take steps, including educating and providing information dissemination when necessary, to avoid discriminatory treatment on the basis of disability. However, to date, States and localities have received little direction on how to carry out these provisions with respect to Americans with developmental and other disabilities who get caught up in the criminal justice system.

Hence, a much more focused effort must be made toward identifying and replicating best and promising practices in this area. This is especially true if the critical concept of "community policing" is going to be applied to individuals with disabilities in a fair and effective manner throughout our Nation.

Much greater emphasis must be placed on providing current police and new recruits with the education and information needed to afford individuals with disabilities who are victims or alleged perpetrators of crime with equal justice under the law. All interrogations involving individuals whose disabilities affect comprehension and communication should be electronically recorded. This is not being done on a uniform basis. Nor is the concept of competency to stand trial being regularly applied through an evaluation of the ability to help one's lawyer prepare a defense and to understand the proceedings and the possibility of punishment.

The input and participation of individuals with developmental and other disabilities is crucial for familiarizing police and others with the unique range of needs and abilities of this population.

Additional training is needed to better prepare individuals with disabilities to avoid conduct that might place them at risk of becoming victims or perpetrators of criminal activities and to negotiate in the criminal justice system should they become involved with it. An understanding of Miranda rights and responses is crucial.

ADD is particularly interested in national, State, and local self-advocacy networks, with the capacity to work collaboratively with the developmental disabilities network, service providers, law enforcement officials, criminal justice agencies, the civil rights community, and others, that would be able to spearhead such efforts and develop culturally competent, ongoing programs with measurable outcomes.

Proposed Fiscal Year 1995 Priority Area 3: First Jobs—Introducing Young Persons With/Without Developmental Disabilities to the World of Work and Community Service

Nationally, the employment outlook for young Americans with developmental disabilities is bleak. Some progress has been made in supporting individuals with significant disabilities in real jobs, but the following facts speak for themselves: only about 10 percent of students with developmental disabilities graduating from school go on to competitive or supported employment; only about one-half of individuals with developmental disabilities surveyed indicated they had any choice in what job they held; and 90 cents of every Federal dollar, and 80 cents of every State dollar, spent on providing services to individuals with developmental disabilities during the day is spent on keeping individuals in segregated, nonproductive settings.

The cultural change that needs to occur is a redirection of the efforts of service providers and a shifting of focus onto the abilities and skills of individuals with disabilities. First-time job support can result from partnerships with young people without disabilities. This emphasis on inclusion provides mutual benefit as young people in their first community service or employment experiences benefit from the resources of diversity.

ADD is proposing to fund research and demonstration projects that develop strategies for first jobs that will lead to second jobs and ultimate career paths. Research should include assessments of current practices and of necessary supports, such as transportation, adaptive technology, and personal assistance services.

Collaborative linkages among service/support providers should be explored as well as matches with individuals with developmental disabilities and those without disabilities in job settings. Strategies for success should include consumer choice and empowerment as essential approaches in the development and implementation of projects that will be culturally competent, ongoing, and have measurable outcomes.

ADD is particularly interested in collaborative projects including State Welfare/JOBS programs, the AmeriCorps program of the Corporation for National and Community Service, and other private nonprofit agencies and organizations that would be able to establish ongoing working relationships with Head Start, Vocational Rehabilitation, the Job Training Partnership Act program, and other relevant community resources. Every effort will be made to coordinate the activities under this priority area with the Office of Family Assistance and other Federal agencies such as the Social Security Administration.

Proposed Fiscal Year 1995 Priority Area 4: Child Care and Early Intervention: Linkages for Successful Inclusion of Young Children With Disabilities

The Administration on Developmental Disabilities is interested in funding projects which will increase the capacity of child care and development programs to meet the needs of young children with disabilities. Child care services need to be included among the essential partner agencies in the provision of early, continuous, intensive and comprehensive child development and family support services to children with disabilities and their families. The primary goals of projects to consider would be increasing access to quality child care services for children with disabilities birth through age 5 and increasing the delivery of early intervention and related services to children in natural and inclusive environments.

Although inclusion of children with disabilities within child care is not a new occurrence, few formal mechanisms support effective coordination between the child care and disability communities. These systems remain separate and apart even as they are called upon to provide services to the same children and families. Families of young children with disabilities continue to rank child care among the highest of their unmet needs and early findings of the Part H Early Intervention Program for infants and toddlers show no significant number of young children receiving these services within child care or other natural environments outside the home.

Access to quality child care services for children with disabilities was significantly strengthened and is protected by the passage of the Americans with Disabilities Act in July 1992. The ADA explicitly prohibits discrimination of children with disabilities in public and private child care settings. The Act describes the protections available to children with disabilities and their families and also describes the child care providers' legal responsibility and required steps to make accommodations which ensure access and opportunities for full participation.

While the ADA opens many doors and provides the legal protections to assure access to children with disabilities, this prohibition of discrimination, in and of itself, is limited in its ability to increase the capacity of child care programs to successfully include children with disabilities. Even when providers understand their obligations under the ADA, they continue to need ongoing access to training, technical assistance, mentorship, and consultation to implement meaningful and inclusionary policies and programs.

Furthermore, the linkages between childhood disability and poverty have long gone unnoticed and unaddressed. The number of children with disabilities living in poverty is significant. Their needs, as well as those of their parents, for quality child care are great. Nearly 8 percent of children on AFDC have disabilities. Without intervention and support, children in poverty are also at risk for disability.

New approaches to strengthening America's families and providing services to its youngest and most vulnerable children require the commitment and combined effort of multiple delivery systems. The foundation for collaborative approaches is evident in recent Federal legislation addressing the needs of children and families.

ADD is particularly interested in local and Statewide projects that promote a seamless interagency approach to better serve children with disabilities, and especially those children with disabilities who live in poverty. To develop child care services which are responsive to the needs of young children with disabilities and their families, the protections of the ADA must be joined with best practices in the field of early childhood education, early intervention, and family support services. Projects should address the significant training needs of the child care community, providers, and parents of children with disabilities regarding the ADA and its protections and obligations.

Projects should identify or develop strategies and mechanisms which support and expand training opportunities across systems. Strategies should encourage the sharing of resources and expertise, as well as establishing opportunities for ongoing mentorship and technical assistance.

Overall, formal and informal linkages developed through these projects should increase the knowledge, awareness, and access to resources and services among families, child care providers, early childhood educators, disability service providers, and others who work with

children with disabilities and their families.

ADD is interested in funding projects reflecting these values in culturally competent, inclusive, family-centered and measurably outcome-oriented approaches that can establish ongoing relationships.

In addition, ADD is interested in joint efforts of projects such as the Americorps program of the Corporation for National and Community Service and the JOBS program, whereby young adults with disabilities may participate in jobs and community service as personal assistants and inclusion aides.

Proposed Fiscal Year 1995 Priority Area 5 Building a Multi-Cultural Network Within the Developmental Disabilities System

The reality of an American society in which racial and ethnic cultural minorities are increasing in numbers and influence is becoming more evident each day. There are more than three million American children and adults with developmental disabilities, including a large number who are members of racial and ethnic minority groups. Many of these individuals and families from culturally diverse backgrounds remain outside of the various disability systems designed for their benefit; they are unable to gain access to the service systems, let alone fully participate in or benefit from them. Successful individuals of color with disabilities are often not encouraged or identified to serve as role models for other individuals having disabilities. In large part, the developmental disabilities network does not reflect this new multicultural reality—not among faculty, planners, staffs, trainees, or advocates. As a first step in addressing this situation, ADD established a multicultural committee with the mission of advising and providing resources to the Commissioner of ADD on all matters that may influence the implementation of a culturally competent service system for persons with disabilities.

Therefore, ADD is proposing to fund projects that will enable the developmental disabilities network to gain and maintain the knowledge, skills, and competencies necessary to serve a culturally diverse constituency. These projects should assist the components of the developmental disabilities network (Developmental Disabilities Councils, Protection and Advocacy Agencies, and University Affiliated Programs) in obtaining appropriate tools to identify areas of need and to develop action strategies that will address not only current needs but have as a goal institutionalizing cultural competency in every aspect of our programs. For some components, assistance in cultural competence should be implemented at the community or policy/advocacy level while other programs will need assistance at a more basic internal/programmatic level. Within and outside the developmental disabilities system are existing resources, both material and human, that these projects should collect and utilize through a cadre of consultants with expertise in this area.

At the local level, building linkages or connections among and between the Developmental Disabilities Councils, P&As, and UAPs with cultural/ethnic organizations that are representative of community demographics will be essential as these components of the developmental disabilities network develop and implement action strategies. Therefore, ADD is particularly interested in fostering State-level coalitions between Developmental Disabilities Councils, Protection and Advocacy Systems, University-Affiliated Programs, and Historically Black Colleges and Universities (HBCUs) and other institutions of higher education with high minority student enrollment, major civil rights organizations, and cultural/ethnic associations. Without the involvement of these types of organizations, the ability and capacity to understand and thus serve individuals and families from different racial/ethnic backgrounds would be severely hindered.

Key to the operation and long-term effect of these projects is the dissemination of knowledge, best practices, materials, and experiences between the networks and beyond. This needs to occur not only during the length of the projects but at the end as well. ADD is interested in dissemination activities that would maintain and share ongoing information, existing resources of consultants/experts, curriculum/materials with funded projects and within the network. At a national level the experiences of these projects should be shared with the developmental disabilities network and the disability field, as well as with major civil rights organizations, other minority organizations, and institutions of higher education such as HBCUs, leading to further collaboration and partnership at the State level in the continued development of cultural competency.

Of particular interest are projects that have as a focus the professional recruitment and retention of individuals who are from culturally diverse backgrounds with disabilities into all aspects of the three components of the DD network, especially in research, training, policy, and administration. Only in this way will people with developmental disabilities be empowered and the system made to reflect their vision.

Proposed Fiscal Year 1995 Priority Area 6: Accessing Telecommunication Services for Persons With Developmental Disabilities

With the advancement in technology as it relates to the telecommunication information superhighway, the availability of service information for individuals with disabilities has become more accessible. This accessibility opens up the possibility for greater utilization of services to families and individuals with developmental disabilities through the use of computer technology.

Consumers and their families need, along with the private sector, to be apprised of the services that are available. Computer bulletin board service providers such as Internet, Compuserve, Prodigy, and others are mechanisms which provide a wealth of information. These services also have the ability to enable individuals with disabilities to access information on governmental programs serving their population, available treatment facilities, medical breakthroughs, best practices, and the sharing of concerns on issues regarding disabilities.

Therefore, ADD is interested in funding projects to develop strategies which would reach individuals with developmental disabilities and their families, and underserved individuals using computer linkages. ADD is also interested in funding projects that will provide information and other assistance to organizations that want to set up telecommunication systems that link advocacy groups, service providers, consumers, and parents on a national basis. ADD is aware that a number of computer bulletin boards already exist but which ones are targeted to developmental disabilities consumers and their families is unknown. In addition, how individuals with disabilities would access and utilize information from these systems is not known.

Proposed Fiscal Year 1995 Priority Area 7: Meeting the Mental Health Needs of Individuals With Developmental Disabilities

Meeting the mental health needs of individuals with developmental disabilities is a "quality of life" goal, but, often community service personnel neither have the skills nor the desire to effectively treat individuals with developmental disabilities who have

mental health needs. In addition, these consumers are often caught between two service delivery systems (mental health and developmental disabilities) where the type and continuity of resources required for effective treatment and improved life quality are inefficient, ineffective or non-existent. Improving the adequacy and availability of such resources will depend on better training for both specialized and generic service providers.

The challenge of the 1990s is to provide for a coordinated, collaborative human service delivery system that will enable individuals with developmental disabilities to receive services in an expeditious and coordinated manner. The creation of such a system will allow for full community integration and inclusion of individuals with developmental disabilities who also need mental health services.

ADD is interested in projects which demonstrate the potential for creative and humanizing approaches to designing, implementing and evaluating projects which assist community agencies in coordinating efforts in the mental health and developmental disabilities service systems; train mental health professionals and paraprofessionals on developmental disabilities issues; educate family members, advocates, individuals with developmental disabilities and service providers on state-of-the-art practices in the field of mental illness and developmental disabilities; and develop and disseminate methods for working with the mental health and developmental disabilities networks to promote full inclusion and membership in the community.

Proposed Fiscal Year 1995 Priority Area 8: Children at Risk: The Impact of Abuse and Violence on Children with Disabilities

Children with disabilities have been found to be abused at two to ten times the rate of children without disabilities. Most perpetrators of the abuse are well known to the victim. They have been service providers, including teachers, doctors, administrators, therapists, and bus drivers, but most have been family members. Many were abused themselves as children, alcoholism is more prevalent, and low income, unemployment, and poor health are significant factors. Maltreatment can include physical, sexual, and emotional abuse and physical, educational, and emotional neglect.

A significant percentage of developmental disabilities are caused by abuse. Victims of child neglect sustain such permanent disabilities as mental retardation and learning and cognitive disabilities. Over half the fatalities related to child abuse occur from 0 to 1 year and 90 percent of such fatalities occur in children under 5 years of age.

Clearly, there is an epidemic—3 million cases in 1993. Public awareness as well as professional intervention are urgently needed. Because in four out of five cases, the perpetrators have been the child's parents, a family-centered approach is appropriate, including intergenerational resources, as is cross-disciplinary and cross-network training and collaboration.

ADD is interested in funding one or more State demonstration projects for development and implementation of a Statewide collaboration/coordination strategy to reduce the incidence of abuse and neglect of children with disabilities and reduce the incidence of abuse and neglect of children which causes or contributes to the development of disabilities.

Such a strategy would involve developing a Statewide strategy for a multi-agency, multi-system approach to address the problem of maltreatment of children with disabilities. This coordination and collaboration strategy should involve all pertinent State agencies/programs, including Child Welfare Services, Education, the Developmental Disabilities Protection and Advocacy Agency, Developmental Disabilities Planning Council, Child Care, any State Head Start Coordinator, Health (including mental health and substance abuse, maternal and child health), Welfare (AFDC, Medicaid, etc.), Mental Retardation, the criminal justice system, and any other pertinent entities. The project should involve appropriate State Councils/planning bodies including those for Family Preservation and Support, State Interagency Coordinating Council for Part H, IDEA, and other public and private programs/resources including the Developmental Disabilities University Affiliated Program in the State and consumer agencies such as the United Cerebral Palsy Association (UCPA) and the Association for Retarded Citizens (ARC).

The strategy should include the following components:

(1) the development of a plan to conduct interdisciplinary training in both the field of child abuse and neglect and the field of disability, simultaneously, which is designed for State and local agency personnel and other providers on the risk, investigation, reporting, assessment, intervention and follow-up of cases of maltreatment involving children with disabilities including training on how to work collaboratively on an ongoing basis.

(2) a design for formation of interdisciplinary teams which include disability specialists to assess and treat cases of abuse and neglect involving children with disabilities, including consideration of the nature of the child's disability (e.g., osteogenesis imperfecta, self-injury).

(3) the development of ongoing interagency agreements to facilitate coordination and collaboration of all relevant agencies/programs concerned with maltreatment cases involving children with disabilities.

(4) a plan for providing comprehensive community-based services for the treatment of abuse and neglect involving children with disabilities.

(5) a design for prevention activities to reduce incidence of maltreatment cases involving children with disabilities, including family support programs, child abuse and neglect training for families of children with disabilities and such training for children with disabilities.

(6) mechanisms to promote implementation of this same multi-agency/multi-system approach in local communities in the State.

Applications for funding for demonstration projects and models of prevention and intervention should include an inventory of resources and best practices, plans for replication and dissemination, and methods for the evaluation of outcomes. They should reflect cultural competency and an understanding of legal issues as well as the political realities of decentralization of service delivery and empowerment of community-based efforts.

Proposed Fiscal Year 1995 Priority Area 9: Technical Assistance Projects

Under current contractual arrangements, ADD will be awarding funds to provide technical assistance to improve the functions of the Developmental Disabilities Councils, Protection and Advocacy Systems, University Affiliated Programs, and to provide additional technical assistance to the developmental disabilities field in the areas of community-living, multi-cultural issues, accessibility and accommodations, leadership and policy development.

(Federal Catalog of Domestic Assistance Number 93.631 Developmental Disabilities—Projects of National Significance)

Dated: January 4, 1995

Bob Williams,

Commissioner, Administration on Developmental Disabilities

[FR Doc. 95–615 Filed 1–10–95, 8:45 am]

BILLING CODE 4184–01–P

Administration on Children, Youth and Families; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, Administration for Children and Families (ACF) as follows: Chapter KB, Administration on Children, Youth and Families (ACYF) (56 FR 42336), as last amended, August 27, 1991, and KH Office of Family Assistance (OFA) (56 FR 42343), as last amended, August 27 1991 This reorganization will establish the Child Care Bureau within the ACYF to administer the child care policy and operational presently administered within ACF

1 Amend Chapter KB as follows.

a. KB.00 Mission. Delete in its entirety and replace with the following:

KB.00 Mission. The Administration on Children, Youth and Families (ACYF) advises the Secretary, through the Assistant Secretary for Children and Families, on matters relating to the sound development of children, youth, and families by planning, developing and implementing a broad range of activities. It administers state grant programs under titles IV–B and IV–E of the Social Security Act; administers child care programs authorized under Title IV–A of the Social Security Act, manages the Adoption Opportunities program and other discretionary programs for the development and provision of child welfare services; and administers discretionary grant programs providing Head Start services and facilities for runaway youth. ACYF administers the Child Abuse Prevention and Treatment Act and the Child Care and Development Block Grant. It supports and encourages services which prevent or remedy the effects of abuse and/or neglect of children and youth

In concert with other components of ACF, the ACYF develops and implements research, demonstration and evaluation strategies for the discretionary funding of activities designed to improve and enrich the lives of children and youth and to strengthen families. It administers Child Welfare Services training and Child Welfare services research and demonstration programs authorized by title IV–B of the Social Security Act, administers the Runaway and Homeless Youth Act authorized by title III of the Juvenile Justice and Delinquency Prevention Act, and manages initiatives to involve the private and voluntary sectors in the areas of children, youth and families

b. KB.10 Organization. Delete in its entirety and replace with the following

KB 10 Organization. The Administration on Children, Youth and Families is headed by a Commissioner who reports directly to the Assistant Secretary for Children and Families and consists of:

Office of the Commissioner (KBA)
Division of Program Evaluation (KBB)
Head Start Bureau (KBC)
Program Operations Division (KBC 1)
Program Support Division (KBC 2)
Children's Bureau (KBD)
Child Welfare Division (KBD 1)
Family and Youth Services Bureau (KBE)
Program Operations Division (KBE 1)
Program Support Division (KBE 2)
National Center on Child Abuse and Neglect (KBF)
Program Policy and Planning Division (KBF 1)
Clearinghouse Division (KBF 2)
Child Care Bureau (KBG)
Program Operations Division (KBG 1)
Policy Division (KBG 2)

c Delete paragraph D2 "Child Care Division" in its entirety

d Add paragraph G. Add the following to establish paragraph G.

G Child Care Bureau serves as the principal advisor to the Commissioner on issues regarding child care programs It has primary responsibility for the operation of all child care programs authorized under Title IV–A of the Social Security Act including AFDC Child Care, Transitional Child Care and At-Risk Child Care; the Child Care and Development Block Grant (CC&DBG); and the Dependent Care Planning and Development Grant It develops legislative, regulatory and budgetary proposals; presents operational planning objectives and initiatives related to child care to the Office of the Commissioner; and oversees the progress of approved activities. It provides leadership and coordination for child care within the ACF It provides leadership and linkages with other agencies on child care issues including agencies within DHHS, relevant agencies across the federal, state, local governments and tribal governments, and non-government organizations at the federal, state and local levels.

1 The Program Operations Division develops, collects and maintains a data base of grantee reports on the operation of the child care programs; monitors grantee programs in coordination with the regions; provides technical assistance to regional offices, States, Tribes and Territories concerning child care program operations, tracks financial and budget information relating to the child care programs, establishes partnerships with public and private entitles to improve access to quality child care; tracks child care research, and compiles the annual report to Congress.

The Program Operations Division develops and maintains a resource center for child care information, prepares background material, fact sheets, and articles to provide information to regional offices, grantees and the general public, acts as a national clearinghouse for child care information, responds to requests for information about child care; plans conferences; coordinates the identification and dissemination of successful/best practices for the Child Care Bureau, and coordinates program activities with other government and non-government agencies.

2. The Policy Division develops, interprets and issues national policies regulations, and standards governing child care programs administered by the Child Care Bureau. The Policy Division provides clarification of the statutes, regulations and policies; issues action transmittals and information memoranda; recommends and drafts legislative proposals, prepares briefing materials for hearings and testimony, updates the child care plan preprints; reviews and acts on annual applications from States, Tribes and Territories in coordination with the regions, maintains a data base of grantee plans, researches child care policy issues; coordinates policies and procedures with other agencies such as HCFA, IRS and FNS, and provides policy training, guidance and clarification to Regional Offices in carrying out policy functions

2. Amend Chapter KH as follows.

a. KH.00 Mission. Delete in its entirety and replace with the following

KH.00 Mission. The Office of Family Assistance (OFA) advises the Secretary through the Assistant Secretary for Children and Families, on matters relating to public assistance and economic self-sufficiency programs. The Office provides leadership, direction, and technical guidance to the nationwide administration of the following programs: Aid to Families with Dependent Children (AFDC), Aid to the Aged, Blind and Disabled in Guam, Puerto Rico and the Virgin Islands, the Emergency Assistance

Program (EA) and the Job Opportunities and Basic Skills Training Program (JOBS) under Title IV–A of the Social Security Act. OFA develops, recommends and issues policies, procedures and interpretations to provide direction to these programs. It develops and implements standards and policies for regulating integrated quality control activities of the Department and the operating Divisions. The Office provides technical assistance to states and assesses their performance in administering these programs, reviews state planning for administrative and operational improvements, and recommends actions to improve effectiveness. It directs reviews, provides consultations and conducts necessary negotiations to achieve adherence to federal law and regulations in state plans for public assistance program administration.

b. KH.20 Functions. Delete paragraph E in its entirety, and replace it with the following:

E. Division of JOBS Program provides direction and technical guidance in the nationwide administration of the Job Opportunities and Basic Skills Training (JOBS) Program under Title IV–A of the Social Security Act. The Division proposes and implements national policy for JOBS and title IV–A; develops regulations to implement new legislation; and prepares policy interpretations as necessary. The Division develops and implements strategies to assist States, Indian tribes, and Alaska Native organizations in establishing, expanding, and/or improving their JOBS programs. It provides oversight of technical assistance contracts, identification of successful practices, and information exchange through conferences, technology transfers, publications and resource networks. The Division monitors state compliance with federal laws and regulations, and promotes cross-program policy initiatives to support ACF objectives.

Dated: January 4, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–660 Filed 1–10–95; 8:45 am]

BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

Fernald Dosimetry Reconstruction Project Workshop: Public Meeting

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), and the Radiological Assessments Corporation (RAC) announce the following meeting.

Name: Fernald Dosimetry Reconstruction Project Workshop.

Time and date: 7 p.m.–9 p.m., January 18, 1995.

Place: Sheraton Springdale Hotel, 11911 Sheraton Lane, Springdale, Ohio 45246.

Status: Open to the public for observation and comment, limited only by space available. The meeting room accommodates approximately 75–100 people.

Purpose: Under the Memorandum of Understanding with the Department of Energy (DOE), the Department of Health and Human Services has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. The purpose of the workshop is: (1) to discuss the review by the National Academy of Sciences on the RAC Task 4 Methodology Report; and (2) to describe how the comments received on the draft Task 2 and 3 Source Term Report have been addressed in the final report. In addition, CDC and the Agency for Toxic Substances and Disease Registry will discuss options for further involving communities in their work.

Agenda items are subject to change as priorities dictate.

Contact person for more information. Steven A. Adams, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: January 4, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–631 Filed 1–10–95; 8:45 am]

BILLING CODE 4163–18–M

Current Status of the Vessel Sanitation Program and Experience to Date with Program Operations; Public Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Current Status of the Vessel Sanitation Program (VSP) and Experience to Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m.–4 p.m., Wednesday, January 25, 1995.

Place: Doral Inn, 541 Lexington Avenue at East 49th Street, New York, New York 10022, telephone 212/755–1200.

Status: Open to the public for participation, comment, and observation, limited only by space available.

Purpose: To discuss current status of the VSP and experience to date with program operations.

Matters to be discussed: During the past 8 years, as part of the revised VSP, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of that series of public meetings. Some of the topics to be discussed at this meeting include CDC's interim recommendations to minimize transmission of Legionnaires' disease from whirlpool spas aboard cruise ships, the VSP budget and fees, shipbuilding construction guidelines for cruise vessels destined to call on U.S. ports, the CDC consumer advisory for consumption of raw or undercooked food, and vessel construction inspections.

For a period of 15 days following the meeting, through February 9, 1995, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting.

Contact person for more information: Thomas E. O'Toole, Deputy Chief, Special Programs Group (F29), NCEH, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 4040/488–7073.

Dated: January 4, 1995.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–632 Filed 1–10–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94N–0285]

Andrew Morris; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Mr. Andrew Morris, 5731 Laurel Hill Dr., Indianapolis, IN 46226, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Morris was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product; and relating to the regulation of a drug product under the act. Mr. Morris has notified FDA that he acquiesces to debarment and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: May 16, 1994.

ADDRESSES: Application for termination of debarment to the Dockets

Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

Mr. Andrew Morris, a former employee at Quad Pharmaceuticals, Inc. (Quad), first as a bench chemist and later as a manager in Quad's research and development department, pled guilty and was sentenced on May 13, 1994, for making a false statement to a U.S. Government agency, a Federal felony under 18 U.S.C. 1001, and for obstructing an agency proceeding, a Federal felony under 18 U.S.C. 1505. The basis for this conviction was as follows:

A. False Statement to a Federal Agency

Mr. Morris, while working as a bench chemist at Quad, made a false representation in a certificate of analysis regarding the potency of a particular lot of the drug azathioprine sodium, which was submitted to FDA in support of an abbreviated new drug application (ANDA) for the drug.

B. Obstruction of an Agency Proceeding

During an FDA audit of Quad's research and development department, Mr. Morris gathered and destroyed certain nonsterile samples of colistimethate sodium. These samples had previously been represented to FDA as sterile in batch production records. These records were prepared under Mr. Morris' supervision and were included in the ANDA for the drug product.

Mr. Morris is subject to debarment based on a finding, under section 306(a)(2) of the act (21 U.S.C. 335a(a)(2)), that he was convicted of felonies under Federal law for conduct relating to the development, approval, and regulation of a drug product. Mr. Morris' false statements in documents used to support the ANDA's for the two Quad drug products relate to the development or approval of a drug product because FDA relies on the safety and efficacy data and information in the ANDA's in making its decisions whether to approve drug products. Mr. Morris' false statements and destruction of drug samples relate to the regulation of drug products because FDA's regulatory decisions about Quad drug products may have been affected by the conduct.

In a letter received by FDA on May 16, 1994, Mr. Morris notified FDA of his acquiescence to debarment, as provided for in section 306(c)(2)(B) of the act. A person subject to debarment is entitled to an opportunity for an agency hearing on disputed issues of material fact under section 306(i) of the act, but by acquiescing to debarment, Mr. Morris waived his opportunity for a hearing and any contentions concerning his debarment.

II. Findings and Order

Therefore, the Interim Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.20), finds that Mr. Andrew Morris has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings and based on his notification of acquiescence, Mr. Andrew Morris is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective May 16, 1994, the date of notification of acquiescence (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Morris, in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Morris, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any ANDA's submitted by or with the assistance of Mr. Morris during his period of debarment.

Any application by Mr. Morris for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 94N–0285 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 4, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–695 Filed 1–10–95; 8:45 am]

BILLING CODE 4160–01–F

National Institute on Deafness and Other Communication Disorders; National Institutes of Health

Notice of Meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on January 25–27, 1995, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 10, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on January 25 from 2 pm until 3 pm for the discussion of policy issues. The meeting of the full Council will be open to the public on January 26 from 8:30 am until recess for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on January 27 from 8:30 am to approximately 9:30 am for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) or Public Law 92–463, the meeting of the Planning Subcommittee on January 25 will be closed to the public from 3 pm to adjournment. The meeting of the full Council will be closed to the public on January 27 from approximately 9:30 am until adjournment. The closed portions of the meetings will be for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meetings

may be obtained from Dr. Earleen F. Elkins, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, Bethesda, Maryland 20892, 301–496–8693. A summary of the meetings and rosters of the members may also be obtained from her office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Elkins at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: January 3, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–677 Filed 1–10–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Community Services

[Program Announcement No. OCS 95–04]

Family Violence Prevention and Services Program

AGENCY: Office of Community Services, Administration for Children and Families, (ACF), Department of Health and Human Services.

ACTION: Notice of the availability of funding to States and Native American Tribes and Tribal organizations for family violence prevention and services.

SUMMARY: This announcement governs the proposed award of fiscal year (FY) 1995 formula grants under the Family Violence Prevention and Services Act to States (including Territories and Insular Areas) and Native American Tribes and Tribal organizations. The purpose of these grants is to assist in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

This announcement also specifies a new expenditure period for these funds and sets forth the application process and requirements for grants to be awarded for FY 1996 through FY 2000.

CLOSING DATES FOR APPLICATIONS: Applications for FY 1995 family violence grant awards meeting the criteria specified in this announcement must be received at the address specified below by March 13, 1995 Grant applications for FY 1996 through FY 2000 should be received at the address specified below by November 15 of each following fiscal year.

ADDRESSES: Applications should be sent to: Office of Community Services, Administration for Children and Families, Attn: William D. Riley, 5th Floor, West Wing, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: William D. Riley (202) 401–5529 or Al M. Britt (202) 401–5453.

SUPPLEMENTARY INFORMATION:

Introduction

This notice for family violence prevention and services grants to States and Indian tribes serves two purposes. The first is to confirm a Federal commitment to reducing family and intimate violence and to urge States, localities, cities, and the private sector to become involved in State and local planning efforts leading to the development of a more comprehensive and integrated service delivery approach (Part I). The second purpose is to provide information on application requirements for FY 1995 grants to States and Indian tribes. These funds will support prevention activities, shelters, and related services for battered women and their children (Part II).

Part I. Reducing Family and Intimate Violence Through Coordinated Prevention and Services Strategies

A. The Importance of Coordination of Services

A person facing family or intimate violence may need more than immediate medical care and shelter. Assured protection and effective support are essential to end ongoing abuse.

The effects of domestic violence may manifest themselves in varying forms, including: substance abuse, hopelessness, arrest, felony charges, mental health concerns, injuries, lost time at work, child abuse, and welfare dependence. When programs that seek to address these issues operate independently of each other, a fragmented, and consequently less effective, service delivery and prevention system may be the result. Coordination and collaboration among the police, prosecutors, the courts, victim services providers, child welfare and family preservation services, and medical and mental health service providers is needed to provide more responsive and effective services to victims of domestic violence and their families. It is essential that all interested parties are involved in the design and improvement of protection and services activities.

To help bring about a more effective response to the problem of intimate violence, the Department of Health and Human Services (HHS) urges State agencies and Indian tribes receiving funds under this grant announcement to coordinate activities funded under this grant with other new and existing resources for family and intimate violence and related issues.

B. Coordination of Efforts

1. Federal Coordination

In the fall of 1993, a Federal Interdepartmental Work Group (including the Departments of Health and Human Services, Justice, Education, Housing and Urban Development, Labor, and Agriculture) began working together to study cross-cutting issues related to violence, and to make recommendations for action in areas such as youth development, schools, juvenile justice, family violence, sexual assault, firearms, and the media. The recommendations formed a framework for ongoing policy development and coordination within and among the agencies involved.

The interdepartmental working group also initiated a "Cities Project" (now known as PACT, Pulling America's Communities Together) to help coordinate Federal assistance to four geographic areas (Denver; Atlanta; Washington, DC; and the State of Nebraska) as they develop comprehensive plans for violence prevention and control.

Based on these coordination efforts, a new interdepartmental strategy was developed for implementing the programs and activities recently enacted in the Violent Crime Control and Law Enforcement Act of 1994 (Crime Bill). A Steering Committee on Violence Against Women is coordinating activities among family violence-related programs and across agencies and departments.

2. Opportunities for Coordination at the State and Local Level

The major domestic violence prevention activities funded by the Federal government focus on law enforcement and justice system strategies; victim protection and assistance services; and prevention activities, including public awareness and education. Federal programs also serve related needs, such as housing, family preservation and child welfare services, substance abuse treatment, and job training.

We want to call to your attention two major programs, recently enacted by Congress, that provide new funds to expand services and which require the involvement of State agencies, Indian tribes, State Domestic Violence Coalitions, and others interested in prevention and services for victims of domestic violence. These programs are: Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women, administered by the Department of Justice, and the Family Preservation and Support Services program, administered by DHHS. Both programs (described in detail below) require State agencies and Indian tribes administering them to conduct an inclusive, broad-based, comprehensive planning process at the State and community level.

We urge States and Indian tribes to participate in these service planning and decision-making processes; we believe the expertise and perspective of the family violence prevention and services field will be invaluable as decisions are made on how best to use these funds and design service delivery improvements.

(a) *Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women (DoJ).* The Violence Against Women Act (VAWA), provides an opportunity to respond to violence against women in a comprehensive manner. It emphasizes the development of Federal, State and local partnerships to assure that offenders are prosecuted to the fullest extent of the law, that crime victims receive the services they need and the dignity they deserve, and that all parts of the criminal justice system have training and funds to respond effectively to both offenders and crime victims.

The Department of Justice is implementing a new formula grant program, which makes available $26 million to States in FY 1995, to develop and strengthen effective law enforcement and prosecution strategies. A smaller amount of discretionary dollars are also available for grants to Indian tribes. At least 25 percent of State grant funds must be dedicated to strengthening victim services.

Of particular importance are the law enforcement and prosecution strategies that must be coordinated with strong victim services activities. This grant program, will require the development of a coordinated, comprehensive approach to bring about changes in the way the justice system responds to domestic violence and sexual assault. Such a coordinated approach will require a partnership and collaboration among the police, prosecutors, the courts, shelter and victim service providers, and medical and mental health professionals.

In order to be eligible for funds, States must develop a plan for implementation. As a part of the planning process, they must consult with nonprofit, nongovernmental victims' services programs including sexual assault and domestic violence victim services programs. DOJ expects that States will draw into the planning process the experience of existing family violence task forces and coordinating councils such as the State Domestic Violence Coalitions.

(b) *Family Preservation and Family Support Services Program (DHHS).* In August 1993, Congress created a new program entitled "Family Preservation and Support Services" (Title IV–B of the Social Security Act).

Family preservation services include intensive services assisting families at-risk or in crisis, particularly in cases where children are at risk of being placed out of the home. Victims of family violence and their dependents are considered at-risk or in crisis.

Family support services include community-based preventive activities designed to strengthen parents' ability to create safe, stable, and nurturing home environments that promote healthy child development. These services also include assistance to parents themselves through home visiting and activities such as drop-in center programs and parent support groups.

In FY 1994; 100 percent Federal funds were available to State child welfare agencies and Indian Tribes to develop a comprehensive five-year Child and Family Services Plan for FYs 1995–1999 (due by June 30, 1995).

To develop the service plans, most States currently are in the process of consulting with a wide range of public agencies and nonprofit private and community-based organizations that have expertise in administering services for children and families, including those with experience and expertise in family violence.

Part II. Family Violence Prevention and Services Grant Requirements

This section includes application requirements for family violence prevention and services grants for States and Indian Tribes, and is organized as follows:

Part II—Application Requirements

A. Legislative Authority
B. Definitions
C. Eligibility: States
D. Eligibility: Indian Tribes and Tribal organizations
E. Funds Available
F. Requirements for Fiscal Years 1996–2000
G. Expenditure Periods
H. Reporting Requirements
I. State Application Requirements
J. Indian Tribes and tribal Organization Application Requirements
K. Executive Order 12372
L. Paperwork Reduction Act
M. Certifications

A. Legislative Authority

Title III of the Child Abuse Amendments of 1984 (Pub. L. 98–457, 42 U.S.C. 10401 *et seq.*) is entitled the "Family Violence Prevention and Services Act" (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Pub. L. 102–295, and was reauthorized and amended for fiscal years 1995 through 2000 by (Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill), signed into law on September 13, 1994.

The purpose of this legislation is to assist States in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and provide immediate shelter and related assistance for victims of family violence and their dependents.

Both State and Native American Tribal grantees are required to use not less than 70 percent of the distributed funds for the purpose of providing immediate shelter and related assistance; not less than 25 percent of the distributed funds are to be used for the purpose of providing related assistance as defined in section 309(5)(A) of the Act.

B. Background

During FY 1994, 132 family violence prevention grants were made to States, Territories, and Native American Tribes, the Department also made 52 family violence prevention grant awards to nonprofit State domestic violence coalitions.

In addition, the Department has established the National Resource Center for Domestic Violence (NRC) and three Special Issue Resource Centers (SIRCs). The SIRCs are the Battered Women's Justice Project; the Resource Center on Child Custody and Protection, and the Health Resource Center on Domestic Violence. The purpose of the NRC and the SIRCs is to provide resource information, training, and technical assistance to Federal, State, and Native American agencies, local domestic violence prevention programs, and other professionals who provide services to victims of domestic violence

C. Definitions

As used in this program, the following definitions are found in section 309 of the Act. The Crime Bill amendments added the phrase "or other supportive services" to the definition of related assistance in 3(b) below.

(1) Family Violence: Any act or threatened act of violence, including any forceful detention of an individual, which (a) results or threatens to result in physical injury and (b) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally related or with whom such person is or was lawfully residing.

(2) Shelter: The provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, which includes shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(3) Related assistance: The provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance includes:

(a) outreach and prevention, services for victims and their children, such as employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

(b) counseling with respect to family violence, counseling or other supportive services by peers individually or in groups, and referral to community social services;

(c) transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but does not include reimbursement for any health-care services;

(d) legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

(e) children's counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims.

D. Eligibility: States

"States" as defined in section 309(6) of the Act are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the remaining eligible entity previously a part of the Trust Territory of the Pacific Islands—the Republic of Palau. In the past, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, have applied for funds as a part of their consolidated grant under the Social Services Block grant. These jurisdictions need not submit an application under this Program Announcement if they choose to have their allotment included in a consolidated grant.

E. Eligibility: Native American Tribes and Tribal Organizations

Native American Tribes and Tribal organizations are eligible for funding under this program if they meet the definition of such entities as found in sections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act and are able to demonstrate their capacity to carry out a family violence prevention and services program. The required capacity must be demonstrated in the application. Methods of demonstrating such capacity can include, but are not limited to, showing:

(1) The current operation of a shelter, safehouse, or family violence prevention program;

(2) The establishment of joint, collaborative, or service agreements with a local public agency or a private non-profit agency for the operation of family violence prevention activities or services; or

(3) The operation of social services programs as evidenced by receipt of "638" contracts with the Bureau of Indian Affairs (BIA); Title II Indian Child Welfare grants from the BIA; or Child Welfare Services grants under Title IV–B of the Social Security Act.

A list of currently eligible Native American Tribes and Tribal organizations is found at Appendix B of this Announcement. Any Native American Tribe or Tribal organization that believes it has met the eligibility criteria and should be included in the list of eligible tribes should provide supportive documentation and a request for inclusion. The documentation and the request may be submitted concurrently with their grant application addressed to the contact person at the above address.

As in previous years, Native American Tribes may apply singularly or as a consortium. In addition, a non-profit private organization, approved by a Native American Tribe for the operation of a family violence shelter on a reservation, is eligible for funding. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at time of submission. The non-profit agency can accomplish this by providing a copy of the applicants listing in the Internal Revenue's Service (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax-exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Because section 304(a) specifies a minimum base amount for State allocations, we have set a base amount for Native American Tribal allotments. Since FY 1986, we have found, in practice, that the establishment of such an allocation, based on population, has facilitated our efforts to make a fair and equitable distribution of limited grant funds.

Native American Tribes which meet the application requirements and whose reservation and surrounding Tribal Trust Lands population is less than 3,000 will receive a minimum of $3,000; Tribes which meet the application requirements and whose reservation and surrounding Tribal Trust Lands population exceeds 3,000 will receive a minimum of $8,000, except for the Navajo Tribe which will receive a minimum of $24,000 because of its population. We have used these population figures to determine minimum funding levels since the beginning of the program.

In computing Native American Tribal allocations, we will use the latest available population figures from the Census Bureau. Where Census Bureau data are unavailable, we will use figures from the BIA Indian Population and Labor Force Report. If not all eligible Tribes apply, the available funds will be divided proportionally among the Native American Tribes which apply and meet the requirements

F. Funds Available

The Secretary is required to make available not less than 80% of amounts appropriated for section 303 to make formula grants to States and not less than 10% of amounts appropriated for Section 303 to make formula grants to Native American Tribes, Tribal organizations, and non-profit private organizations approved by a Native American Tribe.

Family violence grants to the States, the District of Columbia, and the Commonwealth of Puerto Rico are based on population. Each grant shall be not less than 1% of the amounts appropriated for grants under section 303(a) or $200,000, whichever is the lesser amount. State allocations are listed at the end of this announcement and have been computed based on the formula in section 304 of the Act.

For the purpose of this allotment, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Republic of Palau are not included in the definition of "States" and will each receive grants of not less than one-eighth of 1% percent of the amounts appropriated. On October 1, 1994, Palau became independent and a Compact of Free Association between the United States and Palau came into effect. This change in the political status of Palau has the following affect on the status of Palau's allocation:

In FY 95, Palau will receive 100% of its allocation. Beginning in FY 96, its share will be reduced as follows:

FY 96—not to exceed 75% of the total amount appropriated for such programs in FY 95;

FY 97—not to exceed 50% of the total amount appropriated for such programs in FY 95;

FY 98—not to exceed 25% of the total amount appropriated for such programs in FY 95;

Public Law 103–333, the FY 1995 Department of Health and Human Services Appropriations Act, made $32,648,000 available for carrying out the Family Violence Prevention and Services Act. Of this amount $2,500,000 will be allocated to State Domestic Violence Coalitions to coordinate services with local domestic violence programs and to encourage appropriate responses to domestic violence within the State. The distribution of funds for the State Domestic Violence Coalitions will be made in a separate announcement.

Of the remaining $30,148,000, the Department will make $24,118,400 available for grants to States and Territories, $3,014,800 available for grants to Native American Tribes or Tribal organizations, and $1,507,400 available to the National Resource Center and the Special Issue Resource Centers.

The balance of approximately $1.5 million of FY 1995 family violence funds will be used to support technical assistance projects, research, and public education activities.

G. Requirements for FY 1995 and FYs 1996–2000

Additional application requirements for FY 1995 family violence prevention and services grants have been established pursuant to the passage of the Crime Bill on September 13, 1994. Sections I and J below explain the new requirements. States that have submitted applications for FY 95 in accordance with last year's requirements for a November 15 deadline will have to submit only additional information in response to a program instruction.

We strongly recommend that States and Native American Tribes and Tribal organizations keep a copy of this **Federal Register** notice for future reference. The requirements set forth in this announcement also will apply to State and Native American family violence program grants for FY 1996 through FY 2000. Information regarding any changes in available funds, State/Tribal allocations, administrative, and reporting requirements will be provided by program announcement in the **Federal Register** or program instruction.

There are authorized to be appropriated to carry out this title:

(1) $50,000,000 for fiscal year 1996;

(2) $60,000,000 for fiscal year 1997;

(3) $70,000,000 for fiscal year 1998;

(4) $72,500,000 for fiscal year 1999; and

(5) $72,500,000 for fiscal year 2000.

H. Expenditure Periods

The family violence prevention funds for FY 1995 through FY 2000 may be used for expenditures on and after October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the following fiscal year, i. e., FY 1995 funds may be expended from October 1, 1994 thru September 30, 1996.

Reallotted funds are available for expenditure until the end of the fiscal year following the fiscal year that the funds became available for reallotment. FY 1995 grant funds which are made available to the States through reallotment, under section 304(d)(1), must be expended by the States no later than September 30, 1996.

I. Reporting Requirements.

The Crime Bill added a new reporting requirement for States in section 303(a)(4). It requires that upon completion of the activities specified in the State applications funded by a grant under this announcement, the State grantee shall file a performance report with the Department. The performance report shall describe the activities carried out and include an assessment of the effectiveness of those activities in achieving the purposes of the grant. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the State's application.

Performance reports are due on an annual basis beginning in FY 1995. The first performance report is due December 29, 1995. The Department shall suspend funding for an approved application if any applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this announcement. Federal funds may be used only to supplement, not supplant, State funds.

All State and Native American Tribal grantees are reminded that annual program reports and annual Financial Status Reports (Standard Form 269) are due 90 days after the end of each Federal fiscal year. First reports are due on December 29, of each year. Final reports are due 90 days after the end of the expenditure period, i.e., December 29.

J. State Application Requirements

The Crime Bill added new application requirements in section 303(a)(2)(C) of the Act. Please note paragraph (2) below, requires additional documentation in the plan as to how the State will address the needs of the underserved populations, including populations that are underserved because of ethnic, racial, cultural, language diversity or geographic isolation. In paragraph (6) below, we are also requiring a description of the direct services contemplated, and in what manner and by whom the direct services will be delivered. This information will help us assess the performance data which will have to be submitted by grantees to section 303(a)(4) of the Act.

We have cited each requirement to the specific section of the law.

The Secretary will approve any application that meets the requirements of the Act and this announcement will not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove has

been provided to the applicant and after a 6-month period providing an opportunity for the applicant to correct any deficiencies.

The notice of intention to disapprove will be provided to the applicant within 45 days of the date of the application.

All State Applications Must Meet the Following Requirements

The State's application must be signed by the Chief Executive of the State or the Chief Program Official designated as responsible for the administration of the Act.

All applications must contain the following information/documents:

(1) The name of the State agency, the name of the Chief Program Official designated as responsible for the administration of State programs and activities related to family violence carried out by the State under the Act and for coordination of related programs within the State, and the name of a contact person if different from the Chief Program Official (section 303(a)(2)(D)).

(2) A plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation (section 303(a)(2)(C)).

(3) A description of the process and procedures used to involve State domestic violence coalitions and other knowledgeable individuals and interested organizations to assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (sections 303(a)(2)(C)) and 311(a)(5).

(4) A description of the process and procedures implemented that allow for the participation of the State domestic violence coalitions in determining whether a grantee is in compliance with section 303 (a)(2)(A) [i.e., is a local public agency or nonprofit private organization which has been provided grant funds for programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance (section 303(a)(3))].

(5) A copy of the procedures developed and implemented that assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under Title III (section 303(a)(2)(E)).

(6) A detailed description of how the State plans to use the grant funds to provide the services, and through whom, to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(4)).

(7) A copy of the law or procedures that the State has implemented for the eviction of an abusive spouse from a shared household (section 303(a)(2)(F)).

All applications must contain the following assurances:

(1) That grant funds under the Act will be distributed to local public agencies and nonprofit private organizations (including religious and charitable organizations and voluntary associations) for programs and projects within the State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents in order to prevent future incidents (section 303(a)(2)(A)).

(2) That not less than 70 percent of the funds distributed shall be used for immediate shelter and related assistance to the victims of family violence and their dependents and not less than 25% of the funds distributed shall be used to provide related assistance (section 303(b)(3)(f)).

(3) That not more than 5 percent of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(4) That in distributing the funds, the States will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by non-profit private organizations, particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents and those which provide counseling, advocacy, and self-help services to victims and their children (section 303(a)(2)(B)(ii)).

(5) That grants funded by the State will meet the matching requirements in section 303(e), i.e., 20 percent of the total funds provided under this title in the first year, 35 percent in the second year, and 50 percent in the third and subsequent year(s); that, except in the case of a public entity, not less than 25 percent of the local matching share will be raised from private sources; that the local share will be cash or in-kind; and that the local share will not include any Federal funds provided under any authority other than this program (section 303(b)(3)(e)).

(6) That grant funds made available under this program by the State will not be used as direct payment to any victim or dependent of a victim of family violence (section 303(b)(3)(c)).

(7) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(b)(3)(d)).

(8) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(9) That all grants made by the State under the Act will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(10) That States will comply with applicable Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Parts 74 and 92.

K. Native American Tribe and Tribal Organization Application Requirements

We have cited each requirement to the specific section of the law.

The Secretary will approve any application that meets the requirements of the Act and this Announcement, and will not disapprove an application unless the Native American Tribe or Tribal organization has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(b)(2)).

All applications must meet the following requirement:

The application from the Native American Tribe, Tribal organization, or nonprofit private organization approved by an eligible Native American Tribe, must be signed by the Chief Executive Officer of the Native American Tribe or Tribal organization.

All applications must contain the following information/documents:

(1) The name of the organization or agency designated as responsible for programs and activities relating to family violence to be carried out by the Native American Tribe or Tribal organization and the name of a contact person in the designated organization or agency.

(2) A copy of a current resolution stating that the designated organization or agency has the authority to submit an application on behalf of the Native American individuals in the Tribe(s) and to administer programs and activities funded under this program (section 303(b)(2)).

(3) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 303(b)(2)). (For example, knowledgeable individuals and interested organizations may include: Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, representatives of

State coalitions against domestic violence, and operators of family violence shelters and service programs).

(4) A description of the services contemplated and how the Native American Tribe or Tribal organization plans to use the grant funds to provide the direct services, and to whom the services will be provided, to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(4)).

(5) Documentation of the procedures that assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under Title III (section 303(a)(2)(E)).

Each application must contain the following assurances:

(1) That not less than 70 percent of the funds shall be used for immediate shelter and related assistance to the victims of family violence and their dependents and not less than 25% of the funds distributed shall be used to provide related assistance (section 303(b)(3)(f)).

(2) That grant funds made available under the Act will not be used as direct payment to any victim or dependent of a victim of family violence (section 303(b)(3)(c)).

(3) That no income eligibility standard will be imposed upon individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(b)(3)(d)).

(4) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(5) That grantees receiving funds under this program will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin, or religion (section 307).

(6) That grantees will comply with applicable Departmental recordkeeping and reporting requirements and general grant administration requirements in 45 CFR Parts 74 and 92.

Applications from Native American Tribes/Organizations Not Included in Appendix B

Each application must contain documentation which supports the Tribe's/Organization's contention that it has the capacity to carry out a family violence prevention and services program (see section E. Eligibility).

L. Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally-recognized Native American Tribes are exempt from all provisions and requirements of E.O. 12372.

M. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980–0175.

N. Certifications

Applicants must comply with the required certifications found at Appendix C as follows:

- Anti-Lobbying Certification and Disclosure Form must be signed and submitted with the application. If applicable, a standard Form LLL, which discloses lobbying payments must be submitted. Native American Tribes or Tribal organizations which are exempt from the foregoing requirements should include with their applications a statement to that effect.
- Certification Regarding Drug-Free Workplace Requirements and the Certification Regarding Debarment: The signature on the application by the chief program official attests to the applicants intent to comply with the Drug-Free Workplace requirements and compliance with the Debarment Certification. The Drug-Free Workplace and Debarment certifications do not have to be returned with the application.

(Catalog of Federal Domestic Assistance number 93.671, Family Violence Prevention and Services)

Dated: January 3, 1995

Jacqueline G. Lemire,

Acting Director, Office of Community Services.

Appendix A—Family Violence and Prevention Services 1995 State And Territory Allotments

Total Appropriation Available: $30,148,000.

Total Appropriated to States and Territories: $24,118,400

Total Appropriated to Tribal Organizations: $0

Annual Limitation by CAN for the Following CAN(s): 5G994707

Grantee	
Alabama	$351,758
Alaska	200,000
American Samoa	30,148
Arizona	330,671
Arkansas	203,645
California	2,622,120
Colorado	299,587
Connecticut	275,307
Delaware	200,000
District of Columbia	200,000
Florida	1,149,202
Georgia	581,112
Guam	30,148
Hawaii	200,000
Idaho	200,000
Illinois	982,690
Indiana	479,961
Iowa	236,410
Kansas	212,634
Kentucky	318,322
Louisiana	360,832
Maine	200,000
Maryland	417,120
Massachusetts	505,081
Michigan	796,267
Minnesota	379,483
Mississippi	222,044
Missouri	439,719
Montana	200,000
Nebraska	200,000
Nevada	200,000
New Hampshire	200,000
New Jersey	661,931
New Mexico	200,000
New York	1,528,769
North Carolina	583,464
North Dakota	200,000
Northern Mariana Islands	30,148
Ohio	931,779
Oklahoma	271,443
Oregon	254,724
Palau	30,148
Pennsylvania	1,011,506
Puerto Rico	300,763
Rhode Island	200,000
South Carolina	306,056
South Dakota	200,000
Tennessee	428,378
Texas	1,514,823
Utah	200,000
Vermont	200,000
Virgin Islands	30,148
Virginia	545,323
Washington	441,483
West Virginia	200,000
Wisconsin	423,253
Wyoming	200,000
Total	$24,118,400

Appendix B—Native American Tribal Eligibility

Below is the list of Native American Tribes which are eligible for fiscal year 1995 Family Violence Prevention and Services grants. Tribes are listed by BIA Area Office based on Census Bureau population data or, where that is not available, BIA data.

Tribes Under 3,000 Population

Eastern Area Office

Houlton Band of Maliseet Indians of Maine
Indian Township Passamaquoddy Reservation of Maine
Miccosukee Tribe of Indians of Florida
Narragansett Indian Tribe of Rhode Island
Penobscot Tribe of Maine
Pleasant Point Passamaquoddy Reservation of Maine
Saint Regis Mohawk Tribe of New York
Seminole Tribe of Florida

Aberdeen Area Office

Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Devil's Lake Sioux Tribe of the Devil's Lake Sioux Reservation, North Dakota
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Yankton Sioux Tribe of South Dakota
Winnebago Reservation of Nebraska

Minneapolis Area Office

Grand Traverse Band of Ottawa and Chippewa Indians of Michigan
Lac Vieux Desert Band of Chippewa Indians
Menominee Indian Tribe of Wisconsin
Michigan Inter-Tribal Council on behalf of:
Bay Mills Indian Community
Hannahville Indian Community
Keweenah Bay Indian Community
Saginaw Chippewa Indian Tribe of Isabella Reservation, Michigan
Sault Saint Marie Tribe of Chippewa Indians of Michigan
Prairie Island Community of Minnesota
Forest County Potawatomi of Wisconsin
Lac du Flambeau Reservation of Wisconsin
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Bad River Tribal Council, Wisconsin
Lower Sioux Tribe of Minnesota
Upper Sioux Tribe of Minnesota
Shakopee Community of Minnesota
Minnesota Chippewa:
Nett Lake Reservation (Bois Fort)
Fond du Lac Reservation
Grand Portage Reservation
Mille Lac Reservation
St. Croix Chippewa, Wisconsin

Anadarko Area Office

Apache Tribe of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Comanche Indian Tribe of Oklahoma
Four Tribes of Kansas
Iowa Tribe of Kansas and Nebraska
Kickapoo Tribe of Kansas
Sac and Fox Tribe of Kansas and Nebraska
Prairie Band of Potawatomi of Kansas
Absentee Shawnee Tribe of Oklahoma
Sac and Fox Tribe of Oklahoma
Pawnee Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Kickapoo Tribe of Oklahoma
Otoe-Missouria Tribes Oklahoma
Citizen Band of Potawatomi of Oklahoma
Fort Sill Apache Tribe of Oklahoma
Tonkawa Tribe of Oklahoma
Wichita Indian Tribe of Oklahoma

Billings Area Office

Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
Fort Belknap Indian Tribe of Montana

Phoenix Area Office

Cocopah Tribe of Arizona
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Elko Band Council
Ft. McDermitt Paiute and Shoshone Tribes of the Ft. McDermitt Indian Reservation, Nevada
Ft. McDowell Mohave-Apache Indian Community, Arizona
Ft. Mojave Indian Tribe of Arizona
Hualapai Tribe of the Hualapai Reservation, Arizona
Kaibab Band of the Paiute Indians of the Kaibab Indian Reservation, Arizona
Las Vegas Tribe of the Paiute Indians of the Las Vegas Indian Colony, Nevada
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Paiute Indian Tribe of Utah
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pasqua Yaqui Tribe of Arizona
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quechan Tribe of the Ft. Yuma Indian Reservation, California
Reno-Sparks Indian Colony, Nevada
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada
Te-Moak Bands of the Western Shoshone Indians, Nevada
Havasupai Tribe of Arizona
Ute Indian Tribe of the Unitah and Ouray Reservation, Utah
Yavapai-Prescott Tribe, Arizona
Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
Yerington Pauite Tribe of the Yerington Colony and Campbell Ranch, Nevada
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Washoe Tribe of Nevada and California

Albuquerque Area Office

Jicarilla Apache Tribe, New Mexico
Pueblo of Acoma, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Jemez, New Mexico
Peublo of Picuris, New Mexico
Pueblo of San Felipe, New Mexico Pueblo of San Juan, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Santo Domingo, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Zia, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Tesuque, New Mexico
Ramah Navajo Community
Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah

Portland Area Office

Burns Paiute Indian Colony, Oregon
Confederated Tribes of the Siletz Reservation, Oregon Confederated Tribes of the Warm Springs Reservation, Oregon
Confederated Tribes of the Grand Ronde Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Klamath Tribe
Hootenai Tribe of Idaho
Makah Tribe of Washington
Metlakatla Indian Community, Alaska
Muckleshoot Tribe of Washington
Nez Perce Tribe of Idaho
Nooksak Tribe of Washington
Nisqually Tribe of Washington
Puyallup Tribe of Washington
Quileute Tribe of Washington
Quinault Tribe of the Quinault Reservation, Washington Sauk-Suiattle Tribe of Washington
Skokomish Tribe of Washington
Squaxin Island Tribe of Washington
Stillquamish Tribe of Washington
Swinomish Tribe of Washington
Suquamish Tribe of Washington
Tulalip Tribes of Washington
Upper Skagit Indian Tribes of Washington

Juneau Area Office

Aleutian Pribiloff Islands, Alaska
Copper River Association, Alaska
Orutsaramuit Native Council, Alaska
Kawerak, Inc., Alaska
Ketchikan Indian Corporation, Alaska
Kenaitze Inc., Alaska
Kotezbue Native Association, Alaska
Kuskokwim Native Association, Alaska
Kodiak Native Association, Alaska
Northern Pacific Rim Association, Alaska
Sitka Community Association, Alaska
Tanana Indian Reorganization Act Council, Tyonek, Alaska
United Crow Band, Alaska

Sacramento Area Office

Big Lagoon Rancheria, California
Cahuilla Band of Mission Indians
Coastal Indian Community of the Resighina Rancheria
La Jolla Indian Band of Mission Indians
Jamul Indian Village
Morongo Band of Cahuilla Mission Indians
Soboba Band of Mission Indians
Trinidad Rancheria
Torres Martinez Band of Mission Indians

Tribes Over 3,000 Population

Eastern Area Office

Eastern Band of Cherokee Indians of North Carolina
Mississippi Band of Choctaw Indians, Mississippi

Aberdeen Area Office

Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

Turtle Mountain Band of Chippewa Indians, Turtle Mountain Indian Reservation North Dakota

Billings Area Office

North Cheyenne Tribe of the
Northern Cheyenne Indian Reservation, Montana
Shoshone-Arapaho Tribes of Wyoming (Wind River Reservation)

Phoenix Area Office

Gila River Pima-Maricopa Indian Community of the
Gila River Reservation, Arizona
Hopi Tribe of Arizona
Papago Tribe of the Sells, Gila Bend, and San Xavier Reservations, Arizona
San Carlos Apache Tribe of the
San Carlos Reservation, Arizona
Tohono O'Odham Nation, Arizona
White Mountain Apache Tribe of the
Fort Apache Indian Reservation, Arizona

Navajo Area Office

Navajo Tribe of Arizona, New Mexico and Utah

Albuquerque Area Office

Pueblo of Laguna, New Mexico
Zuni Tribe of the Zuni Reservation, New Mexico

Portland Area Office

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Colville Reservation, Washington
Lummi Nation of Washington
Shoshone Bannok Tribes of the Fort Hall Reservation, Idaho
Yakima Indian Nation, Washington

Juneau Area Office

Cook Inlet Corporation, Alaska
Association of Village Council Presidents, Alaska
Central Council of the Tlingit and Haida Indians of Alaska
Tanana Chiefs Conference, Alaska
Sitka Community Association, Alaska
Bristol Bay Native Association of Alaska
Fairbanks Native Association, Alaska

Muskogee Area Office

Cherokee Nation of Oklahoma
Choctaw Nation of Oklahoma
Muskogee Creek Nation of Oklahoma

Minneapolis Area Office

Minnesota Chippewa:
Leech Lake Reservation
White Earth Reservation
Oneida Tribe of Indians of Wisconsin

BILLING CODE 4184-01-P

APPENDIX C

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ *if there are workplaces on file that are not identified here.*

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not with a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions." Without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____ *if known*	
Congressional District, *if known*	Congressional District, *if known*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable* _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11

(*attach Continuation Sheet(s) SF-LLL-A, if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

[FR Doc. 95-614 Filed 1-10-95; 8:45 am]
BILLING CODE 4184-01-C

Public Health Service

[GN# 2293]

Announcement of a Cooperative Agreement With the Association of American Indian Physicians

The Office of Minority Health, Office of the Assistant Secretary for Health, PHS, announces that it will enter into a cooperative agreement with the Association of American Indian Physicians (AAIP). This cooperative agreement will establish the broad programmatic framework within which specific projects can be funded as they are identified during the project period.

The purpose of this cooperative agreement is to (1) increase the coalition's support for and assistance in increasing the proportion of practicing minority health professionals within the U.S.; and (2) assist the association in expanding and enhancing its health prevention, promotion, and research opportunities, with the ultimate goal of improving the health status of minorities and disadvantaged people. The OMH will provide consultation, administrative, and technical assistance as needed for the execution and evaluation of all aspects of this cooperative agreement.

Authorizing Legislation

This cooperative agreement is authorized under the grant-making authorities of the Office of Minority Health. Refer to Section 1707(d)(1) of the Public Health Service Act, as amended by Public Law 101–527.

Background

Assistance will be provided only to AAIP. No other applications are solicited. AAIP is the only organization capable of administering this cooperative agreement because it is the only organization that has:

1. Developed, expanded, and managed an infrastructure to coordinate and implement various medical intervention programs within local communities and physician groups that deal extensively with Indian health issues. The coalition has also established several oversight committees that provide a foundation upon which to develop, promote, and manage health intervention, education, and training programs which are aimed at preventing and reducing unnecessary morbidity and mortality rates among American Indian and Alaska Native populations.

2. Established itself and its members as an organization with professionals who serve as leaders and experts in planning, developing, implementing, and evaluating health education, prevention, and promotion programs aimed at reducing excessive mortality and adverse health behaviors among American Indian and Alaska Native communities.

3. Developed databases and directories of health services, health care accessibility issues, and professional development initiatives that deal exclusively with American Indian and Alaska Native populations that are necessary for any intervention dealing with this minority population.

4. Assessed and evaluated the current education, research and disease prevention, and health promotion activities for its members, affiliated groups, and represented sub-populations.

5. Developed a national organization whose members are all predominantly minority health care professionals and providers with excellent professional performance records.

6. Developed a base of critical knowledge, skills, and abilities related to instruction in medical and health professions preparation. Through the collective efforts of its members, its affiliated community-based organizations, sponsored research, and sponsored health education and prevention programs, the AAIP has demonstrated (1) the ability to work with academic institutions and official health agencies on mutual education, service, and research endeavors relating to the goal of disease prevention and health promotion for American Indian and Alaska Native populations, (2) the leadership necessary to attract minority health professionals into public health careers, and (3) the leadership needed to assist health care professionals work more effectively with American Indian and Alaska Native clients and communities.

This cooperative agreement will be awarded in FY 1995 for a 12-month budget period within a project period of 5 years. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, please contact Dr. Clay E. Simpson, Public Health Service, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852, telephone (301) 443–5084.

Dated: December 22, 1994

Audrey F. Manley,

Acting Deputy Assistant Secretary for Minority Health.

[FR Doc. 95–661 Filed 1–10–95; 8:45 am]

BILLING CODE 4160–17–M

[GN# 2294]

National Vaccine Advisory Committee (NVAC), Subcommittee on Future Vaccines, Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of the Future Vaccines Subcommittee of the National Advisory Committee.

DATES: Date, Time and Place: January 20, 1995, at 10:30 a.m. to 3:30 p.m., Conference Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Chester A. Robinson, D.P.A., Acting Director, National Vaccine Program Office, Rockwall II Building, Suite 1075, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594–2277.

Agenda: Open Public Hearing: Interested persons may formally present data, information, or views orally or in writing on issues to be discussed by the Subcommittee. Those wishing to make presentations should notify the contact person before January 16, and submit a brief description of the information they wish to present to the Subcommittee. Requests should include the names and addresses of proposed participants. A maximum of 10 minutes will be allowed for a given presentation, but the time may be adjusted depending on the number of persons presenting. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the Chairperson's discretion.

Open Subcommittee Discussion: The Subcommittee is charged with developing guidance that will lead to the development, licensure, and best use of existing and new vaccines or vaccine combinations in the simplest possible immunization schedules.

A list of Subcommittee members and the charter of the NVAC Committee will be available at the meeting. Those unable to attend the meeting may

request this information from the contact person.

Dated: January 4, 1995.

Jeanette R. DeLawter,

Acting Executive Secretary, NVAC.

[FR Doc. 95–662 Filed 1–10–95; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–797900

Applicant: John Shadd, Lake Butler, Florida

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Ciskei Government, "Tsolwana Game Reserve", Republic of South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated January 5, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–595 Filed 1–10–95; 8:45 am]

BILLING CODE 4310–55–P–M

Aquatic Nuisance Species Task Force Ruffe Control Committee Public Meetings

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of public meetings.

SUMMARY: This notice announces three public meetings being held by the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force. The Committee will hold public meetings to take comments on the proposed Ruffe Control Program, a draft Environmental Assessment and a Benefits and Cost Analysis of the Ruffe Control Program.

TIME, DATE AND PLACE: The public meetings will be held at the following locations:

Buffalo (Amherst), NY:

January 9, 1995; 7:00 p.m., Knox Hall, Room 4, University of Buffalo, North Campus, Amherst, NY

Chicago (Des Plaines) IL:

January 10, 1995; 7:00 p.m., CMS Building, Main North Facility (west entrance), IL Dept. of Conservation Conf. Room, 911 Harrison, Des Plaines, IL

Superior, WI:

January 11, 1995; 7:00 p.m., Hiawatha Room, Rothwell Student Center, University of Wisconsin-Superior, Superior, WI.

STATUS: The meetings are open to the public. Interested persons may make oral statements to the Committee or may file statements for consideration.

FOR FURTHER INFORMATION CONTACT: Tonm Busiahn, Ruffe Control Committee Chairperson, at (715) 682–6185.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of public meetings will be maintained by Tom Busiahn, Chairperson, Ruffe Control Committee, U.S. Fish and Wildlife Service, Fishery Resources Office, 2800 Lake Shore Drive East, Ashland, Wisconsin 54806, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: January 5, 1995.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 95–641 Filed 1–10–95; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NM–070–1430–01; NMNM71324]

Farmington District; Notice of Use Restriction; Emergency Closure of Acquired Public Land, New Mexico

AGENCY: Bureau of Land Management, Farmington District, Interior.

ACTION: Notice of closure.

SUMMARY: A tract of acquired public lands known as Morris 41 in San Juan County, New Mexico is closed to all except authorized users.

DATES: This tract of land has been designated a potential Area of Critical Environmental Concern. This emergency closure is in effect on the following described public land until implementation of land use planning.

New Mexico Principal Meridian

T. 32 N., R. 13 W.,

Sec. 15, W½NE¼SW¼, SE¼SW¼, and portions of the SW¼NW¼SE¼, E½NE¼SW¼, W½SW¼SE¼.

Containing 90.06 acres, more or less.

The closure is necessary to protect, preserve, maintain, and administer a Chaco Culture Archeological Protection Site, the Morris 41, in a manner that will preserve the Chaco cultural resource and provide for its future interpretation and research. No activity is permitted upon the surface of the site which will endanger its cultural values. This closure is made under the authority of Public Law 96–550, Title V, Section 506; 43 CFR 8341.2 and 43 CFR 8364. Any person who fails to comply with a closure issued under 43 CFR 8364 may be subject to the penalties provided in 43 CFR 8360.0–7 with violations punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Information relating to this action may be obtained by contacting Peggy Gaudy at the Bureau of Land Management, Farmington District Office, 1235 LaPlata Highway, Farmington, NM 87401; telephone (505) 599–6337.

Dated: January 5, 1995.

Ilyse K. Gold,

Acting Assistant District Manager for Lands and Renewable Resources.

[FR Doc. 95–634 Filed 1–10–95; 8:45 am]

BILLING CODE 4310–FB–M

National Park Service

National Register of Historic Places

Notification of Pending Nominations

Nominations for the following properties being considered for listing

in the National Register were received by the National Park Service before December 31, 1994 Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by January 26, 1995.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Maricopa County

Elder—Moffitt House (Nineteenth-Century Residential Buildings in Phoenix MPS), 1336 W. Taylor St., Phoenix, 94001605

ARKANSAS

Franklin County

Gray Spring Recreation Area—Forest Service Road 1003 Historic District (Facilities Constructed by the CCC in Arkansas MPS), Forest Service Rd. 1003, Ozark—St. Francis NF, Cass vicinity, 94001616

Logan County

Cove Lake Bathhouse, Forest Service Rd. 1608A, Ozark—St. Francis NF, Corley vicinity, 94001617

Cove Lake Spillway Dam—Bridge, AR 309, 9 mi. S of Paris, Ozark—St. Francis NF, Corley vicinity, 94001618

Stone County

Mirror Lake Historic District (Facilities Constructed by the CCC in Arkansas MPS), Forest Service Rd. 1110E, Ozark—St. Francis NF, Fiftysix vicinity, 94001614

Sugarloaf Fire Tower Historic District (Facilities Constructed by the CCC in Arkansas MPS), End of Forest Service Rd. 1123, Ozark—St. Francis NF, Calico Rock vicinity, 94001615

Washington County

Lake Wedington Historic District, Jct. of AR 16 and Forest Service Rd. 1750, Ozark—St. Francis NF, Savory vicinity, 94001612

Yell County

Spring Lake Recreation Area Historic District, Forest Service Rd. 1602, Ozark—St. Francis NF, Stafford, 94001613

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Babcock—Macomb House, 3415 Massachusetts Ave., NW., Washington, 94001633

GEORGIA

Berrien County

Harrison, William G., House, 313 S. Bartow St., Nashville, 94001636

Cobb County

Butler, Hiram, House, 2382 Pine Mountain Rd., NW., kennesaw vicinity, 94001637.

Riverview Carousel at Six Flags Over Georgia, 7561 Six Flags Pkwy., Austell, 94001639

Oconee County

Daniell, William, House, Epps Bridge Rd., 3½ mi. NW of Watkinsville, Watkinsville vicinity, 94001638

HAWAII

Hawaii County

Ainahou Ranch, Off Chain of Craters Rd., Hawaii Volcanoes NP, Hawaii National Park, 94001619

Uchida Coffee Form, Off Mamalahoa Hwy., Kealakekua, 94001621

Maui County

Ioo Theater, 68 N. Market St., Wailuku, 94001622.

KANSAS

Douglas County

Quayle, William A., House, 210 N. 6th St., Baldwin, 94001624

Sedgwick County

Engine House No. 6, 1300 S. Broadway, Wichita, 94001623

MARYLAND

Baltimore Independent City

Building at 318 West Redwood Street (Cast Iron Architecture of Baltimore MPS), 318 W. Redwood St., Baltimore (Independent City), 94001606

Building at 423 West Baltimore Street (Cast Iron Architecture of Baltimore MPS), 423 W. Baltimore St., Baltimore (Independent City), 94001607

MASSACHUSETTS

Middlesex County

Butler School, 812 Gorham St., Lowell, 94001634

NEW JERSEY

Mercer County

Mountoin Avenue Historic District, 73–143 Mountain Ave., Princeton, 94001604

NEW YORK

Monroe County

Phelps, Stephen, House, 2701 Penfield Rd., Penfield, 94001635

NORTH CAROLINA

Guilford County

McLean, Dr. Joseph A., House, US 70 N side, 0.1 mi. W of jct. with NC 3053, Sedalia vicinity, 94001632

OKLAHOMA

Craig County

Hotel Vinita (Route 66 and Associoted Historic Resources in Oklahoma MPS), Jct. of Canadian and Wilson Sts., SW corner, Vinita, 94001608

Lincoln County

Seaba's Filling Station (Route 66 and Assacioted Historic Resources in Oklahoma MPS), 8 mi. W of Chandler on US 66, Chandler vicinity, 94001609

Ottawa County

Miami Original Nine-Foot Section of Route 66 Roadbed (Route 66 and Assaciated Historic Resources in Oklahoma MPS), From jct. of E St. SW. and 130th St. to US 66, Miami vicinity, 94001610

Washita County

Canute Service Station (Route 66 and Assaciated Historic Resources in Oklahoma MPS), Jct. of Main St. and US 66, SW corner, Canute, 94001611

OREGON

Lane County

Sutherland, John, House, 83246 Lorane Hwy., Eugene vicinity, 94001631

PENNSYLVANIA

Allegheny County

US Post Office and Courthouse—Pittsburgh, Jct. of 7th and Grant Sts., Pittsburgh, 94001620

SOUTH CAROLINA

Charleston County

Patrick, Dr. John B., House, 1820 Middle St., Sullivans Island, 94001628

Darlington County

Oaklyn Plantation, Jct. of S. Charleston Rd. (SC 35) and Pocket Rd. (SC 173), Darlington vicinity, 94001630

TEXAS

Tarrant County

North Fort Worth High School, 600 Park St. Fort Worth, 94001627

UTAH

Beaver County

Rollings—Eyre House, 113 W. Main, Minersville, 94001626

Millard County

Huntsman, Peter and Jessie, House, 155 W Center, Fillmore, 94001625

Van's Hall, 321 W. Main St., Delta, 94001629

[FR Doc. 95–602 Filed 1–10–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–366]

Certain Microsphere Adhesives, Process for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes

Notice is hereby given that, at the request of the complainant, a

supplemental hearing in this matter will commence at 9:00 a.m. on January 23, 1995, in Courtroom C (Room 217), U.S. International Trade Commission Building, 500 E St. S.W., Washington, D.C.

The Secretary shall publish this notice in the **Federal Register**.

Issued: January 6, 1995.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 95–679 Filed 1–10–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–325]

The Economic Effects of Significant U.S. Import Restraints: First Biannual Update

AGENCY: United States International Trade Commission.

ACTION: Notice of schedule for biannual update report.

SUMMARY: The letter of May 15, 1992, from the United States Trade Representative (USTR) requesting that the Commission institute the above referenced investigation also requested that the Commission prepare biannual update reports, to be submitted on the 2-year anniversary dates of the submission of the first report. The first report was submitted on November 15, 1993. This is the first such update and it will be submitted to USTR by November 15, 1995.

EFFECTIVE DATE: December 23, 1994.

FOR FURTHER INFORMATION CONTACT: Hugh Arce on (202) 205–3234, Office of Economics, U.S. International Trade Commission. Hearing impaired persons are advised that information on this investigation can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: As requested in the USTR's letter of May 15, 1992, the Commission in its update reports will, as was done in the first report, assess the economic effects of significant U.S. import restraints on U.S. consumers, on the activities of U.S. firms, on the income and employment of U.S. workers, and on the net economic welfare of the United States. The investigation will not include import restraints resulting from final antidumping or countervailing duty investigations, section 337 or 406 investigations, or section 301 actions.

Notice of institution of this investigation was published in the **Federal Register** of June 17, 1992 (57 FR 27063).

Written Submissions

The Commission does not plan to hold a public hearing in connection with the first biannual update of this report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. (Generally, submission of separate confidential and public versions of the submission would be appropriate.) All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested persons. To be assured of consideration, written submissions must be filed by June 15, 1995.

Issued: January 5, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–680 Filed 1–10–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32569]

Burlington Northern Railroad Company—Construction and Operation Exemption—Butler and Platte Counties, NE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction and operation by the Burlington Northern Railroad Company of 4.3 miles of track and the operation over an additional 1 mile of track, in Butler and Platte Counties, NE.

DATES: The exemption will not become effective until the environmental process is completed. At that time, the Commission will issue a further decision addressing the environmental matters and establishing an exemption effective date, if appropriate. Petitions to reopen must be filed by January 31, 1995.

ADDRESSES: Send pleadings referring to finance Docket No. 32569 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Petitioners' representative; Pete M. Lee, 3800 Continental Plaza, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: December 22, 1994.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 95–676 Filed 1–10–95; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

[OJP NO. 1037]

ZRIN 1121-ZA04

Addendum to Proposed Comprehensive Plan for Fiscal Year 1995

January 5, 1995

AGENCY: U.S. Department of Justice, Office of Justice Programs. Office of Juvenile Justice and Delinquency Prevention.

ACTION: In accordance with Section 204(b)(5)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.*, public comments on the Office of Juvenile Justice and Delinquency Prevention's Proposed Comprehensive Plan for Fiscal Year 1995, published in the **Federal Register** on December 30, 1994, are due forty five days from the date of publication. This notice provides the due date for comments on the **Federal Register** Notice, Volume 59, No. 250, pages 68080–68102.

DATES: The due date for submission of public comments on the Office of Juvenile Justice and Delinquency Prevention's Proposed Comprehensive Plan is February 13, 1995.

ADDRESSES: All comments concerning the Office of Juvenile Justice and Delinquency Prevention's Proposed Comprehensive Plan should be addressed to Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Marilyn Silver, Information Dissemination and Planning Unit, (202) 307–0751. [This is not a toll-free number].

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–651 Filed 1–10–95; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the new Job Corps Center in Flint, MI

AGENCY: Employment and Training Administration.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the new Job Corps Center in Flint, Michigan.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center in Flint, Michigan, will have no significant environmental impact. Pursuant to 29 CFR 11.11(d)(1), this Preliminary Finding of No Significant Impact will be made available for public review and comments for thirty (30) days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC, 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Gordon Carlson, Director, Region V (Five), Office of Job Corps, 230 South Dearborn Street, Room 676, Chicago, Illinois, 60604, (312) 353–1311.

SUPPLEMENTARY INFORMATION: The purpose of this proposed action is to construct a new facility with a campus-like setting. The new center is proposed as a 400-student program, with 328 residential and 72 non-residential students. With a total of 36 single-parent students, a comprehensive on-site child care services component for 50 children is prescribed by the Military Department of Social Services (DSS) and Greater Flint/Thumb Area 4C Association (Community Coordinated Child Care) to serve infants, toddlers, preschoolers, and school-aged children.

The proposed site location for the Flint Job Corps Center is a property identified as a portion of Oak Technology Park, located at 2400 North Saginaw Street, Flint, Genesee County, Michigan. The site comprises two parcels of vacant land with a total of 20.78 acres, which are identified as Parcel A with 12.9 acres and Parcel B with 7.88 acres. The site is bordered by North Saginaw Street on the west side of the property, Taylor Street on the north side, North Boulevard on the east side, and Newall Street on the south side. An east-west street, Baker Street, divides the two parcels. Parcel A is the portion located north of Newall Street and south of Baker Street; Parcel B is the portion located north of Baker Street and south of Taylor Street. Access to the site can be made from any of the streets.

The proposed Flint Job Corps Center will be a totally new facility and will consist of a number of buildings to sufficiently accommodate student capacity. The buildings will include dormitories, classrooms, administrative and support facilities. The dormitories will consist of one building for females, one for males, and one single-parent dormitory. A child development center is included in the project. Classroom spaces will be provided in the education building. There will also be a vocational-educational building, a cafeteria/culinary arts building, a recreation building, an administration building, a medical/dental building, a maintenance/warehouse building and a building that houses reception/security functions. The building areas are projected to total 179,700 gross square feet (GSF). The proposed project will be constructed in accordance with local fire, building an zoning code requirements and will not adversely impact the City of Flint police, fire or emergency services.

The site is in an area of the city that is currently zoned heavy commercial and limited manufacturing. Establishment of a Job Corps Center is not prohibited by current zoning.

An investigation of previous and historical activities on or near the site identified some potential environmental concerns. A gasoline fuel service station existed for some 40 years on North Boulevard at the corner of Baker Street. Along North Saginaw Street, fifteen commercial locations were identified: a photography shop, printing company, auto repair, new and used car dealerships and several other businesses that could warrant concern upon excavation of the site. Most specifically, an obsolete underground storage tank may exist at the location of 2510–18 North Saginaw Street. These concerns could be easily remedied through soil testing and, if found necessary, soil remediation prior to excavation and building. DOL does not believe that the construction of the Center will have a cummulative adverse impact on these concerns.

The City water distribution system serves the site and is comprised of underground water lines that run parallel to the project site on both North Saginaw and North Streets. Water supply could be brought on to the site from either of these lines. Each building could have its own individual water meter or a single meter could be installed to serve all buildings. The City sewage system serves the site and is comprised of underground sanitary sewer lines that run parallel to the project site on North Saginaw and North Streets.

Storm water run-off from the proposed buildings can be discharged either to grade or can be piped directly to the storm sewer pipe. There are underground storm sewer lines that run parallel to the project sites on the east and west boundaries. The Center will not adversely impact upon any of the existing services.

A natural gas distribution station to the south of the project site provides gas to the site via an underground gas pipe that runs along North Street. An 8,320 volts, three-phase overhead distribution line, located along North Street, provides adequate electricity to the site. The distribution system is in good condition and would adequately accommodate a required secondary service to the proposed buildings. The options of individual metering or multi-metering are available. The proposed Flint Job Corps Center will not

adversely impact upon existing facilities.

Telephone pedestals, where telephone connections can be made and brought onto the proposed site, are located along the bordering streets. The proposed Center will not adversely impact existing telephone services because the location was a residential area and the lines already in use and presently underutilized the demolition of the private residences.

The Flint River lies approximately 3500 feet east of the subject site. A "basin", located in the south central section of Parcel A, appears to be lowest in the terminal area of the cul-de-sac. Run-off in this area is expected to collect in the basin and eventually infiltrate into the ground. The man-made earthen berm that parallels North Saginaw Street on the western side of the property and extends the entire length of the property blocks run-off from the property to North Saginaw Street. Groundwater in water table aquifers, which may underlie the site, may conform with the topographic relief and flow east towards the Flint River. The proposed Center will have no adverse impact on ground water flow.

The proposed use of the site has no significant impact on any natural systems, resources, or any endangered flora or fauna.

There are no buildings on or near the site that are designated as "historically significant" and no areas of archaeological significance are present.

The City of Flint is regulated under the Federal Clean Air Act, as amended in 1990. The proposed action will have no adverse effect on air quality.

Noise levels that may be generated from air conditioning and other equipment that may be installed in the new facility are expected to be consistent with the City of Flint regulations. Although there may be some short-term impact from additional noise during the construction activities, the completed facility is expected to remain within allowable noise limits and will not adversely impact neighboring properties.

Pole-mounted street lights presently provide general site lighting. On-site lighting will be installed as part of the new construction. The additional lighting should have a positive impact on the surrounding area. Lighting can improve security by reducing crime and vandalism, and also aesthetically enhance the site.

Although the proposed project will cause an increase in the traffic in the community, the increase is not expected to adversely impact traffic flow. The proposed action is not expected to adversely affect emergency response companies, police and fire services, hospital service or the City's public transportation system.

A public forum was held on January 22, 1994 concerning the establishment and location of the Job Corps Center. Approximately 200 people were in attendance at the meeting representing over 30 agencies, members of the clergy, community members, neighborhood organizations, businesses and elected officials. The proposal to site a new Job Corps Center in the City of Flint was strongly supported by the people in attendance at the forum.

Analysis of the following three alternatives were made: (1) The "No Build" alternative; (2) the "Alternative Sites" alternative; and (3) the "Continue as Proposed" alternative. The "No Build" alternative implies that the Department of Labor would not proceed with the proposed Center in the Flint Area. Although this would result in no environmental impact upon the area, the socioeconomic loss to the City of Flint would be significant. Alternative sites in Saginaw and Ann Arbor, Michigan were considered by the Department of Labor for the new Job Corps Center site, but did not meet the minimum selection criteria for locating a new Job Corps Center. The "Continue as Proposed" alternative (preferred alternative) means that the site will be developed to provide facilities and a setting for the Flint Job Corps Center in Flint, Michigan.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the location of the Flint Job Corps Center at the proposed site will not cause any significant impact on the environment and, therefore, recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC, this 23rd day of December 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–671 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Ft. Devens, MA

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Ft. Devens, Massachusetts.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center on a portion of former Ft. Devens, Massachusetts, will have no significant environmental impact, and this Preliminary Finding of No Significant Impact (FONSI) will be made available for public review and comment for a period of 30 days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave. NW., Washington, DC, 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Albert Glastetter, Director, Region I (One), Office of Job Corps, One Congress Street, 11th Floor, Boston, Massachusetts, 02114, (617) 565–2167.

SUPPLEMENTARY INFORMATION: The proposed site, located in the abandoned Verbeck Housing Complex on Ft. Devens, Massachusetts, is comprised of thirty-five (35) acres. The site is part of the larger Ft. Devens complex which consists of approximately 9,300 acres, but which is to be downsized pursuant to a recommendation by the Defense Base Realignment and Closure Committee. Ft. Devens has served its military role since 1917. The proposed site is located in the Main Post of Ft. Devens, bordered by West Main Street to the north, and the Town of Ayer to the east.

Prior to initiating the proposed action, the Verbeck Housing Complex is scheduled to be razed, along with ancillary facilities that currently occupy the site. Following the demolition, the proposed Job Corps Center would be constructed to accommodate 400 full-time residential students with dormitories, educational/vocational facilities, food service facilities, medical/dental facilities, administrative offices, storage and support. Approximately 201,200 gross square feet of new structures is planned. The

proposed project will be constructed in accordance with local fire, building, and zoning code requirements and will not adversely impact local police, fire, or emergency services.

The site is located in a rural/suburban setting with substantial open space extending in all directions. To the north, across West Main Street, in Ayer, Massachusetts is a substantial wetland. To the east is a wooded hill and to the west are large, grassy fields. Towards the south are playgrounds that surround an elementary school that is part of Ft. Devens.

The new facilities associated with the Job Corps would make use of an existing roadway network and infrastructure such as water and sewer lines, telephone poles, and stormwater drainage systems. The razing operation will include removal of all asbestos materials, lead-based paints, underground storage tanks, and contaminated soils resulting from earlier fuel oil spills as required by local, state and federal laws. Conversion of this part of Ft. Devens to a Job Corps Center would be a positive asset to the area in terms of environmental and socioeconomic improvements and long-term productivity. The Job Corps program, which will provide basic education, and vocational skills training, work experience, counseling, health care and related support services, is expected to graduate students who are ready to participate in the local economy that, with the loss of Ft. Devens as a significant employer, is expected to realize an increase in demand for employment.

The proposed project would have no significant adverse impact on any natural system or resource. The existing buildings that will be removed are not designated "historically significant" and the site includes no areas of archaeological significance. Construction of new Job Corps Center buildings will not adversely impact the existing environment including surface water, groundwater, woodlands, wetlands, threatened and endangered species in the Ft. Devens area because operational activities associated with the proposed project do not represent a significant change from the historical use of the Verbeck site as a residential area. A short-term impact from construction, such as fugitive dust emissions, will be mitigated through the use of dust suppression techniques, thereby reducing dust exposure to areas in the vicinity of the proposed construction sites. The expected base-wide remediation of contamination, currently underway by the U.S. Army, both in the Verbeck site and throughout Ft. Devens, would minimize impacts from existing sources of contamination upon the natural systems and resources.

Based upon preliminary analysis, no significant levels of radon exist on site. Water quality of both the Ft. Devens water supply and the adjoining Town of Ayer water supply document no levels of lead present in the drinking water. An asbestos assessment of the existing building complex is currently underway and all asbestos will be removed in accordance with all applicable local, state, and federal safety and health laws, when the buildings are razed. Leadbased paint, abandoned underground storage tanks, and contaminated soils will be similarly removed when the site is demolished.

The proposed project would have no significant adverse impact upon current air quality, noise levels, and lighting. Air quality is good in the area and the proposed project would not be a source of air emissions. Operational noise levels of the project are consistent with rural/suburban areas and, with the exception of the construction period, would not be source of additional noise in the area. Finally, street lights for the proposed project can be modified in the final design to ensure levels of illumination consistent with those in the surrounding area.

The proposed project would have no significant adverse impacts upon the existing infrastructure represented by water, sewer and stormwater systems.Adequate water is available to the site through the Ft. Devens water supply system or that of the nearby Town of Ayer. Stormwater runoff is accommodated by an in-place system that can be improved with minimal repairs. The sanitary sewer collection system is in place and deemed to be adequate. Wastewater treatment can be achieved at the nearby Ft. Devens Wastewater Treatment Plant or the Town of Ayer's Treatment Plant once those facilities have met the state regulations for treatment and discharge—activities that are currently underway.

The proposed site has an abundance of electrical power and natural gas delivered to its boundaries, but would require installation of new distribution systems to bring all facilities up to codes. The proposed demands on electric power and natural gas, however, are not expected to have a significant adverse impact on the environment. Similarly, traffic behavior patterns are not expected to change as a result of the proposed project; the main intersection (Verbeck Gate) would continue to provide an adequate level of service onto West Main Street, so no significant adverse impact is expected.

It is not anticipated that the proposed site will have a significant adverse impact upon the local medical, emergency, fire and police facilities, all of which are located in the Town of Ayer, which is within one mile of the proposed site. The existing facilities will be adequate to address normal emergencies; however, they can be supported, if necessary, by other medical facilities such as the seven hospitals located within a fifteen-mile radius of the site. There are additional emergency, fire and police facilities in the neighboring towns of Harvard and Shirley, and in Ft. Devens itself.

The proposed project would not have a significant adverse effect on the surrounding community, which is characterized by a diverse ethnicity and offers an abundance of recreational, educational and cultural opportunities. Similarly, the proposed project would not have a significant adverse impact on demographics and socioeconomic characteristics of the area. Rather, the implementation of a Job Corps Center on the proposed site will help to fill a void created by the closure of Ft. Devens by providing jobs and educational opportunities for local residents.

A public forum was held in Fort Devens on February 2, 1994. There was voiced strong support from the Towns of Ayer, Harvard, and Shirley for the proposed project. All towns were in favor of siting a Job Corps Center on Fort Devens, and concluded that the Job Corps program is a very worthwhile Program and would benefit the area as a whole.

The alternatives considered in the preparation of the EA were: (1) The "No Build" alternative, (2) the "Alternative Sites" alternative, and (3) the "Continue as Proposed" alternative. The "No Build" alternative is considered inadequate because it would require fitting the Job Corps program into an existing building complex that is ill-equipped for its intended use and, due to its age, is characterized by old, out-of-date systems and potential sources of environmental contamination (e.g. asbestos, lead-based paint, contaminated soils). Alternative locations, meanwhile, are determined to be not available because all locations were originally evaluated through a formal rating process nationwide before selecting the Ft. Devens site. The Proposed Project meets both the goals of the Job Corps and the location requirements. After construction, the new facilities would be suitable for their intended purpose in the Job Corps, and would be environmentally safe and

consistent with current building codes and safety practices.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the location of a Job Corps Center at the former Verbeck Housing Complex on Ft. Devens, Massachusetts, will not cause any significant impact on the environment and, therefore, recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC, this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–667 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) For the New Job Corps Center in Homestead, FL

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Homestead, Florida.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center at the Homestead Air Force Base, Homestead, Florida, will have no significant environment impact. Pursuant to 29 CFR 11.11(d)(1), this Preliminary Finding of No Significant Impact will be made available for public review and comment for thirty (30) days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., N.W., Washington, D.C., 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contracting Mr. Melvin R. Collins, Director, Region IV (Four), Office of Job Corps, 1371 Peachtree Street, NE., room 405, Atlanta, Georgia, (404) 347–3178.

SUPPLEMENTARY INFORMATION: The purpose of this action is to add a Job Corps Center with 472 residential students to the Homestead area. The current buildings are adaptable for this purpose and offer the necessary facilities for the Job Corps program to provide basic education, vocational skills training, work experience, counseling, health care, and related support services. This new center will make constructive changes to existing Homestead Air Force Base facilities for dormitories, recreational, medical/dental, and administrative services, educational and vocational training, and storage space that is consistent with Job Corps guidelines and center needs.

The proposed sites, located in the former recreational area of the Homestead Air Force Base, is comprised of approximately thirty-five (35) acres in the center of the 2,900 acre Homestead Air Force Base. The proposed site is bisected by Bougainvillea Boulevard and bordered by St. Lo Boulevard to the south and east, and St. Mazaire Boulevard to the north. Twelve (12) buildings currently occupy the site. The propose site includes paved asphalt parking lots, concrete sidewalks, and grass areas.

The United States Air Force developed and utilized the Homestead Air Force Base from 1942–1945, and 1956–1992. During the course of World War II, the Homestead Air Force Base operated as a scheduled stopping point for air routes and a large training facility for fighter pilots. Due to a major hurricane that damaged much of the Homestead Air Force Base, it was unused by the military from 1946 through 1955. In 1955 many of the sections were rebuilt and the Homestead Air Force Base continued to operate as a training and tactical air force facility until August 24, 1992, when the Homestead Air Force Base was significantly damaged by the impact of Hurricane Andrew. The reuse of the Homestead Air Force Base, with a reduced military presence, has been proposed. Approximately one-third of the Homestead Air Force Base will be used for military reserve training. The remainder of the Homestead Air Force Base will be converted for other purposes, such as public parkland and projects like the Job Corps. Currently, the majority of the Homestead Air Force Base is unoccupied as a result of Hurricane Andrew. Having been used for military purposes only, the site is not currently zoned. As a direct transfer to another Federal entity, rezoning will not be required.

The United States Air Force historically has used the proposed site for residential, recreational, and retail purposes. The majority of the buildings proposed for reuse were utilized for the same proposed purposes by the United States Air Force with the exception of Building 656, which was utilized for residential purposes; Building 902B, which was utilized for recreational purposes; and Building 914, which was utilized as the base exchange. Those buildings which are proposed for similar uses by the Job Corps include medical and dental offices for Building 656, administrative offices for Building 902B, and storage and vocational training for Building 914.

According to the 1990 census, 162,483 people resided in the South Dade area, including 26,866 in the city of Homestead and 5,806 in Florida City. The population in South Dade in 1990 was predominantly Caucasian (70%), with Hispanics representing the largest minority group (32%). The population of the South Dade area has decreased dramatically due to the impacts of Hurricane Andrew. Post-hurricane census information is not available at this time.

Ample community services are available in the South Dade area. Recreational facilities will be available at the site and a number of large parks are located within nine (9) miles of the Homestead Air Force Base. Power to the site is provided by the Florida Power & Light (FP&L) company. Telephone service is provided by Southern Bell Company.

The water and sewer is supplied by the Metro-Dade County Water and Sewer Authority. There is no solid waste disposal at the site. All non-hazardous solid waste is removed by contractors and taken off-site for disposal in the South Dade landfill. Police and fire protection, rescue and emergency services will be provided by Metro-Dade. The nearest hospital to the site is the SMH Homestead Hospital, located approximately three (3) miles to the west of the site. Because of abundant public, community, and emergency services in the Homestead area, the implementation of the Job Corps on the proposed site will not adversely impact the use of the above-mentioned services.

Natural resources in the South Florida area are abundant. Although wetlands are not present at the proposed Job Corps site, a number of Army Corps of Engineer jurisdiction wetlands are present within one-quarter mile of the site. However, the proposed reuse of the Homestead Air Force Base for Job Corps

Center activities will not have any impact upon nearby wetlands. The Everglades National Park, Big Cypress Preserve, and other national parks are located in the South Florida area. However, the site is not located in any national, state, or local protected area. No endangered species are known to reside at the site, although transient birds may be seen. The proposed use has no significant impact on any natural systems or resources. The existing site and buildings at the proposed Job Corps Center location are not designated as "historically significant" and no areas of archaeological significance are present. The activities of the proposed Job Corps Center are not of a contaminant-generating nature. The geologic, water, and climatic characteristics of the general vicinity of the site, coupled with the historically known land use, minimizes the site's potential to be contaminated from possible off-site sources and further minimizes the impact of contamination.

During the EA, environmental concerns associated with former fuel storage were noted. A number of underground diesel storage tanks were removed from the site in April 1994. Tank Closure Assessment Reports detailing the results of soil and groundwater sampling were not submitted to the Dade County Department of Environmental Resources Management (DERM) as of May 19, 1994. Any contamination detected from the underground storage tank could be assessed and remediated without adversely impacting the renovations or future use plans.

Elevated levels of radon were detected in one of the buildings; thus, complete radon testing is recommended. The determination of a need for remediation will be based upon the radon testing results. Any radon remediation conducted will be in accordance with applicable local, state, and federal regulations. Four (4) of the structures contain asbestos that will require abatement. Asbestos has already been abated from other structures at the proposed site. The abatement of asbestos will be performed by a qualified asbestos-abatement contractor in accordance with applicable local, state and federal regulations including those of the Occupational Health and Safety Administration. No data is available for the lead content of paint in the buildings constructed prior to 1978; the majority of the structures exhibited peeling and chipping paint. Procedures for the containment and removal of lead, if deemed necessary, will be prepared by a qualified lead-abatement contractor and will be properly managed during any future construction activities in accordance with applicable federal, state, and local regulations. Testing of the drinking water systems, apart from a basewide program, has not been conducted. The underground and aboveground storage tanks may require additional investigation. These items are addressed in the EA.

Dade County regulations require low noise levels from 11 p.m. to 6 a.m. in the areas near the city of Homestead. Noise levels generated from the facilities' standard air conditioning units and other equipment are consistent with Dade County regulations. Short-term impact from additional noise will occur during construction activities. Because construction activities related to development of the new Job Corps Center in Homestead will take place during normal working hours, and the use of sound control devices and muffled exhaust on all noise-generating construction equipment will be required, additional noise levels generated by the renovation of the Site will be short term and will not adversely impact the city of Homestead and any surrounding areas. The proposed action will comply with all City noise ordinances, permit requirements, and related building codes. The use of appropriate techniques to minimize construction dust emissions will mitigate construction-related air pollution concerns.

Lighting will be installed at the facility to replace that destroyed by Hurricane Andrew. The lighting will be constructed in accordance with local requirements and will not adversely impact surrounding areas.

Water is available to the site through municipal lines. Stormwater runoff is discharged to catch basins in the parking ares and canals located along the sides of the roads. Sanitary wastes are accommodated by discharge to municipal sewers. Based on the nature of the proposed construction activities at the site, stormwater quality will not be significantly impacted.

An abundance of water and electrical power are available to easily serve facilities this size and those that are substantially larger. The reuse of the site will not increase utility loads to above pre-hurricane levels. Although the proposed project will cause a slight area-wide increase in traffic, this increase in traffic is not expected to adversely affect traffic flow on immediately neighboring streets. The extension of an existing bus route to include the site is proposed and it is not anticipated to significantly alter the bus scheduling in the area. There currently is a bus stop less than one (1) mile from the site. The bus service offers readily available transportation between the site and the City of Homestead. The Florida Turnpike is also located near the site, allowing easy access to the Florida Keys or Miami areas.

A public meeting regarding the location of a new Job Corps Center at the Homestead Air Force Base was conducted on February 2, 1994. Representatives of the Office of Job Corps and Metro-Dade presented a description of the proposed project. Community leaders were given an opportunity to comment on the project and ask questions. All of the public's responses were positive, with community organizations extolling the benefits that the proposed Job Corps Center would have on the rebuilding efforts in South Dade and employment opportunities for the youth in the area. A number of groups, including schools and local labor organizations, expressed a desire to work closely with the new Job Corps Center.

The alternatives considered in the preparation of the EA were: (1) The "No Build" alternative; (2) the "Alternative Sites" alternative, and (3) the "Continue as Proposed" alternative. Choosing the "No Build" means that the Department of Labor would not proceed with plans for development of the proposed Job Corps Center in the city of Montgomery. Although the "No Build" alternative would result in no environmental impact upon the area, it would deny the young adults of this area a unique opportunity, as well as deny the local community an opportunity to socioeconomically benefit from the establishment of a new Job Corps Center. A former mental hospital in Boward County was considered as an alternate site for the new Job Corps Center, but did not meet the minimum selection criteria for locating new Job Corps Centers. The opportunity to expand the Job Corps program to the Homestead area will aid in the rebuilding efforts of the community and allow for the substantial expansion of current programs now offered in Miami. The potential for a new facility and improved service afforded by the proposed action, as well as the finding that the proposed action would not pose any significant adverse environmental impacts, indicate that the proposed reuse and renovation of the site is the preferred alternative.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the establishment of

a Job Corps Center at the Homestead Air Force Base, Homestead, Florida, will not cause any significant impact on the environment and will be a positive asset to the area and therefore, recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC, this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–669 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Long Beach, CA

AGENCY: Employment and Training Administration, Labor.

ACTION: Finding of No Significant Impact (FONSI) for the New Job Corps Center in Long Beach, California.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center in Long Beach, California, will have no significant environmental impact. Pursuant to 29 CFR 11.11(d)(1), this Preliminary Finding of No Significant Impact will be made available for public review and comment for thirty (30) days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Marta Aguilar-Duggan, Director, Office of Job Corps, 71 Stevenson Street, Suite 1015, San Francisco, California, (415) 744–6658.

SUPPLEMENTARY INFORMATION: The Proposed Action includes development and operation of a new Job Corps Center proposed on a 17-acre portion of an existing 90.8 acre federally-owned site containing 110 recently decommissioned U.S. Naval Cabrillo family housing units located in the City of Long Beach. This new Job Corps Center will serve 300 residential students and 20 non-resident students, for a total of 320 students, as well as approximately 70 full-time, day and night staff.

Development of the proposed Job Corps Center will require demolition of the 110 decommissioned units of approximately 151,250 square feet for construction of approximately 160,100 square feet of new facilities. The new Job Corps Center facilities will feature one-story buildings, including administrative and medical support buildings; educational, library and instruction buildings; dormitory buildings; a food service building and a one-story gymnasium structure.

The project site is accessible from the surrounding region via Willow Street to the north, Pacific Coast Highway to the south, Long Beach Freeway (Freeway 710) to the east, Terminal Island Freeway to the west, as well as from the various existing, non-public internal streets. The project site is located in a primarily residential section of Long Beach, although there are several commercial developments along Pacific Coast Highway and Santa Fe Avenue. Heavy industrial development including railroad and oil refining operations are situated west and adjacent to the Terminal Island Freeway.

The Long Beach project site is not located within an environmentally sensitive area. The proposed action will not have any significant adverse impacts on any prime agricultural lands, soils, or related designated land conservation programs, development of mineral resources, or on any unique topography.

There are no surface hydrological features present on the site such as drainage swales, intermittent streams, wetlands, and/or ground water production or related injection wells. The proposed action will not involve the storage or on-site use of major quantities of hazardous chemicals. Project development will not have any adverse impacts on subsurface hydrogeological resources.

Project development will result in insignificant storm-water related runoff. An on-site storm water discharge permit will be secured to insure management in compliance with state and local requirements. The proposed action is not expected to produce any significant adverse drainage effect on adjacent property or any overloading of the public storm water drainage system.

All new construction must conform to the Uniform Building Code which includes establishing compatible building pad elevations and structural designs which inherently mitigate seismic impacts, flood hazards and related impacts to an acceptable risk. This is considered to be a significant beneficial improvement over existing conditions. No significant adverse flood-related impacts or geologic-related impacts are anticipated.

Based on historic aerial photographs, personal interviews, visual site reconnaissance, and reviews of available public and EPA-required listings of hazardous sites, there appears to be no current or past hazardous waste sources within the Long Beach site.

Existing structures have asbestos, lead paint, and potential PCB's present on-site. However, all contaminated materials will be removed and disposed of in accordance with applicable local, state, and federal laws.

The development of the Proposed Action will generate approximately 25 percent less vehicular trips and associated automobile emissions than that of recent conditions, which is considered to be a significant beneficial improvement over existing conditions. Metropolitan bus service has sufficient capacity to handle any increase in public transit generated by the proposed action.

Demolition and development will generate temporary short-term adverse dust and particulate matter during project construction activities. However, maximum daily emission peaks would occur only intermittently during the construction cycle and air emissions will cease upon completion of the estimated 9-month construction period. All applicable regulations will be complied with to insure specific mitigation efforts.

Demolition, site preparation, and construction is expected to generate average on-site noise levels of 65 to 95 dba with intervening quieter periods. These levels are not considered to be severe or present a health risk, as noise levels tend to reduce significantly at distances greater than 100 feet. The presence of the existing 12-foot high concrete wall lessens off-site construction noise for residential properties located to the northeast of the project site. The proposed action will comply with all City noise ordinances and related building codes.

Due to a decrease in the number of vehicle trips because of a reduced on-site population and the increased use of public transit and car pooling over previous site area conditions, the new Job Corps Center would generate significantly less peak and average noise ambience levels over previously existing site conditions. This is considered to be an improvement over previously

existing local noise ambience conditions.

There is existing area and security lighting on the project site, which currently presents no significant light or glare effects because of the site interior and the remote location within the Cabrillo family housing area. The Job Corps Center will feature new facility area and security lighting on the project site. Lighting impacts from the proposed action upon off-site areas are expected to decrease over existing conditions because the campus site design will feature more modern, low intensity lighting fixtures. This is considered to be a beneficial improvement over previously existing local lighting ambience conditions.

There are no rare or endangered flora or fauna species known to exist on the project site. Although development of the project will remove existing non-native residential landscaping, forcing existing urban animal species to relocate to adjacent areas, the proposed site design will feature California native flora species designed to attract desired fauna.

The proposed action will result in a 15.9 percent decrease in population over previously existing conditions on site. This is considered to be a beneficial reduction in population density of the Long Beach site and surrounding community area. The affected source of demolition and related construction is considered non-public (formerly military) housing, and will have no impact on pricing in the local housing market. No significant adverse population or housing resource related project impacts are anticipated.

Development of the proposed site is estimated to generate a total of 256 direct and indirect job opportunities in the City of Long Beach and surrounding regions. The proposed action will not have any adverse effect on the local job market, given the relatively high unemployment rates in all sectors, including the local construction industry.

The proposed action is exempt from State property taxation. However, construction material purchases are subject to both State Sales and Use-related taxes. Accordingly, public tax revenues, expected to increase as a result of project development, are considered to be a beneficial improvement over existing local and regional employment and economic conditions.

There is no evidence of any prehistoric archaeological or historical sites on the Long Beach project site.

The existing family housing units at Cabrillo do not constitute sufficient historical or architectural qualities to meet the criteria for eligibility in the National Register of Historical Sites.

The proposed action is not expected to have an adverse impact on established area facilities and opportunities including, but not limited to, recreational and community services or public educational services.

Although there are no on-site stormwater management-related retention basins, or related treatment facilities, existing runoff and related drainage patterns on- and off-site are not expected to be significantly impacted by the project's minor surface paving. Provision of on-site storm-water management facilities, as well as use of intensive site landscaping, will minimize potential off-site stormwater impacts.

Project development will have no adverse direct impact on City of Long Beach street maintenance including any capital improvement expenditures or other related public fiscal effects.

Security services are currently provided by the U.S. Navy Military Police. This will become the responsibility of the Job Corps Center, which will maintain access control and provide site security. The city of Long Beach provides police services to the surrounding community from the central station located 1.5 miles away. The public police services are adequate for the project area and surrounding community area. Project development will have no significant, adverse impact on public services.

The fire-suppression services on-site are currently provided by the U.S. Navy and will become the responsibility of the Job Corps Center. The final site design will provide adequate fire suppression and control features, including installation of automatic sprinkler fire suppression systems, for all proposed construction. The site and surrounding community are served by a Long Beach City Fire Station located 1.0 mile away. Project development is not anticipated to have a significant, adverse impact on existing public services.

Primary medical and paramedic services on-site will be the initial responsibility of the Job Corps Center, with emergency backup provided by the city of Long Beach. The closest hospital services are within 1.5 miles of the project site. The proposed project will have no significant, adverse impact upon existing community emergency or medical services.

None of the existing site facilities including family housing units has radon levels above EPA's Radon Action Level of four picocuries per liter (0.4 pCi/L). Appropriate building design will ensure safe radon levels are maintained on the project site.

There would be no problem with lead in drinking water via the on-site distribution systems since there are no old pre-1965 pipes. New construction would eliminate any related problems in the future. Appropriate demolition and legal disposal of all lead or lead alloy/solders, as well as appropriate building design will ensure that safe drinking water is maintained on the project site.

The project site does not appear to be subject to any significant natural hazards. The project site is located above the 100-year flood plain, and is not within a designated special hazard zone.

No significant adverse, long-term irreversible environmental resource losses are associated with the proposed action. Accordingly it is concluded that the proposed action will not result in any significant adverse site specific and/or cumulative environmental resource impacts.

A public meeting regarding the location of the new Job Corps Center at the proposed site was held on February 7, 1994 at the Naval Housing Cabrillo in Long Beach. Representatives from the city of Long Beach and the Office of Job Corps presented a description of the proposed project, a discussion of the reuse of Naval properties, the benefits to the youth of the area and general community benefits as a result of siting a Job Corps in Long Beach. Community leaders as well as the general public were given an opportunity to comment on the project and ask questions. All of the responses were positive, with community organizations addressing the benefits that the proposed Job Corps Center would have on employment opportunities for the youth in the area.

The project alternatives reviewed and considered in this EA included: (1) the "No Build" alternative; (2) the "Alternative Sites" alternative; and (3) the "Continue as Proposed" alternative. Choosing the "No Build" alternative implies that the U.S. Department of Labor would not proceed with the proposed construction and operation of a new Job Corps Center in the Long Beach area. Under this alternative, existing Job Corps Center facilities in Los Angeles would be used to provide current limited services. The existing facilities are at a maximum capacity and do not offer any opportunity to provide expanded and up-graded Job Corps Center training facilities and related community-based employment development services.

The U.S. Department of Labor conducted a qualitative evaluation of potential new Job Corps Center sites criteria as required by the standard Federal Facility Acquisition criteria. The Federal Related Program Design Criteria was used to establish a shortlist of alternative project sites within the region. The project was selected after naving undergone detailed, comparative Facility Utilization Evaluation studies and a related review of shortlisted site alternatives, in accordance with facility use requirements including location, suitability and availability of campus scale land requirements.

The Job Corps site review teams identified alternative potential project sites. These included the Park Plaza Hotel site in Los Angeles, and available Federally-owned surplus sites including: U.S. Navy White Point family housing area in San Pedro, California; Cabrillo family housing area, Seabright family housing area, and Savannah Substandard housing in Long Beach, California; as well as a Reserve Center housing area in Los Alamitos, California.

To Continue as Proposed with the Long Beach Site would eliminate costly and unnecessary acquisition of private land for public uses. Development of this preferred site would also provide for continued government ownership, maintenance and economic reuse of existing federal properties.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, Office of Job Corps finds that the proposed new Job Corps Center in Long Beach, California, will not cause any significant adverse impact of the environment; and, therefore, recommends that the project continue as proposed. This Proposed Action is not considered to be highly controversial.

Dated at Washington, DC., this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–670 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the Relocation of the Marsing Civilian Conservation Center in Marsing, ID

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the Relocation of the Marsing Civilian Conservation Center in Marsing, Idaho.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the relocation of the Marsing Civilian Conservation Center (CCC) near Marsing, Idaho will have no significant environmental impact. Pursuant to 29 CFR 11.11(d)(1), this Preliminary Finding of No Significant Environmental Impact (FONSI) will be made available for public review and comment for a period of 30 days.

DATES: Comments must be submitted on or before February 19, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Paul J. Krois, Director, Region X (Ten), Office of Job Corps, 1111 Third Avenue, Suite 960, Seattle, Washington 98010, (206) 553–7938.

SUPPLEMENTARY INFORMATION: The proposed action would relocate the Marsing CCC to Nampa, Idaho, a distance of about 15 miles. The existing site is located about 4 miles south of the town of Marsing on land owned by the Idaho Department of Fish and Game. The proposed site is located within the city of Nampa, Idaho, about 3 miles northeast of the downtown area, at the terminus of the 11th Avenue North Extension. The property is on the periphery of the city, generally surrounded by institutional and open space land uses. The site includes two parcels. The primary campus area consists of 17.9 acres of land, immediately adjoining the Idaho State School and Hospital (ISSH). A smaller area of 4.2 acres, divided from the primary campus by the main service road to ISSH, would be used for open space recreational purposes.

The proposed campus would be similar to the existing campus. It would accommodate 3 dormitories, one of which would include a daycare component; a general education building; one or more vocational training buildings; greenhouse; dining hall/culinary arts building; gymnasium/recreation hall; medical/dental dispensary; administration hall; storage/maintenance warehouse; outdoor recreation area; and various parking and landscaped areas.

The primary and overriding purpose of relocating the CCC facility from its current site to the proposed site in Nampa is to provide safe and stable facilities for the staff and students, which would allow the program to continue to serve this region. Geotechnical investigations have been conducted at the present site in response to structural damage that has occurred at the existing buildings from ground subsidence. The investigations have determined that groundwater moving through the area from the Snake River has dissolved the formations underlying the CCC facilities to depths of 40 feet or more. As a result, cracks have occurred in a number of buildings on campus. One dormitory has been closed because it has been found structurally unsafe, reducing the numbers of students that the campus can accommodate from 210 to 140. Additionally, the current site is isolated from surrounding communities that provide jobs and other on-the-job training opportunities, which creates substantial transportation demands in transporting students to jobs. The proposed site in Nampa is centrally located to other communities in the Treasure Valley, and is only a quarter of a mile from Interstate 84, thereby alleviating these transportation problems.

The new CCC will provide housing, food, recreational, medical/dental, and administrative services, educational and vocational training, and appurtenant storage consistent with Job Corps and Center needs. Establishing the CCC at this location will require new construction for all the proposed facilities. The proposed project will be constructed in accordance with local fire, building and zoning code requirements, and will not adversely impact the City of Nampa or Canyon County emergency services.

The proposed site is located in a rural/suburban setting and is currently zoned "Agriculture". This zoning permits vocational schools and associated facilities as an allowed use. The site is bordered on the south by the ISSH and on the west, north, and east by the Centennial Golf Course and agricultural crop land. Interstate 84 lies about a quarter of a mile to the south. The site is on the edge of a topographic "bench" formed by the Boise River, which lies some distance to the north. Agricultural land uses to the north, therefore, are separated from the site by a significant difference in elevation

(about 100 feet). Other land uses in the vicinity include light industry south of the Interstate Highway. The proposed site and land occupied by the ISSH are owned by the Department of Health and Welfare of the State of Idaho. The existing CCC is located in a rural area. Most of the land in the surrounding area is in natural condition (grasses and sagebrush), although some agricultural cropland and grazing of cattle does occur. The lease on this land from the Idaho Department of Fish and Game calls for the site to be restored to its natural condition if the CCC uses should be discontinued. However, it is expected that the Department of Fish and Game will choose to use or lease those buildings on the site that remain in structurally sound condition. Through cooperative agreements with State and federal agencies, the federal government prefers to locate new facilities on state or federal lands rather than to purchase land outright. This arrangement can result in long-term leases for new facilities at little or no cost to the taxpayer.

The proposed action was found in the EA to have no significant impact on natural systems or resources. Minor soil erosion would occur during construction of the CCC at the proposed site. Best Management Practices, including minimizing the extent and duration of vegetation and soils disturbance, would be employed to minimize erosion. If damaged buildings were to be removed at the existing site near Marsing, decreased loads on soils would result in less subsidence of the ground surface than is currently occurring beneath existing buildings. Water for drinking and irrigation at the proposed facility would be provided by the City of Nampa. Stormwater runoff during construction would be maintained on site in accordance with federal requirements. Possible removal of some or all of the buildings at the existing site would result in fewer impermeable surfaces and less stormwater runoff.

Investigation into the historical land uses/operations for the ISSH and surrounding properties indicates that no significant concern regarding contamination of these lands from hazardous materials or wastes is warranted. Anecdotal information regarding possible underground contamination resulting from the storage of DDT at ISSH resulted in investigation and laboratory sample analysis of soils and groundwater. No pesticides were detected in any of the samples; therefore, no further action was taken. A number of chemicals are stored at the existing Center for cleaning and vocational training purposes. Due to the nature of these chemicals and the small amount involved, the potential for impact is considered to be insignificant.

Vegetation at the proposed site consists of a residual corn crop. In the surrounding area, almost all vegetation is ornamental. While the existing site is fully landscaped, most of the surrounding vegetation is natural, providing some cover for wildlife in the area. Construction of the proposed project would eliminate the temporary cover provided for pheasants and rodents that currently exists at the proposed site. Demolition of some or all of the buildings at the existing site could result in restoration of natural vegetation that would provide habitat for wildlife species in the area. The U.S. Fish and Wildlife Service has written that the proposed action is not likely to cause impacts to the wetlands, Federal candidate, nor listed endangered or threatened species.

Ambient noise levels would be increased somewhat at the proposed site as a result of the construction and operation of the proposed CCC. Because of the nature of nearby noise receptors (operations and maintenance facilities for ISSH), and the existence of other noises from the site, both types of impacts should be relatively unnoticeable. Noise levels at the existing Center would be expected to decline somewhat from current levels, but this would depend on the nature of any new tenant. Both the existing and the proposed sites are attainment areas for air quality standards. Dust and increased emissions from internal combustion engines will occur at the proposed site during construction of the Center. Best Management Practices including limitation of the extent and duration of soils disturbance and wetting down of access and construction areas will minimize impacts of dust during construction. Because of the nature of the surrounding uses and their distance from the site, these temporary air quality impacts should be minor. Long-term operational impacts to air quality would slightly increase due to emissions from additional motor vehicles in the area, but would not be significant. Air quality at the existing site would be expected to improve slightly as a result of fewer motor vehicles in the area, but would depend on the nature of other tenants that might locate or be in close proximity to this site. Outdoor security lighting at the proposed site would be noticeable in the area, but would be consistent with lighting at ISSH and would not impact sensitive receptors. Lighting at the existing site would be expected to decrease, depending on the future use of the site.

The proposed action would not create significant adverse effects to the human or cultural environment. The relocation would create between 40 and 52 new jobs in the Nampa area. No jobs would be lost in Owyhee County, since current employees at the Center would maintain their jobs at the Nampa facility. The population of Owyhee County would decrease by about 140 (students at Marsing CCC), and the population of Nampa would increase by as much as 490 people (students, new staff members and their dependents).

Nampa schools in proximity to the proposed site, which are already at or over capacity, might be required to accommodate as many as 15 elementary schools students as a result of the relocation since as many as 20 Job Corps students could bring their young children to the new Center. This impact would be mitigated by construction of a new elementary school in the area, scheduled for construction upon passing of a pending bond election. Because of the relatively small number of students expected and the nature of school funding that virtually requires schools capacities to be exceeded before bonds for new schools are approved, the anticipated impact is expected to be short-term and not significant.

Police and fire services would be provided by the City of Nampa. Canyon County also provides emergency ambulance service to the area. These services would experience a small increase in demand for services. Owyhee County services to the existing site would be expected to experience a decrease in demand. Existing demands on emergency services would remain unchanged for the short term. In the long term, it would be expected that the CCC would close or relocate, and that there would be less demand on Owyhee County for emergency services. The central location of the proposed site in the region would result in decreased transportation requirements, both for the staff and for students.

Local businesses in Marsing would experience a loss of income estimated between $40,000 and $60,000 due to the Center relocation. This amount would probably be spent in Nampa or nearby communities as a result of the new location. Since federal facilities pay no taxes, there would be no adverse economic impacts to governments. Federal-in-lieu fees would no longer be paid to Owyhee County, but would be paid, instead, to Canyon County.

No structure nor other resource exists on either the existing or the proposed

site that is listed in the National Register of Historic Places. Buildings at the ISSH are both placed on and are eligible for placement on the National Register. Since the proposed CCC would have no effect on these structures, there would be no impact on cultural resources. No areas of archaeological significance were identified at the proposed site. The open farmland at the proposed site would no longer offer an open space view, but would consist of urban development. With adjoining urban uses to the south, the proposed development would not contrast with surrounding visual conditions. If some or all of the buildings at the existing site were removed and replaced with natural vegetation, a greater extent of natural views would occur.

A public meeting was held between representatives of the Office of Job Corps, the Marsing Job Corps Center staff, and the Nampa, Idaho city council in February, 1994. Job Corps staff presented an overview of the Job Corps program, and discussed the relocation of the Marsing Job Corps Center at the proposed site in Nampa. Community leaders were given an opportunity to comment on the project and ask questions. There were no adverse comments directed to Job Corps regarding the proposed relocation of the Job Corps Center to Nampa. Subsequent to the meeting, there were no adverse comments received by the city council or the Office of Job Corps from the public.

The alternatives considered in the preparation of the EA were: (1) The "Proposed Action" (Preferred Alternative); (2) the "No Action Alternative" (continuing to operate the CCC at its existing site until it would be necessary to locate elsewhere or close the Center); and (3) the "Alternative Sites" alternative. All three alternatives have been considered, as reflected in the environmental assessment, in compliance with the National Environmental Policy Act (NEPA). Although choosing the "No Action" alternative would result in no environmental impact upon the area, it would deny the young adults of this area the benefits of a Job Corps Center. Several alternative sites were considered by the Department of Labor for the new CCC site, but were found to be undesirable in terms of safety of students, compatibility with surrounding land uses, and/or proximity to job locations, goods and services. The potential for an excellent facility and operational efficiency afforded by the proposed action indicates that the proposed relocation of the Center to the city of Nampa is the preferred alternative.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the relocation of the Marsing CCC to the land adjoining the ISSH in Nampa, Idaho, will not cause any significant adverse impact on the environment and recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC., this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–672 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Montgomery, AL

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Montgomery, Alabama.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d)(1), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center in Montgomery, Alabama will have no significant environmental impact.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC, 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Mr. Melvin R. Collins, Director, Region IV (Four), Office of Job Corps, 1371 Peachtree Street, NE., room 405, Atlanta, Georgia, 30367, (404) 347–3178.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to develop the site into the Montgomery Job Corps Center for 272 resident and 600 non-resident students. A dormitory and other buildings will be constructed in order to provide the Job Corps Center with the necessary facilities for education, vocational skills training, work experience, counseling, health care, and related support services. To meet recreational needs, based on the Job Corps prototype for recreational activities, some construction is also needed; however, Trenholm and the local YMCA have offered to share their recreational facilities with the Job Corps Center. All of these newly constructed facilities will be consistent with Job Corps guidelines and center needs.

The proposed project will also be constructed in accordance with local fire, building and zoning code requirements and will not adversely impact the City of Montgomery police, fire, or emergency services.

The proposed site, located in the area of 1225 Airbase Boulevard, Montgomery, Alabama is comprised of 23 acres and is bounded on one side by the Montgomery Youth Detention Center and on the other by Trenholm State Technical College. The site has no structures on it. The site is located in an industrial/residential setting and is currently zoned as light industrial. The zoning is compatible with the intended use and, therefore, no rezoning will be required. The site is bordered on the north and east by railroad tracks, on the west by a drainage ditch, and to the south by Airbase Boulevard.

The proposed use has no significant impact on any natural systems or resources. No areas of archaeological significance are present at the proposed Job Corps Center site. The activities of the proposed Job Corps Center are not of a contaminant-generating nature. The geologic, water, and climatic characteristics of the general vicinity of the site, coupled with the historically known land use, minimizes the site's potential to be contaminated from possible off-site sources and further minimizes the impact of contamination

Because there are no existing buildings or water pipes on this site, there was no need to test for radon, asbestos, lead-based paint, or lead in drinking water. These items are addressed in the EA.

A short-term impact from additional noise will occur during construction activities; however, construction activities will be limited to the hours of 7 am to 4 pm. The use of sound control devices and muffled exhausts on all noise-generating construction equipment will be required. Appropriate techniques to mitigate fugitive dust and emissions during construction activities will be used.

Noise and dust impacts will terminate when construction is through.

Indoor/outdoor lighting will have to be installed when construction begins. The lighting systems will not impact the surrounding areas.

Water is available to the site through municipal lines. Stormwater runoff and sanitary wastes are accommodated by discharge to municipal sewers. Based on the nature of the proposed construction activities at the site, stormwater quality will not be significantly impacted.

Montgomery has an abundance of water, electrical power and natural gas to easily serve facilities of this size and those substantially larger. Although the proposed project will cause an increase in traffic in the community, the increase in traffic value is not expected to adversely affect traffic flow on neighborhood streets. Several emergency response companies service the area. Police and fire stations are located near the subject property. A major hospital is within ¼ mile of the subject site.

Several bus routes offer readily available transportation to and through the subject area at a reasonable cost. Interstates 65 and 85 are close to the site and allow fast and easy access throughout the Montgomery area. These emergency and community services are abundant in the Montgomery area; therefore, the siting of Job Corps center in this area will not adversely impact the existing availability of the above-mentioned services upon the area. The implementation of the Job Corps on the proposed site will provide jobs for vicinity residents. There will not be an adverse impact on the infrastructure or the socioeconomic structure in Montgomery.

A public hearing was held on January 27, 1994 concerning the establishment and location of the Job Corps Center. Approximately 135 people attended and those who spoke were very supportive of the establishment of the Center.

The alternatives considered in the preparation of the EA were: (1) The "No Build" alternative, (2) the "Alternate Sites" alternative, and (3) the "Continue as Proposed" alternative. Choosing the "No Build" alternative means that the Department of Labor would not proceed with plans for development of the proposed Job Corps Center in Montgomery, and would result in no environmental impact upon the area. The "No Build" alternative would deny the youth of the Montgomery area a unique opportunity to educationally benefit from programs offered by Job Corps, in addition to denying the city an opportunity to benefit socioeconomically from such a program. Sites in Hollandale, Mississippi and Hahnville, Louisiana were also considered, but did not meet the minimum selection criteria for locating new Job Corps Centers. The potential for an excellent facility and operational efficiency afforded by the proposed action, as well as the finding of no significant adverse impacts upon the environment resulting from construction, indicate that the proposed development of the site in Montgomery is the preferred alternative.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the proposed location of the Montgomery Job Corps Center to the 1225 Airbase Blvd. area location in Montgomery, Alabama, will not cause any significant impact on the environment and, therefore, recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, D.C., this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–674 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Memphis, TN

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center in Memphis, Tennessee.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center in Memphis, Tennessee will have no significant environmental impact. Pursuant to 29 CFR 11.11(d)(1). this Preliminary Finding of No Significant Impact will be made available for public review and comment for thirty (30) days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Mr. Melvin R. Collins, Director, Region IV (Four), Office of Job Corps, 1371 Peachtree Street, NE., Room 405, Atlanta, Georgia, (404) 347–3178.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to convert the Memphis Preparatory School into the Memphis Job Corps Center for 272 resident and 40 non-resident students. Dormitory buildings will be constructed in order to provide facilities necessary for basic education, vocational skills training, work experience, counseling, health care, and related support services.

The proposed site is located in the area of 1555 McAlister Drive, Memphis, Tennessee, which is currently zoned as residential. It is comprised of 23.9 acres and is made up of three tracts of land. These tracts were used as a preparatory school for grades 1–12. The site has several structures. A main building constructed approximately twenty years ago, a football field, a baseball field, a track and a tennis court.

The new Center will provide dormitories; recreational, medical/dental, and administrative services; educational and vocational training; and storage space that is consistent with Job Corps guidelines and Center needs. Establishing a Job Corps Center at this location will require some constructive changes to existing buildings and the surrounding property; e.g., repairing a tennis court that had been used as a parking lot, as well as construction of new buildings. The proposed project will be constructed in accordance with local fire, building and zoning code requirements.

The proposed use would have no significant impact on any parks, wetlands, woodlands or other natural resources. The existing site and buildings at the proposed Job Corps Center location are not designated "historically significant" and no areas of archaeological significance are present. The activities of the proposed Job Corps Center are not of a contaminant-generating nature. The geologic, water and climatic characteristics of the general vicinity of the site, coupled with the historically known land use, minimizes the site's potential to be contaminated from possible off-site sources and further minimizes the impact of contamination by the Cente:

The existing building at this site was not tested for radon; however, this will be done before operations begin at the Center. If there is to be a significant amount of construction done on the building, asbestos removal, in accordance with all local, state and federal health and safety laws and regulations, may be necessary from suspect items such as the insulation around pipe fittings and from the gymnasium ceiling. Because it is common for structures built before 1980 to contain lead-based paint, the paint in the building will be tested and removed, if necessary. Procedures for the containment and removal of lead, if deemed necessary, will be prepared by a qualified lead-abatement contractor and will be appropriately managed during any future construction activities.

There are no regulations governing noise in Memphis. Short-term impacts from noise will occur during the construction activities; however, construction activities will be limited to the hours of 7:00 am to 4:00 pm and the use of sound control devices and muffled exhaust on all noise-generating equipment will be required in order to minimize any potential adverse impact upon neighboring properties. Water will be used to control fugitive dust or emissions. This will mitigate construction-related air pollution concerns.

The existing site and security lighting consists of facility-owned and maintained, building-mounted, photocell-controlled, high-intensity discharge (HID) luminaries and utility company-owned and maintained pole-mounted photocell-controlled HID luminaries located along the streets and parking areas. This outdoor lighting system serves as good surveillance and has no impact on the environment or surrounding properties. The lighting inside the existing building will have to be completely replaced to accommodate new building use. This system will not adversely impact the environment.

Memphis has an abundance of water, electrical power, and natural gas to easily serve facilities of this size without impacting upon these existing services. Based on the nature of the proposed construction activities at the site, storm water quality will not be degraded and will not have an adverse effect on the environment surrounding the site. Although the proposed project will cause a small increase in traffic to the community, the increase in traffic value will only mildly add to the traffic flow on neighborhood streets in the vicinity of the new center. Several emergency response companies service the area. Police and fire stations are closely located near the subject property. A major hospital is within a 5-mile radius of the subject site. Several bus routes offer readily available transportation to and through the subject area at a reasonable cost. Highways 55 and 240 are within a 7-mile radius from the site and allow fast and easy access throughout the Memphis area. These emergency and community services appear abundant in the Memphis area, therefore, the siting of the Job Corps center in this area will not adversely impact the use of the above-mentioned community services. The implementation of the Job Corps Center on the proposed site will provide jobs for vicinity residents and Community leaders were given an opportunity to comment on the project and ask questions. There were no adverse comments directed to Job Corps regarding the proposed relocation of the Job Corps Center to Nampa. Subsequent to the meeting, there were no adverse comments received by the city council or the Office of Job Corps from the public.

The alternatives considered in the preparation of the EA were: (1) The "Proposed Action" (Preferred Alternative); (2) the "No Action Alternative" (continuing to operate the CCC at its existing site until it would be necessary to locate elsewhere or close the Center); and (3) the "Alternative Sites" alternative. All three alternatives have been considered, as reflected in the environmental assessment, in compliance with the National Environmental Policy Act (NEPA). Although choosing the "No Action" alternative would result in no environmental impact upon the area, it would deny the young adults of this area the benefits of a Job Corps Center. Several alternative sites were considered by the Department of Labor for the new CCC site, but were found to be undesirable in terms of safety of students, compatibility with surrounding land uses, and/or proximity to job locations, goods and services. The potential for an excellent facility and operational efficiency afforded by the proposed action indicates that the proposed relocation of the Center to the city of Nampa is the preferred alternative.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the relocation of the Marsing CCC to the land adjoining the ISSH in Nampa, Idaho, will not cause any significant adverse impact on the environment and recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC, this 23rd day of December, 1994.

Peter E. Rell,

Director of Job Corps.

[FR Doc. 95–668 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center on Treasure Island, in San Francisco Bay, CA

AGENCY: Employment and Training Administration.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the new Job Corps Center on Treasure Island, in San Francisco Bay, California.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the establishment of a Job Corps Center on Treasure island in San Francisco Bay, California, will have no significant environmental impact. Pursuant to 29 CFR 11.11(d)(1), this Preliminary Finding of No Significant Impact will be made available for public review and comment for thirty (30) days.

DATES: Comments must be submitted by February 10, 1995.

ADDRESSES: Any comment(s) are to be submitted to Lynn Kotecki, Employment and Training Administration, Department of Labor, 200 Constitution Ave., NW., Washington, DC, 20210, (202) 219–5468.

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Marta Aguilar-Dugan, Region IX (Nine), Office of Job Corps, 71 Stevenson Street, Suite 1015, San Francisco, California, 94119, (415) 744–6658.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to create a new Job Corps Center in the San Francisco Bay Area that would provide up to 850 enrollees with training and support services in a residential environment. The Job Corps training and services include basic education, vocational skills training, work

experience, counseling, health care, and related support services. The program is intended to prepare participants to obtain and hold gainful employment, pursue further education or training, or satisfy entrance requirements for service in the Armed Forces.

The Proposed Job Corps Center will be developed on land and in buildings now occupied by the United States Navy. The Job Corps would occupy about 35.5 acres of the 403-acre Treasure island. Treasure Island is located adjacent to Yerba Buena Island and the San Francisco-Oakland Bay Bridge in San Francisco Bay. Naval Station Treasure Island will be closed by the Department of Defense on September 30, 1997. The Job Corps Center has been proposed as one of the first non-military uses of the base, and is planned for implementation before the base closure is fully complete.

The Job Corps Center would be planned for an optimum capacity of 720 single residents and 130 non-resident students. It is estimated that many of the non-residents would be single parents with up to 60 children that would use child care services available to the Job Corps on Treasure island. Therefore, a total of 910 people would be served at the Center.

The Job Corps would take possession of a total of 470,347 gross square feet of floor space in twelve existing buildings. The streets, sidewalks, parking lots, and utility systems serving the buildings are in place and mature landscaping is found around many of the structures.

Job Corps' estimates of the rehabilitation work that would be necessary to adapt these buildings to meet the needs of their programs indicates that 3 of the buildings would need no rehabilitation work, 2 would require major renovation and the remaining 7 would require minor to moderate modifications. The buildings that would require no work include the following: Building 363, which houses an existing Job Corps sponsored Culinary Arts school (with about 120 students); Building 368, the cafeteria; and Building 364, which would be reserved for future upgrading by Job Corps' vocational training students. Minor rehabilitation, such as upgrading of fire doors, HVAC, electrical and plumbing systems and interior space conversions to meet Job Corps needs, would be undertaken in Buildings 369, 450, 487, 488, and 489. Building 365 would require moderate rehabilitation work to reconfigure the existing space into storage. Loading docks and a freight elevator would be added. An area on the second floor of Building 442, the 3-year old medical/dental building would be reconfigured to provide medical wards.

The buildings slated for major rehabilitation are Buildings 366 and 367. Building 366 would be reconfigured from open bay dormitories to vocational shops. The bathrooms would have to be converted to male/female facilities and an interior elevator would be added. Building 367 would be reconfigured from an open bay dormitory to classroom space. The bathrooms would also have to be reconfigured and an elevator installed.

The only new building anticipated at this time would be a building to house recreational facilities for the students on the "campus". The size and configuration of the building has not been defined, although it is expected that it would be located on what is now a 1.5-acre grassy playing field/landscaped area near Buildings 369, 488 and 489, which would be dormitories.

Treasure Island, the site of the proposed project, is a manmade island of about 403 acres. It was built on Yerba Buena Shoals and a sand spit extending north from Yerba Buena Island between 1936 and 1939 as the site for the Golden Gate International Exposition. The island was constructed from sediments dredged from San Francisco Bay. The Exposition or "World's Fair" opened on the island in February 1939 and had a second run in 1940.

A few months after the Fair closed, the Navy leased Treasure Island from San Francisco and the Yerba Buena-based Naval activities spread out to cover both islands. The island became a major naval facility during World War II, and has operated as a Naval Base continuously since. After the war, the City of San Francisco agreed to trade the deed to Treasure Island in exchange for Government owned land south of San Francisco where the San Francisco International Airport was eventually built.

Exiting buildings on Treasure Island, today, includes three Naval training center facilities, 907 family-housing units, 1,000 bachelor quarters, medical/dental clinics, a brig, 5 active piers, recreational facilities, a school and a child-care center, a commissary, a sewage treatment plant, fire station, Naval Public Works department and a variety of other facilities. The Treasure Island Museum is located in the Headquarters building, which is one of only three remaining structures built for the 1939 Exposition.

Treasure Island is considered an urban setting and is located within the boundaries of the City and County of San Francisco. As a federal/military enclave within the City, the Island has not been subject to local planning and zoning regulations; San Francisco is currently beginning work on a reuse plan for conversion of the Island from military to civilian use.

The project will help offset the substantial population and employment loses that are occurring in the Bay Area from the Navy's base closure actions affecting Treasure Island and other nearby facilities. The Job Corps will replace more than 10% of the Navy's current Treasure Island population, which will decline to zero by late 1997.

The Job Corps Center will also provide employment opportunities for teachers and support staff, and will purchase goods and services from the surrounding communities. This will offset a small proportion of the economic losses to the region from the base closure actions. The ability of the Job Corps to begin functioning on the site before the Navy leaves Treasure Island in 1997 is considered a benefit, as it will help smooth the transition from military to civilian employment on the site.

The San Francisco Bay Area is considered one of the most earthquake-prone areas of the United States. Treasure Island lies approximately 11 miles east of the San Andreas Fault and 10 miles west of the Hayward Fault, both major faults. It is estimated that there is a 90 percent probability that one or more large earthquakes (magnitude 7 or greater) will occur in the San Francisco Bay region during the 30-year period between 1990 and 2020.

Since there are no active or buried faults located beneath Treasure Island, the risk of ground rupture due to fault displacement is very low. However, the island is potentially subject to violent to extremely violent ground shaking and there is a high potential for liquefaction in the event of major earthquake. Previous Navy studies of buildings on Treasure Island have determined that only Building 2 and 3 are likely to sustain more than 25 percent damage should a significant earthquake event occur. The Job Corps would have no activities in Buildings 1 or 2. However, the Job Corps will consider seismic forces and risks to buildings occupants when retrofiting the existing Navy buildings to meet Job Corps requirements.

The potential for major seismic activity around the Pacific Rim places Treasure Island at risk to damage from Tsunamis. Tsunamis having a wave height or runup of 8 feed at Treasure Island can be expected to occur once every 200 years. The possibility of a Tsunamis is considered to be a low risk, particularly since the Job Corps Center

would be protected behind the Island's perimeter dike, the top of which is more than 8 feet above sea level. The emergency preparedness and response plan for this facility will consider warning and response protocols for this risk.

The proposed Job Corps Center will not have any significant impacts on natural systems or resources. Implementation of the existing Stormwater Pollution Prevention Plan for Treasure Island will reduce the risks of stormwater pollution of San Francisco Bay as a result of activities on the Island. The project will not introduce any significant new sources of potential pollution to the Island.

Treasure Island, including the area where the Job Corps activities would be centered is not considered a valuable, unique or sensitive natural area. The Job Corps would utilize existing buildings and urban spaces for the same, or similar uses that have been continuing for decades. The Project is not expected to have any adverse effects on vegetation and wildlife including rare, threatened or endangered species of plants or animals.

It is not expected that the Job Corps programs will introduce any new stationary sources of air pollutant emissions; however, if any future vocational training programs involve the use of equipment requiring permits to operate from the BAAQMD, such permits will be sought and the conditions met. The majority of the Job Corps students at Treasure Island will be residential students and will contribute proportionately fewer vehicle miles, hence fewer air pollutants, than most residents of the Bay Area. No adverse impacts on air quality are projected.

No long-term adverse noise impacts are expected. The Job Corps site is outside the traffic noise impact zone of the Bay Bridge, and no significant impacts from local traffic noise is expected. The site may currently be within the 60 dBA CNEL zone of flights from Alameda Naval Air Station. However, since Alameda Naval Air Station is being closed concurrently with Treasure Island, this potential impact will be temporary and no special mitigation is deemed necessary.

Construction work necessary for the modification and upgrading of some of the existing buildings would result in short-term noise impacts, although most noisy work would occur inside the building shells. Air compressors, trucks, lifts, concrete pumpers, and other equipment would be operated around the buildings undergoing remodeling and could result in short-term noise impacts at surrounding locations. To mitigate these potential impacts, construction activities will be limited to the hours of 7AM to 6PM, and sound control devices and muffled exhausts will be required on noise-generating equipment.

The existing streetlighting and security lighting systems are expected to remain in place. The addition of the Job Corps Center to Treasure Island will not affect existing views of nighttime lights on Treasure Island from off-site locations. No impacts are expected.

Treasure Island contains no archeological or prehistoric resources as it was constructed with materials dredged form the bottom of San Francisco Bay.

The only buildings on the Island found to have historical importance are Buildings 1, 2 and 3. None of these buildings are within the area that would be used by the Job Corps. It is concluded that the project would not have any impacts on historic or archeological resources.

No electricity, natural gas, telephone or cable telephone services would have to be extended nor would the capacity of any supply lines have to be increased to serve the project.

The Jobs Corps will be dependent upon the central steam heating system on Treasure Island for space heating. It is now known who will be responsible for this utility service after the Navy leaves. The Job Corps will work with the Navy and City of San Francisco during the Base Closure and Realignment process to ensure that this utility service will remain operational or that a substitute is implemented prior to base closure.

Water supply for domestic use and firefighting is adequate to meet the project's needs.

The existing sewage treatment plant has ample capacity to adequately treat and dispose of the sewage generated by the proposed project. Because some of the buildings will be changed from residential to instructional facilities, the Job Corps will generate less sewage from the same complex of buildings than the Navy has in the past.

Solid waste disposal will continue to be provided by private contractors.

The project's impact upon daily peak hour traffic on the Bay Bridge by Job Corps personnel will be an addition of fewer than 150 round trips, which is less than 20 percent of the traffic generated by the Naval Station in recent years. This traffic will have little or no effect on the Bay Bridge traffic, and is not considered a significant impact.

Job Corps personnel will experience difficulty merging onto the Bay Bridge during peak traffic periods, just as Navy personnel do today and have in the past. It is not known if San Francisco's reuse plan for Treasure Island will consider improvements to these sub-standard access ramps. Nor is it known if such improvements are physically feasible at a reasonable cost. The Job Corps will work with the City of San Francisco during the reuse planning process to ensure that access improvements for Treasure Island are carefully considered and evaluated.

Medical services will be available to Job Corps personnel from the medical/dental clinic which the Job Corps will acquire from the Navy.

Treasure Island is within the jurisdiction of the San Francisco Police Department. Police services will be provided by the City and County of San Francisco with support from military police as long as the Navy remains on the base. Subsequently, the San Francisco Police Department will be responsible for all calls for service from the Island. The proposed Job Corps Center's potential need for police services is not expected to have a significant impact on the City and County of San Francisco.

Fire services will be provided by the Navy until base closure. At that time the operation of the Fire Station will be the responsibility of the City and County of San Francisco. San Francisco is also expected to address the fire services in the Reuse Plan.

Preliminary screening has indicated that radon gas is not a significant concern at Treasure Island. No impacts are expected.

Asbestos may have been used in the building materials for seven or eight of the twelve structures to be acquired by the Job Corps. The Job Corps will survey the buildings for asbestos-containing materials and abate them as necessary in conjunction with the other rehabilitation efforts required to adapt the buildings to Job Corps uses. Any asbestos-containing materials removed from the buildings will be disposed of at licensed, off-site facilities in accordance with Federal and State regulations. Completion of the abatement program will eliminate any potential health hazards from asbestos.

Compliance with the Federal Residential Lead-Based Paint Hazard Reduction Act of 1992 by the Navy and/or the Department of Labor is expected to adequately address any potential lead-based paint hazards at the facility

Water supplied to Treasure Island is well within the Federal drinking water quality standards for lead. No adverse impacts upon the water supply are expected.

There are twenty Installation Restoration sites on Treasure Island containing hazardous wastes cataloged by the Navy. None of these are located within the confines of the area that would be transferred to the Department of Labor for the proposed Job Corps facility. Two of the seventy-five Underground Storage Tanks (USTs) on the base are within the boundaries of the Job Corps site. These underground storage tanks have been removed. One of the sites requires further remediation work, consisting of the removal and treatment of soil with petroleum hydrocarbon contamination and, possibly, the treatment of contaminated groundwater. Groundwater beneath Treasure Island is not withdrawn for any domestic or irrigation use. Remediation of this UST site will be completed by the Navy before base closure is complete. The Navy intends to conduct all remediation work with proper site safety protocols; no adverse impacts are projected.

PCB-containing transformers have been removed from Treasure Island. One of the identified Installation Restoration sites, which will be cleaned, has PCB contamination. This site, however, is far from the buildings that will be utilized by the Job Corps. No impacts from PCB contamination are projected.

Naval Station Treasure Island is a regulated hazardous waste generator The sources of hazardous wastes generated on the Island are primarily in the military training and industrial activities on the site, which are concentrated on the eastern and southern sides of the Island. Activities resulting in the generation of hazardous waste do not occur in the residential and administrative buildings that would be used by the Job Corps. The medical/dental building generates small quantities of medical wastes, which are disposed of in accordance with appropriate regulations. It is presumed that these practices will be continued by the Department of Labor, as required by law, upon transfer of the medical building. No adverse impacts to Job Corps personnel is expected as a result of on-site chemical use.

On February 3, 1994 the San Francisco Board of Supervisors Select Committee on Base Closure conducted a Public Hearing on the proposed location of a Job Corps Center at Treasure Island. The Public Hearing was attended by approximately 37 people, of which 18 offered comments and testimony. Every piece of testimony offered was in support of the project; no testimony was submitted, in person or in writing, that questioned or opposed a Job Corps Center at Treasure Island.

The Alternatives considered in the preparation of the EA were: (1) The "No Build" Alternative, (2) the "Alternative Sites" Alternative, and (3) the "Continued as Proposed" alternative. The "No Build" Alternative would mean that the Department of Labor would not proceed with plans for development of the proposed Job Corps Center on Treasure Island, and a unique opportunity for the youth of the area to educationally benefit from a Job Corps would be forgone. Although choosing the "No Build" would result in no environmental impact upon the area, the opportunity to obtain land and buildings that can be adapted to meet Job Corps need would also be lost. The benefits to the City of San Francisco and to the region from the location of an expanded Job Corps presence on Treasure Island would also be foregone.

The Job Corps has investigated alternative locations in the Bay Area for the proposed center. However, the alternative sites were rejected in favor of Treasure Island because none of these sites have the potential to be adapted to Job Corps functions as quickly or as cost effectively as the Treasure Island site. In addition, two of the sites were within or adjacent to residential areas and the proposed Presidio, much of which will be redeveloped as a Park. The other site was considered significantly constrained due to soil contamination

The San Francisco Board of Supervisors Select Committee on Base closure conducted a Public Hearing on February 3, 1994, regarding the proposed location of a Job Corps Center at Treasure Island. The Public Hearing was attended by approximately 37 people. The results of the hearing confirmed that there was unanimous support from all participants at the hearing for a Job Corps Center at Treasure Island.

Based on the information gathered during the preparation of the EA for the Department of Labor, Employment and Training Administration, the Office of Job Corps finds that the development of the Treasure Island Job Corps Center will not cause any significant impact on the environment and, therefore, recommends that the project continue as proposed. This proposed action is not considered to be highly controversial.

Dated at Washington, DC, this 23rd day of December 1994.

Peter E. Rell,

Director of Job Corps

[FR Doc. 95–673 Filed 1–10–95; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 to Regulatory Guide 5.52, "Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material at Fixed Sites (Other than Nuclear Power Plants)," describes the format recommended by the NRC staff for preparing physical protection plans for formula quantities of strategic special nuclear material at fixed sites other than nuclear power plants. This Revision 3 also provides guidance on the content of the physical protection plans.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Regulatory Guides are available for inspection at the Commission's Public Document Room, 2120 L Street, NW Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 512–2249. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 16th day of December 1994

For the Nuclear Regulatory Commission.
Eric S. Beckjord,
Director, Office of Nuclear Regulatory Research.
[FR Doc. 95–639 Filed 1–10–95; 8:45 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35194; File No. SR–NYSE–94–47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to an Extension of the Hedge Exemption Pilot Program

January 5, 1995.

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 December 9, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items 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 NYSE proposes to amend NYSE Rule 704, "Position Limits," to extend until May 17, 1995, the Exchange's pilot program for position limit exemptions for certain hedged (1) equity option positions; and (2) broad-based index option positions.[1]

The text of the proposals are available at the Office of the Secretary, NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

(a) Purpose

On March 14, 1990, the Commission approved, on a pilot basis, amendments to NYSE Rule 704 providing (1) an exemption from equity option position limits for certain equity option positions that are fully hedged and (2) an exemption from the broad-based index option position limits for certain hedged broad-based index option positions.[2]

On July 12, 1991, the Commission approved both (1) an expansion of the scope of the exemptions to include short positions in the underlying hedged portfolio and to allow the underlying hedged portfolio to include securities that are readily convertible into common stock, and (2) an extension of the termination date of the pilot program.[3]

On September 14, 1993, the Commission approved both (1) an expansion of the equity option position limit hedge exemption to include "securities readily converted into or economically equivalent to that number of shares of such stock" as the basis for the exemption and (2) an extension of the termination date of the pilot program.[4]

On November 17, 1993, the Commission approved an extension of the termination date of the pilot program until November 17, 1994.[5] The Exchange now proposes to extend the pilot program for six months to May 17, 1995.

Early in 1995, the Exchange plans to submit to the Commission a report on the pilot program covering the period ending December 31, 1994. In addition, for the duration of the pilot program, the NYSE will continue to monitor on a daily basis (1) the use of the exemptions to determine if the positions are being maintained in accordance with all conditions and requirements and (2) the effects of the exemptions on the market.

(b) Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has nor received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program until May 17, 1995, 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) thereunder.[6] The Commission concludes, as it did when originally approving the pilot program, that providing for increased position and exercise limits for equity options and stock index options in circumstances where those excess positions are fully hedged with offsetting stock positions will provide greater depth and liquidity to the market and allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.

[1] Position limits impose a ceiling on the aggregate number of options contracts on the same side of the market that can be held or written by an investor or group of investors acting in concert.

[2] See Securities Exchange Act Release No. 27786 (March 8, 1990), 55 FR 9523 (March 14, 1990) (order approving File No. SR–NYSE–89–09).

[3] See Securities Exchange Act Release No. 29436 (July 12, 1991), 56 FR 33317 (July 19, 1991) (order approving File No. SR–NYSE–91–19).

[4] See Securities Exchange Act Release No. 32901 (September 14, 1993), 58 FR 49073 (September 21, 1993) (order approving File No. SR–NYSE–92–23).

[5] See Securities Exchange Act Release No. 33212 (November 17, 1993), 58 FR 62173 (November 24, 1993) (order approving File Nos. SR–Amex–93–38, SR–CBOE–93–52, SR–NYSE–93–42, SR–PSE–93–30, and SR–PHLX–93–46).

[6] 15 U.S.C. 78f(b)(5) (1982).

The Commission also notes that before the NYSE's pilot program can be extended or approved on a permanent basis, the Exchange must provide the Commission with a report on the operation of its pilot program since its inception by January 31, 1995. Specifically, the Exchange must provide the Commission details on (1) the frequency with which the exemptions have been used; (2) the types of investors using the exemptions; (3) the size of the positions established pursuant to the pilot program; (4) what types of convertible securities are being used to hedge positions and how frequently the convertible securities have been used to hedge; (5) whether the Exchange has received any compliants on the operation of the pilot program; (6) whether the Exchange has taken any disciplinary action against, or commenced any violation of any term or condition of the pilot program; (7) the market impact, if any of the pilot program; and (8) how the Exchange has implemented surveillance procedures to ensure compliance with the terms and conditions of the pilot program. In addition, the Commission expects the Exchange to inform the Commission of the results of any surveillance investigations undertaken for apparent violations of the provisions of its position limit hedge exemption rules.

The Commission finds good cause for approving the extension of the pilot programs prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the continuation of the pilot program. The Commission notes that the Exchange has not experienced any significant problems with the pilot program since its inception and that the Exchange will continue to monitor the pilot program to ensure that no problems arise. Finally, no adverse comments have been received by the Exchange or the Commission concerning the pilot program. Based on the above, the Commission believes good cause exists to approve the extension of the pilot program through May 17, 1995, on an accelerated basis. Therefore, the Commission believes that granting accelerated approval of the proposal is appropriate and consistent with Sections 6 and 19(b)(2) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 1, 1995.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–94–47) relating to an extension of the hedge exemption pilot program until May 17, 1995, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 95–658 Filed 1–10–95; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–9453]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Ark Restaurants Corp., Common Stock, $.01 Par Value)

January 5, 1995.

Ark Restaurants Corp. ("company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Security commenced trading on the National Association of Securities Dealers Automated Quotations/National Market Systems ("NASDAQ/NMS") at the opening of business on December 1, 1994 and concurrently therewith such stock was suspended from trading on the Amex.

The Company believes that the NASDAQ/NMS multiple market maker approach will provide the Company with higher visability within the financial community, thereby enhancing investor awareness of the Company's activities;

In addition, the Company believes NASDAQ/NMS will provide brokers and others with immediate access to the bid and ask prices, plus other information about the Security throughout the trading day, will result in increased visibility and sponsorship of the Security, and will offer shareholders greater liquidity than presently offered on the Amex.

Any interested person may, on or before January 27, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–659 Filed 1–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—20817; 812–9016]

AVESTA Trust, et al.; Notice of Application

January 4, 1995.

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

ACTION: Notice of application for Exemption Under the Investment Company Act of 1940 (the "Act").

APPLICANTS: AVESTA Trust ("AVESTA"), including all existing and future series thereof, and any future management investment companies and series thereof that are advised by Texas Commerce Bank, N.A. ("TCB") or any entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with TCB (the "Portfolios"); and TCB and any entity controlling, controlled by, or under common control (as defined in section

---

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30–3(a)(12) (1993).

2(a)(9) with TCB that serves as investment adviser to any of the Portfolios (the "Advisers").

RELEVANT ACT SECTION: Order requested under section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request a conditional order permitting the Portfolios to pool uninvested cash balances and deposit the balances into one or more joint accounts (the "Accounts"). Cash balances in the Accounts would be invested in short-term repurchase agreements.

FILING DATES: The application was filed on May 25, 1994, and amended on September 19, 1994, and December 23, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 30, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549. Applicants, 712 Main Street, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Bradley W. Paulson, Staff Attorney, at (202) 942–0147 or C. David Messman, Branch, Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a registered open-end management investment company and is organized as a business trust under the laws of Texas. TCB provides or arranges for investment advisory, administrative, custodial, and accounting services for all fifteen series of the Trust.

2. Each Portfolio may be expected to have uninvested cash balances held by its custodian or sub-custodian bank (the "Custodian") at the end of the trading day. To provide liquidity and earn additional income, the Adviser ordinarily would invest this cash in short-term investments authorized under the Portfolio's investment policies.

3. Applicants propose to establish one or more Accounts that would be used exclusively to pool excess cash of the Portfolios to purchase one or more repurchase agreements. Under the proposed arrangement, the Adviser would enter into repurchase agreements by calling a previously approved counterparty, indicating the size and duration of the transaction, and negotiating the rate of interest. Master repurchase agreements establish minimum collateral levels, securities eligible to be held as collateral, and the maximum term of a transaction. The Custodian would be able to enter into third-party arrangements with qualified banks for custody of assets and collateral securities to facilitate repurchase transactions and obtain more attractive rates.

4. After the Adviser and a counterparty reach agreement on the size of a repurchase transaction, the Custodian would be notified and would be required to verify, before releasing the funds, that eligible collateral securities of sufficient value have been received. These securities would be either wired to the account of the Custodian (or a third-party custodian) at the appropriate Federal Reserve Bank or physically transferred to a segregated account of the Custodian (or third-party custodian).

5. Transactions in the Account would be reported to the Portfolios' Custodian through a trade authorization that would authorize the Custodian to settle the transaction on a joint basis. The trade authorization would state each Portfolio's portion of the investment. The Custodian would reconcile the Account with the trade authorizations on a daily basis. At least monthly, assets held in the Account would be reconciled with the Custodian's securities movement and control records, and the Custodian would reconcile each Portfolio's securities movement and control records with each Portfolio's security ownership records.

6. The Portfolios will not enter into repurchase agreements with their custodian, except where cash is received very late in the business day and otherwise would be unavailable for investment at all.

7. Applicants believe the proposed Account would have the following benefits for the Portfolios: (a) The Portfolios would save significant fees and expenses by reducing the number of transactions in which they engage; (b) the Portfolios would enjoy a higher rate of return on uninvested cash balances because higher rates of return are usually available for larger repurchase agreements; (c) the number of trade tickets written by each party to a repurchase transaction would be reduced, which would simplify the transaction and decrease the opportunity for errors.

Applicants' Legal Analysis

1. Section 17(d) of the Act makes it unlawful for an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, to effect any transaction in which the registered investment company is a joint or a joint and several participant with such person in contravention of rules and regulations prescribed by the SEC. Rule 17d–1(a) under the Act provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement.

2. Each Portfolio, by participating in the proposed Account, and the Adviser by managing the proposed Account, could be deemed to be joint participants in a transaction within the meaning of section 17(d), and the proposed Account could be deemed to constitute a joint enterprise or other type of joint arrangement within the meaning of rule 17d-1. Furthermore, under the definition of "affiliated person" set forth in section 2(a)(3) of the Act, each applicant could be deemed an affiliated person of each other applicant.

3. Applicants believe that the proposed method of operating the Account would not result in conflicts of interest among any of the Portfolios or between a Portfolio and its Adviser. Although the Adviser would gain some benefit through administrative convenience and possible reduction in clerical costs, the primary beneficiaries would be the Portfolios and their shareholders. The Account would provide the Portfolios and their shareholders with a more efficient and productive way of administering daily investment transactions.

4. Applicants believe that it would be desirable to permit future Portfolios to participate in the Account without the necessity of applying for an amendment to the requested order. Future Portfolios would be required to participate on the

same terms and conditions as the existing Portfolios.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Account will be established as one or more separate cash accounts on behalf of the Portfolios with the Custodian. The Portfolios may deposit daily all or a portion of their uninvested net cash balances into the Account. The Account will not be distinguishable from any other accounts maintained by a Portfolio with the Custodian except that monies from the various Portfolios will be deposited in the Account on a commingled basis. The Account will not have any separate existence with indicia of a separate legal entity. The sole function of the account will be to provide a convenient way of aggregating individual transactions that would otherwise require management by each Portfolio of its cash balances.

2. Cash in the Account will be invested solely in repurchase agreements, "collateralized fully" as defined in rule 2a–7 under the Act and satisfying the uniform standards set by the Portfolios for such investments.

3. All repurchase agreements entered into by the Portfolios through the Account will be valued on an amortized cost basis. Each Portfolio relying upon rule 2a–7 for valuation of its net assets on the basis of amortized cost will use the average maturity of the repurchase agreements purchased by the Portfolios participating in the account for the purpose of computing the Portfolio's average portfolio maturity with respect to the portion of its assets held in the account on that day.

4. In order to assure that there will be no opportunity for one Portfolio to use any part of the balance of the Account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in the Account for any reason, although each Portfolio will be permitted to draw down its pro rata share of the entire balance at any time. Each Portfolio's decision to invest through the Account will be solely at the Portfolio's option, and no Portfolio will be obligated to invest through, or to maintain a minimum balance in, the Account. In addition, each Portfolio will retain the sole rights of ownership of any of its assets invested in the Account, including interest payable on the assets. Each Portfolio's investment in the account will be documented daily on the books of the Portfolio as well as on the Custodian's books.

5. Each Portfolio will participate in the income earned or accrued in the Account, including all investments held by the Account, on the basis of the percentage of the total amount in the Account on any day represented by its share of the Account.

6. The Adviser will administer, manage, and invest the cash balance in the Account in accordance with and as part of its duties under the existing or any future investment advisory contracts with each Portfolio. The Adviser will not collect any additional or separate fee for the administration of the Account.

7. The Portfolios and the Adviser will enter into an agreement to govern the arrangements in accordance with the foregoing representations.

8. The administration of the Account will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

9. The Board of Directors of each Portfolio participating in the Account will evaluate the Account arrangements annually and will authorize the continued participation in the Account only if it determines that there is a reasonable likelihood that such continued participation would benefit the Portfolio and its shareholders.

10. Substantially all repurchase transactions will have an overnight, over-the-weekend or over-a-holiday maturity, and in no event would a transaction have a maturity of more than seven days.

11. All joint repurchase transactions will be effected in accordance with Investment Company Act Release No. 13005 (Feb. 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release adopting any new rule, or any release adopting any amendments to any existing rule.

12. Any investment made through the Account will satisfy the investment policies or criteria of all Portfolios participating in that investment.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 95–605 Filed 1–10–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20818; 812–9412]

Kidder, Peabody Investment Trust, et al.; Notice of Application

January 4, 1995.

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

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Kidder, Peabody Investment Trust ("KPIT"); Kidder, Peabody Investment Trust II ("KPIT II"); Kidder, Peabody Investment Trust III ("KPIT III"); Kidder, Peabody Municipal Money Market Series; Kidder, Peabody California Tax Exempt Money Fund; Kidder, Peabody Premium Account Fund; Kidder, Peabody Equity Income Fund, Inc.; Kidder, Peabody Government Income Fund, Inc.; Kidder, Peabody Government Money Fund, Inc.; Kidder, Peabody Cash Reserve Fund, Inc.; Kidder, Peabody Tax Exempt Money Fund, Inc.; Institutional Series Trust; and Liquid Institutional Reserves (the "Funds"); Kidder, Peabody Asset Management, Inc. ("KPAM"); Emerging Markets Management ("EMM"); GE Investment Management Incorporated ("GEIM"); George D. Bjurman & Associates ("GDB&A"); and Strategic Fixed Income, L.P. ("SFI") (EMM, GEIM, GDB&A, and SFI together, the "Subadvisers"); PaineWebber Incorporated ("PWI"); Mitchell Hutchins Asset Management Inc. ("MHAM"); and Mitchell Hutchins Institutional Investors Inc. ("MHII," and together with MHAM, "Mitchell Hutchins") (Mitchell Hutchins, together with PWI, KPAM and the Subadvisers are collectively ref rred to herein as the "Advisers").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(a).

SUMMARY OF APPLICATION: Paine Webber Group Inc. ("PaineWebber") has agreed to purchase the investment advisory business of Kidder, Peabody Group Inc. The transaction will result in the assignment, and thus the termination, of existing investment advisory and subadvisory contracts of the applicant investment companies. Applicants seek an order to permit the implementation, without shareholder approval, of interim investment advisory and subadvisory contracts, during a period of up to 120 days following the closing of the transaction. The order also will permit the applicant investment advisers to receive from the applicant investment companies fees earned under the interim investment advisory contracts following approval by the investment companies' shareholders.

FILING DATE: The application was filed on January 4, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's

Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 26, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Mitchell Hutchins Asset Management Inc., 14th Floor, 1285 Avenue of the Americas, New York, New York 10019; all other applicants, c/o Arthur J. Brown, Esq., Kirkpatrick & Lockhart, South Lobby—9th Floor, 1800 M Street, NW., Washington, D.C. 20036–5891.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, at (202) 942–0565, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are registered open-end management investment companies. The Advisers are registered as investment advisers under the Investment Advisers Act of 1940 (the "Advisers Act"). The Funds each have entered into an investment advisory agreement with KPAM under which KPAM provides advisory and management services to the Funds (the "Advisory Agreements"). Certain of the Funds also have entered into subadvisory agreements with the Subadvisers and KPAM (the "Subadvisory Agreements," and together with the Advisory Agreements, the "Prior Agreements").[1]

2. KPAM is a wholly-owned indirect subsidiary of Kidder, Peabody Group Inc. ("Kidder"). Kidder is a wholly-owned indirect subsidiary of General Electric Company ("General Electric").

3. MHAM and MHII serve as investment advisers to investment companies and non-investment company clients. MHAM and MHII are wholly-owned subsidiaries of PWI. PWI is a registered investment adviser under the Advisers Act. PWI is wholly owned subsidiary of PaineWebber, a publicly held financial services holding company.

4. On October 17, 1994, PaineWebber entered into an asset purchase agreement with General Electric and Kidder (the "Asset Purchase Agreement"). PaineWebber agreed to purchase certain assets of Kidder (the "Kidder Assets") for cash and other consideration (the "Transaction"). PaineWebber has arranged for Mitchell Hutchins to undertake the investment advisory services now provided to the Funds by KPAM. Applicants intend to transfer the investment advisory business concurrently with the transfer of the retail operations and brokerage staff on January 29, 1995.

5. At special meetings held on November 1, 1994, November 2, 1994, and December 16, 1994, the respective Boards of Trustees/Directors of the Funds (the "Boards") met to discuss the Transaction. During those meetings, the Boards, including a majority of the Board members who are not "interested persons," as that term is defined in the Act (the "Independent Directors"), of the respective Funds, with the advice and assistance of counsel to the Independent Directors, made a full evaluation of the interim investment advisory agreements between the Funds and Mitchell Hutchins and the interim subadvisory agreements among Mitchell Hutchins, the Subadvisers, and certain of the Funds (the "Interim Agreements"). In accordance with section 15(c) of the Act, the Boards voted to approve the Interim Agreements. The Boards of each Fund also voted to recommend that shareholders of the Fund approve the Interim Advisory and Subadvisory Agreements, as well as a new advisory agreement with PWI or Mitchell Hutchins and, where applicable, new subadvisory agreements with the Subadvisers.

6. Applicants seek an exemption from section 15(a) of the Act to permit the implementation, without shareholder approval, of the Interim Agreements. The exemption would cover the period commencing on the date of the transfer of the existing investment advisory and subadvisory agreements and continuing through the date new advisory and subadvisory agreements are approved or disapproved by shareholders of the respective Funds, which period shall be no longer than 120 days (the "Interim Period").

7. In approving the Interim Agreements, the Boards, including a majority of the Independent Directors, concluded that payment of the advisory and subadvisory fees during the Interim Period would be appropriate and fair because the fees to be paid are unchanged from the fees paid under the Prior Agreements, the fees would be maintained in an interest-bearing escrow account until payment is approved or disapproved by shareholders, and the nonpayment of fees would be inequitable to PaineWebber, Mitchell Hutchins, and the Subadvisers in view of the substantial services to be provided by such companies to the Funds, and the expenses incurred by such companies.

8. Applicants believe that delaying the closing of the Transaction until shareholders of all of the Funds could vote on new advisory agreements would result in substantial defections by portfolio managers, advisory employees, and supervisory personnel. These defections could significantly impair the value of the Kidder Assets and significantly damage the Funds and their shareholders. Thus, applicants believe that the requested relief, which will permit the Transaction to close sooner than otherwise would be possible, is in the best interests of the Funds and their shareholders.

Applicants' Legal Conclusions

1. Section 15(a) prohibits an investment adviser from providing investment advisory services to an investment company except under a written contract that has been approved by a majority of the voting securities of such investment company. Section 15(a) further requires that such written contract provide for its automatic termination in the event of an assignment. Under section 2(a)(4) of the Act, an assignment includes any direct or indirect transfer of a contract by the assignor.

2. The transfer of Kidder's investment advisory business, as contemplated by the Asset Purchase Agreement, will result in an "assignment" within the meaning of section 2(a)(4) of the Act, of the Prior Agreements. Consistent with section 15(a), therefore, each such agreement will terminate by its terms.

3. Rule 15a–4 provides, among other things, that if an investment adviser's investment advisory contract is terminated by assignment, the investment adviser may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of

[1] The Subadvisory Agreements relate to the following Subadvisers and Funds: EMM, with respect to the Kidder, Peabody Emerging Markets Equity Fund series of KPIT II; GEIM, with respect to Kidder, Peabody Global Equity Fund, the Kidder, Peabody Municipal Bond Fund series of KPIT II, and the Kidder, Peabody Intermediate Fixed Income Fund series of KPIT; GDB&A, with respect to the Kidder, Peabody Small Cap Equity Fund series of KPIT III; AND SFI, with respect to the Kidder, Peabody Global Fixed Income series of KPIT.

the investment company, and if the investment adviser or a controlling person of the investment adviser does not directly or indirectly receive money or other benefit in connection with the assignment. Because General Electric will receive a benefit in connection with the assignment of the contracts, applicants may not rely on rule 15a-4.

4. Applicant's believe that the requested relief will allow the Funds to continue to operate on an orderly basis until the shareholders have the opportunity to consider new investment advisory agreements. The 120 day Interim Period will facilitate the orderly and reasonable consideration of the new agreements.

5. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

Applicants' Conditions

Applicants agree as conditions to the requested exemptive relief that:

1 The Interim Agreements will have the same terms and conditions as the Prior Agreements.

2. Fees earned by the Mitchell Hutchins and the Subadvisers and paid by a Fund during the Interim Period in accordance with the Interim Agreements will be maintained in an interest-bearing escrow account, and amounts in such account (including interests earned on such paid fees) will be paid to Mitchell Hutchins and the Subadvisers only upon approval of the Fund shareholders or, in the absence of such approval, to the respective Funds.

3. The Funds will hold meetings of shareholders to vote on approval of new investment advisory or sub-advisory agreements, as the case may be, on or before the 120th day following the termination of the Prior Agreements.

4. General Electric or a subsidiary thereof, and PWI or a subsidiary thereof, will share equally the cost of preparing and filing this application. General Electric or a subsidiary thereof will pay the costs relating to the solicitation of the approvals of the Funds' shareholders of the Interim Agreements necessitated by the Transaction.

5. Mitchell Hutchins and the Subadvisers will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Funds under the Interim Agreements will be at least equivalent, in the judgment of the respective Boards, including a majority of the Independent Directors, to the scope and quality of services previously provided. In the event of any material change in personnel providing services under the Interim Agreements, Mitchell Hutchins and the Subadvisers will apprise and consult the Boards of the affected Funds to assure that such Boards, including a majority of the Independent Directors, are satisfied that the services provided by Mitchell Hutchins and the Subadvisers will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 95–606 Filed 1–10–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27649]

Supplemental Draft Environmental Impact Statement (SDEIS); Effects of Changes of Aircraft Flight Patterns Over the State of New Jersey; Comment Period Extension and Public Hearing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of comment period extension and public hearing.

SUMMARY: On September 30, 1994, the FAA issued a Supplement to the Draft Environmental Impact Statement (DEIS) to afford the public an opportunity to review and comment on (1) a proposed mitigation measure, (2) analysis on the proposal by the New Jersey Coalition Against Aircraft Noise (NJCAAN) to route aircraft departing Newark International Airport over the ocean twenty-four hours a day, and (3) other new and updated information developed in response to comments on the DEIS.

In response to requests from Federal State and local elected officials, FAA reopened the comment period on the SDEIS. On December 12, 1994, an additional 60 days was added extending the comment period through February 9, 1995.

In response to further requests, FAA is again extending the comment period through February 23, 1995. Additionally, a public hearing will be held in Toms River, New Jersey.

This additional hearing will facilitate comments by citizens potentially affected by the NJCAAN proposal, as described in the analysis contained in the SDEIS.

COMMENT PERIOD: The comment period is extended until February 23, 1995. The public hearing in Toms River will be held:

Date	Time/location
February 14.	1:00–4:00 pm, 7:00–10:00 pm, Holiday Inn, route 37 East, Toms River, NJ 08753.

Registration of speakers will begin approximately ½ hour before the start of each session. The afternoon and evening session will begin at 1 PM and 7 PM, respectively, and will continue until all scheduled speakers have testified or until 4 PM and 10 PM, respectively. All persons wishing to make oral presentations at the public hearing are strongly urged to provide a written copy of their statement at the hearing or at the FAA address provided in the paragraph below.

ADDRESSES: Written comments, in triplicate, must be received at the following address by February 23, 1955: Federal Aviation Administration, Office of the Chief Counsel: Docket Number 27649, 800 Independence Avenue S.W., Washington, DC 20591.

The FAA will consider and respond to all comments directly related to the scope of the SDEIA. The geographic scope delineated by Congress for the EIS is the environmental effects of the Expanded East coast Plan over the State of New Jersey and adjacent coastal waters. Please note, however, that the most useful comments are those which provide facts and analyses to support the reviewer's recommendations or conclusions on specific topics contained in the document. The FAA will consider comments received after the close of the comment period to the extent practical.

The FAA will issue a final EIS that will include corrections, clarifications and responses to comments on the SDEIS.

Issued in Washington, DC, on January 6, 1995.

John D. Canoles,

Acting Deputy Associate Administrator for Air Traffic.

[FR Doc. 95–682 Filed 1–6–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meetings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meetings.

SUMMARY: This notice announces two meetings to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee (ARAC) in its deliberations.

DATES: The meetings will be held on January 26, 1995, beginning at 5:30 p.m. and January 27, 1995, at 6:30 p.m.

ADDRESSES: The January 26, 1995, meeting will be held at the Museum of Flight, Boeing Field, Seattle, Washington. The January 27, 1995, meeting will be held at the Civil Engineering Auditorium, 161st Air Refueling Group, Sky Harbor International Airport, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Leonard, Professional Aviation Maintenance Association, 1008 Russell Lane, West Chester, PA 19382; telephone (610) 399–1744.

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 two meetings to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee in its deliberations with regard to a task assigned to ARAC by the Federal Aviation Administration. Specifically, the task is as follows:

Review Title 14 Code of Federal Regulations, parts 43 and 91, and supporting policy and guidance material for the purpose of determining the course of action to be taken for rulemaking and/or policy relative to the issue of general aviation aircraft inspection and maintenance, specifically section 91.409, part 43, and Appendices A and D of part 43. In your review, consider any inspection and maintenance initiatives underway throughout the aviation industry affecting general aviation with a maximum certificated takeoff weight of 12,500 pounds or less. Also consider ongoing initiatives in the areas of: Maintenance recordkeeping; research and development; the age of the current aircraft fleet; harmonization; the true cost of inspection versus maintenance; and changes in technology.

Attendance is open to the interested public but may be limited to the space available. In addition, sign and oral interpretation can be made available at the meetings, as well as an assistive listening device, if requested 10 calendar days before the meetings are held. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on January 6, 1995.

Frederick J. Leonelli,

Assistant Executive Director, Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–665 Filed 1–10–95; 8:45 am]

BILLING CODE 4910–13–M

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 Aviation Rulemaking Advisory Committee to discuss air carrier/general avaiation maintenance issues.

DATES: The meeting will be held on February 7, 1995, at 8:30 a.m. and should adjourn by 3:00 p.m. Arrange for oral presentations by January 25, 1995.

ADDRESSES: The meeting will be held at the Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Suite 1100, Washington, DC, at 8:30 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Meeting Coordinator, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498; fax number (202) 267–5075.

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 Aviation Rulemaking Advisory Committee to consider air carrier/general aviation maintenance issues. The meeting will be held on February 7, 1995, at Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Suite 1100, Washington, DC, at 8:30 a.m. The agenda will include:

- Report on the status of the Part 65 Phase II Working Group.
- Report on the status of the Maintenance Recordkeeping Working Group (draft NPRM and advisory materials).
- Report on the status of the Major/Minor Working Group.
- Possible presentation of a completed recommendation from the Parts Approval Action Team Phase III Working Group.
- Report on the status of the General Aviation Maintenance Working Group.
- Report on the status of the International Airworthiness Communications Working Group; possible presentation of a revised draft recommendation for approval.
- Status of ARAC recommendations being processed by the FAA.
- Discussion of future activities and other business.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before January 25, 1995, to present oral statements at the meeting. The public may present written statements at any time by providing 35 copies to the Assistant Chair or by presenting the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on January 5, 1995.

Frederick J. Leonelli,

Assistant Executive Director for Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–666 Filed 1–10–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on General Aviation and Business Airplane Issues

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's Aviation Rulemaking Advisory Committee to discuss general aviation and business airplane issues.

DATES: The meeting will be held on February 6, 1995, at 1:30 p.m. Arrange for oral presentations by January 30, 1995.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association headquarters, Suite 801, 1400 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Carolina Forrester, Office of Rulemaking, FAA, 800 Independence Avenue, SW. Washington, DC 20591, telephone (202) 267–9690.

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 Aviation Rulemaking Advisory Committee to be held on February 6, 1995, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street NW., Washington, DC 20005. The agenda for the meeting will include:

- Opening Remarks.
- Review of Issues.
- Update on Accelerated Stalls.
- Update on Fuel Pressure.
- Discussion of Future Tasks.
- Schedule Future Meetings.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by January 30, 1995, to present oral statements at the meeting. The public may present written statements to the committee, at any time, by providing 25 copies to the Assistant 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.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Kansas City, Missouri on December 12, 1994.

John R. Colomy,

Assistant Executive Director for General Aviation and Business Airplane Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–689 Filed 1–10–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Treasury

ACTION: Notice of a new Privacy Act System of Records.

SUMMARY: The Treasury Department gives notice of a proposed new system of records entitled Personal Services Contracts—Treasury/DO .209, which is subject to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988.

DATES: Comments must be received no later than February 10, 1995. The new system of records will be effective February 21, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to Disclosure Services, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Comments will be made available for inspection and copying upon request at the Department of the Treasury library, Room 5010, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Dale Underwood, Privacy Act Officer, Department of the Treasury, (202) 622–0930.

SUPPLEMENTARY INFORMATION: This is to give notice of a proposed new system of records entitled "Personal Services Contracts (PSCs)," which is subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

A review of the filing systems maintained by the Department identified two offices which maintained records, retrieved by an individual's name or other identifiers. The records pertain to the awarding of personal service contracts to individuals who provide technical services to governments in Eastern Europe under the Support for Eastern European Democracy Act (SEED) of 1989 (Pub. L. 101–179), the Freedom Support Act (FSA) (Pub. L. 102–511), and Executive Order 12703. PSCs establish an employer/employee relationship between the individual to whom the contract is awarded and the Treasury Department.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated July 15, 1994.

The proposed system of records, Personal Services Contracts—Treasury/DO .209, is published in its entirety below.

Date: January 4, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration)

Treasury/DO .209

SYSTEM NAME:

Personal Services Contracts (PCSs).

SYSTEM LOCATION:

(1) Office of Technical Assistance Management, Eastern Europe & Former Soviet Union, Department of the Treasury, 1730 K Street, NW, suite 220, Washington, DC 20006.

(2) Procurement Services Division, Departmental Offices, Department of the Treasury, Room 1438, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been candidates or who have been awarded a personal services contract (PSC) with the Department of the Treasury.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, demographic data, education, contracts, supervisory notes, personnel related information, financial, payroll and medical data and documents pertaining to the individual contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Support for Eastern European Democracy (SEED) Act of 1989 (Pub. L. 101–179), Freedom Support Act (Pub. L. 102–511), Executive Order 12703.

PURPOSE(S):

To maintain records pertaining to the awarding of personal services contracts to individuals for the provision of technical services in support of the SEED Act and the FSA, and which establish an employer/employee relationship with the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to disclose (1) Pertinent information to appropriate Federal, State, local, or foreign agencies, or other public authority, responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation, (2) information to the Department of Justice for the purpose of litigating an action or seeking legal advice; (3) information to a Federal, State, local, or other public authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's, bureau's, or authority's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) information in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear when: (a) The agency, or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to

represent the employee; or (d) the United States, when the agency determines that litigation is likely to affect the agency, is party to litigation or has an interest in such litigation, and the use of such records by the agency is deemed to be relevant and necessary to the litigation or administrative proceeding and not otherwise . privileged, and (5) information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Maintained in file folders and on electronic media.

RETRIEVABILITY:

Retrieved by name of the individual contractor and contract number.

SAFEGUARDS:

Records are maintained in a secured vault with locked file cabinets with access limited to authorized personnel. Offices are locked during non-working hours with security provided on a 24-hour basis. Electronic media is password protected.

RETENTION AND DISPOSAL:

Records are periodically updated when a contract is modified. Contract records, including all biographical or other personal data, are retained for the contract period, with disposal after contract completion in accordance with the Federal Acquisition Regulation 4.805. Other records are retained for two years then are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Director, Office of Technical Assistance, Eastern Europe & Former Soviet Union, Department of the Treasury, 1730 K Street NW., suite 220, Washington, DC 20006.

(2) Director, Procurement Services Division, Departmental Offices, Department of the Treasury, room 3442, 1500 Pennsylvania Avenue NW., Washington, DC 20220

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or to gain access or seek to contest its contents, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix A. Inquiries should be addressed to Assistant Director, Disclosure Services, Departmental Offices, Room 1054–MT, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Information is provided by the candidate; individual Personal Services Contractor, and Treasury employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–652 Filed 1–10–95; 8:45 am]

BILLING CODE 4810–25–M

Bureau of Engraving and Printing

Privacy Act of 1974; System of Records

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Notice of alteration and Privacy Act Systems of Records.

SUMMARY: The Bureau of Engraving and Printing (BEP), gives notice of proposed alterations to the systems of records entitled Compensation Claims—Treasury/BEP .005, and Personnel Security Files and Indices—Treasury/BEP .044 which are subject to the Privacy Act of 1974. The systems notices were last published in their entirety in the **Federal Register**, Vol. 57, No. 75, Pages 14010 and 14019, April 17, 1992.

DATES: Comments must be received no later than February 10, 1995. The alteration to the system of records will be effective February 21, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to Disclosure Officer, Bureau of Engraving and Printing, Room 321–A, Washington, DC 20228. Comments will be made available for inspection and copying.

FOR FURTHER INFORMATION CONTACT: Lawrence F. Zenker, Disclosure Officer, Bureau of Engraving and Printing, (202) 874–2687 or James M. Braun, FOIA Coordinator, (202) 874–2058.

SUPPLEMENTARY INFORMATION: The purpose of these alterations is to bring the existing Privacy Act notices into compliance with the requirements of the Privacy Act. Both alterations reflect changes in each system's location from one to two locations; correspondingly, the subject system managers have also changed. In addition, both record systems now store data on an automated data base. Finally, the retention and disposition period and the record source category for the Compensation Claims System have been changed.

The specific changes to these record systems are set forth below:

Treasury/BEP .005

SYSTEM NAME:

Compensation Claims—Treasury/BEP

SYSTEM LOCATION:

Compensation Staff, Safety and Health Policy Division, Office of Safety and Health Management, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

Safety and Occupational Health Staff, Room A117, Bureau of Engraving and Printing, Western Currency Facility, 9000 Blue Mound Road, Fort Worth, Texas 76131.

* * * * *

STORAGE:

File folders, magnetic media and computer disks.

* * * * *

SAFEGUARDS:

Locked file cabinets, locked computers, passwords. Back-up discs locked in file cabinets. Access is limited to Compensation Claims Staff and Safety Managers.

RETENTION AND DISPOSAL:

Records are retained for three years after last entry, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Safety and Health Policy Division, Office of Safety and Health Management, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228.

Manager, Safety and Occupational Health Staff, Bureau of Engraving and Printing, Western Currency Facility Fort Worth, Texas 76131.

* * * * *

RECORD SOURCE CATEGORIES:

Occupational Health Unit Daily Report, medical providers, employee's supervisor's report, and information provided by the employee.

* * * * *

Treasury/BEP .044

SYSTEM NAME:

Personnel Security Files and Indices—Treasury/BEP

SYSTEM LOCATION:

Employment Suitability Division, Office of Personnel, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

Employment Suitability Branch, Human Resources Management Division, Room A119, Bureau of

Engraving and Printing, Western Currency Facility, 9000 Blue Mound Road, Fort Worth, Texas 76131.

* * * * *

STORAGE:

File folders, 3″ × 5″ index cards, microfiche and computer records maintained in an automated database.

RETRIEVABILITY:

Alphabetically by name and by social security number.

SAFEGUARDS:

Access is limited to Office of Personnel and Human Resources Management Division staffs and records are maintained in locked file cabinets and secured data bases.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Personnel, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228.

Manager, Human Resources Management Division, Bureau of Engraving and Printing, Western Currency Facility, 9000 Blue Mound Road, Forth Worth, Texas 76131

* * * * *

Dated: January 3, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 95–649 Filed 1–10–95, 8:45 am]

BILLING CODE 4840–01–M

Departmental Offices

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. section 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on January 31 and February 1, 1995, of the following debt management advisory committee:

Public Securities Association
Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff on January 31, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On February 1, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on January 31 and will be open to the public. The remaining sessions on January 31 and the committee's reporting session on February 1 will be closed to the public, pursuant to 5 U.S.C. App. section 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. section 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committees activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: January 4, 1995

Frank N. Newman,

(Acting) Secretary of the Treasury

[FR Doc. 95–618 Filed 1–10–95; 8:45 am]

BILLING CODE 4810–25–M

Financial Management Service

Privacy Act of 1974, New System of Records

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of proposed system of records.

SUMMARY: This notice sets forth a system of records, the Debt Collection Operations System. The purpose of this system is to maintain a record of individuals and entities that are indebted to various Federal Government departments and agencies and whose accounts are being serviced for collection by the Financial Management Service (FMS), in accordance with written agreements reached between the relevant agency ("client") and FMS. The records ensure that: Appropriate collection action on debtors' accounts is taken and properly tracked; monies collected are credited; and accounts are returned to the appropriate agency at the time the account is collected or closed.

DATES: Comments must be received no later than February 10, 1995. The proposed system of records will be effective February 21, 1995, unless FMS receives comments which would result in a contrary determination.

ADDRESSES: Comments must be submitted to the Debt Collection Operations Staff, Financial Management Service, 401 14th Street SW., room 415 B, Washington, DC 20227. Comments received will be available for inspection at the same address between the hours of 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kathleen Downs or Marty Mills, Debt Collection Operations Staff, (202) 874–6670.

SUPPLEMENTARY INFORMATION: The Debt Collection Operations System is established to collect and store information on individuals and entities indebted to various Federal Government departments and agencies which have contracted with the Financial Management Service (FMS) for the servicing or collection of such indebtedness.

The Financial Management Service has been designated by the Office of Management and Budget as lead agency in credit management and debt collection. In this capacity, FMS works with other Federal departments and agencies to implement sound and effective credit management/debt collection policies, procedures, and standards; develops and disseminates procedures and standards; provides training to agency personnel on credit-related subjects; and maintains and enhances such debt collection tools as Federal employee salary offset, tax refund offset, and the use of private collection agencies. In furtherance of the goal to improve governmentwide credit management/debt collection, FMS has developed the capability to service and collect the debts of other agencies in accordance with the requirements of the Federal Claims Collection Act of 1966, the Debt Collection Act of 1982, as amended, and the Deficit Reduction Act of 1984, as amended.

FMS' capability to service and collect debts includes the development of a system which will enable FMS to track, account by account, information identifying individual debtors, payments due and made and actions taken to enforce collection on delinquent accounts. Given the nature of the information that will be maintained and its proposed use, the Privacy Act of 1974, as amended, 5 U.S.C. 552a, requires FMS to give general notice and seek public comments.

Dated: January 3, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

Treasury/FMS .014

SYSTEM NAME:

Debt Collection Operations System

SYSTEM LOCATION:

The Debt Collection Operations Staff, Financial Management Service, U.S. Department of the Treasury, 401 14th Street, SW., Washington, DC 20227.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals and entities that are financially indebted to the U.S. Government through one or more of its departments and agencies and are the result of participation in a Federal direct or guaranteed loan program, the assessment of a fine, fee, or penalty, an overpayment or advance, or other extensions of credit such as would result from sales of goods or services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information varies, depending on the individual debtor, the type of indebtedness and the agency to which monies are owed. The system of records contains information pertaining to: (1) Individuals and commercial organizations, such as name, Taxpayer Identification Number (i.e., Social Security Number or Employer Identification Number), work and home addresses, and work and home phone numbers; (2) the indebtedness, such as the original amount of the debt, the date the debt originated, the amount of the delinquency/default, the date of delinquency/default, basis of the debt, amounts accrued for interest, penalties, and administrative costs, and payments on the account; (3) actions taken to enforce recovery of the debt, such as copies of demand letters/invoices, and documents required for the referral of accounts to collection agencies, or for litigation; and (4) referring or client agency, such as name, phone number, and address of the agency contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966 (Pub. L. 89–508), as amended by the Debt Collection Act of 1982 (Pub. L. 97–365, as amended), and the Deficit Reduction Act of 1984 (Pub. L. 98–369, as amended); 31 U.S.C. 37, Subchapter I (General) and Subchapter II (Claims of the U.S. Government).

PURPOSE:

The purpose of this system is to maintain a record of individuals and entities that are indebted to the various Federal Government departments and agencies and whose accounts are being serviced or collected by the Financial Management Service (FMS), in accordance with written agreements reached between the relevant agency ("client") and FMS. The records ensure that: appropriate collection action on debtors' accounts is taken and properly tracked, monies collected are credited, and accounts are returned to the appropriate client at the time the account is collected or closed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to disclose information to:

1. Appropriate Federal, state, local or foreign agencies responsible for investigating or implementing a statute, rule, regulation, order or license;

2. A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a court-ordered subpoena or in connection with criminal law proceedings;

3. A congressional office in response to an inquiry made at the request of the individual or entity to whom the record pertains;

4. The Internal Revenue Service for the purposes of: Effecting an administrative offset against the debtor's tax refund to recover a delinquent debt owed to the U.S. Government by the debtor; or, obtaining the mailing address of a taxpayer/debtor in order to locate the taxpayer/debtor to collect or compromise a Federal claim against the taxpayer/debtor in accordance with 31 U.S.C. 3711, 3717, and 3718 and 26 U.S.C. 6103(m)(2);

5. The Department of Justice for the purpose of litigating to enforce collection of a delinquent debt or to obtain the Department of Justice's concurrence in a decision to compromise, suspend, or terminate collection action on a debt with a principal amount in excess of $100,000 or such higher amount as the Attorney General may, from time to time, prescribe in accordance with 31 U.S.C. 3711(a).

6. The Department of Defense or the U.S. Postal Service or other Federal agency for the purpose of conducting an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, so as to identify and locate individuals receiving Federal payments (including, but not limited to, salaries, wages, and benefits) for the purpose of requesting voluntary repayment or implementing Federal employee salary offset or administrative offset procedures;

7. The Department of Defense or the U.S. Postal Service or other Federal agency for the purpose of effecting an administrative offset against Federal payments certified to be paid to the debtor to recover a delinquent debt owed to the U.S. Government by the debtor; and

8. Any creditor Federal agency seeking assistance for the purpose of seeking voluntary repayment of a debt or implementing Federal employee salary offset or administrative offset in the collection of an unpaid financial obligation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Debt information concerning a Government claim against a debtor is also furnished in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, as amended (Pub. L. 97–365), to consumer reporting agencies, as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE

Records are maintained on magnetic disc, tape, and hard copy.

RETRIEVABILITY:

Records are retrieved by name or Taxpayer Identification Number (i.e., Social Security Number or Employer Identification Number).

SAFEGUARDS:

All officials accessing the system of records will do so on a need-to-know basis only, as authorized by the System Manager. Procedural and physical safeguards are utilized, such as accountability, receipt records, and specialized communications security

The data system has an internal mechanism to restrict access to authorized officials. Hard-copy records are held in steel cabinets, with access limited by visual controls and/or lock system. During normal working hours, files are attended by responsible officials; files are locked up during non-working hours. The building is patrolled by uniformed security guards.

RETENTION AND DISPOSAL:

Hard-copy records are returned to the agency which had contracted for servicing or collection with FMS at the time an individual account is resolved through collection, compromise, or write-off/close out or at the agency's request. Summary information, such as results of collection action undertaken, for the purpose of producing management reports is retained for a period of five (5) years.

SYSTEM MANAGER AND ADDRESS:

System Manager, Debt Collection Operations Staff, Financial Management Service, 401 14th Street SW., Washington, DC 20027

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer, Financial Management Service, 401 14th Street, SW, Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The System Manager will advise as to whether FMS maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C, appendix G, concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See "Record Access Procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual or entity, creditor agencies, Federal employing agency, collection agencies, credit bureaus, and Federal, state and local agencies furnishing identifying information and/or address of debtor information.

EXEMPTIONS CLAIMS FOR THE SYSTEM:

None.

[FR Doc. 95-650 Filed 1-10-95; 8:45 am]
BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 60 F.R. 2175.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, January 10, 1995.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has postponed the meeting to discuss Enforcement Matters until 10:00 a.m., Tuesday, January 17, 1995.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 95–770 Filed 1–9–95; 11:03 am]

BILLING CODE 6351–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–95–01A]

Emergency Notice of Correction of Time and Addition of an Agenda Item for the meeting of Wednesday, January 11, 1995

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 60FR2427—dated January 9, 1995.

CHANGE OF TIME OF MEETING:

Original Time: January 11, 1995 at 2:30 p.m.
New Time: January 11, 1995 at 3:00 p.m.

AMENDMENT TO THE AGENDA:

5. Outstanding action jackets:
   1. GC–94–113, Administrative orders, letters, and notice of proposed section 337 rulemaking
   2. GC–94–115, Advance notice of proposed section 337 rulemaking

In conformity with 19 C.F.R. § 201.37(a)(b), Commissioners Watson, Bragg, Crawford, Newquist, Rohr, and Nuzum determined that Commission business required the correction in the time of the meeting scheduled for January 11, 1995 at 2:30 p.m., to January 11, 1995 at 3:00 p.m., and to amend the Agenda Item 5, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

By order of the Commission:

Issued: January 9, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–855 Filed 1–9–95; 3:49 pm]

BILLING CODE 7020–02–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–95–02]

TIME AND DATE: January 24, 1995 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–677 (Final) (Coumarin from the People's Republic of China)–briefing and vote.
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: January 9, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–856 Filed 1–9–95; 8:45 am]

BILLING CODE 7020–02–P

Corrections

Federal Register
Vol. 60, No. 7
Wednesday, January 11, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-805]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Spain

Correction

In notice document 94–31803 beginning on page 66931, in the issue of Wednesday, December 28, 1994, make the following corrections:

1. On page 66939, in the first column, in the table, under the heading entitled "Manufacturer/producer/exporter", in the first line, "Acerinox," should read "Acenor,".

2. On the same page, in the second column, in the file line at the end of the document, "FR Doc. 94–31804" should read "FR Doc. 94–31803".

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–59–000]

Southern Natural Gas Co.; GSR Cost Recovery Filing

Correction

In notice document 94–30187 appearing on page 63331, in the issue of Thursday, December 8, 1994, in the second column, in the first line, the docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–74–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 94–30292 appearing on page 63783, in the issue of Friday, December 9, 1994, in the first column, in the first line, the docket number should read as set forth above.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5129–1]

Nominations of Estuaries to the National Estuary Program

Correction

In notice document 94–31816 beginning on page 66533, in the issue of Tuesday, December 27, 1994, make the following correction:

On page 66533, in the third column, under **DATES:**, in the second line, "October 27, 1995." should read "March 7, 1995."

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 91, 92, 570, 574, 576, and 968

[Docket No. R-94-1731; FR-3611-F-02]

RIN 2501-AB72

Consolidated Submission for Community Planning and Development Programs

Correction

In rule document 94–32150 beginning on page 1878 in the issue of Thursday, January 5, 1995 make the following correction:

Beginning on page 1878 and through page 1919 in the running head appearing on each page the date is corrected to read "January 5, 1995"

BILLING CODE 1505–01–D

federal register

Wednesday
January 11, 1994

Part II

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 201

Migrant Education Program Services; Funding Formula; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 201

Implementation of the Funding Formula Under Part C of Title I of the Elementary and Secondary Education Act (ESEA)

AGENCY: Department of Education.

ACTION: Notice of proposal; request for comments.

SUMMARY: The Assistant Secretary of Education for Elementary and Secondary Education (Assistant Secretary) proposes a method for implementing section 1303(e)(3) of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), under which provision of Migrant Education Program (MEP) services during intersession periods would be factored into calculations of State MEP allocations for fiscal year (FY) 1995.

The Assistant Secretary also solicits comments on how, given the end of the Migrant Student Record Transfer System (MSRTS), the Department should obtain information on the estimated number of migratory children residing in each State, as is required under section 1303(e) of ESEA, in order to make MEP allocations for FY 1996 and beyond.

DATES: Written comments must be received on or before February 10, 1995.

ADDRESSES: Comments sent by mail should be addressed to James English, Program Analyst, Office of Migrant Education, U.S. Department of Education, 600 Independence Avenue, SW., Portals Building, Room 4100, Washington, DC 20202–6135. The Internet address for comments is James—English@ed.gov. The FAX number is 202–205–0089.

FOR FURTHER INFORMATION CONTACT: James English, Office of Migrant Education, U.S. Department of Education, 600 Independence Avenue, SW., Portals Building, Room 4100, Washington, DC 20202–6135. Telephone: (202) 260–1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

State allocations under the MEP are based on a formula that uses State per-pupil expenditures and counts of the number of eligible migratory children residing in each State full- and part-time. Until enactment of the IASA, the Department determined the number of eligible migratory children residing in each State on the basis of information from the MSRTS on the full-time-equivalent (FTE) number of migratory children in each State during the prior calendar year. The MSRTS will go out of existence on June 30, 1995. Calendar year 1994 will be the last year for which FTE counts of eligible migratory children will be available from the MSRTS. Thereafter, the Department will have no single source of information from the prior calendar year that can be used for purposes of determining MEP allocations for FY 1996 and beyond.

Section 1303(e)(3) of Title I of the ESEA, as amended by the IASA, now requires the Department to adjust the number of migratory children residing in each State full- and part-time to take into consideration the needs of students participating in, and the costs of programs operating during, both summer and intersession periods.

(**Note:** The Department defines intersession periods as those periods of time when a year-round school is not in session.)

Prior law only required the Department to make an adjustment on the basis of programs that operated during the summer, which the Department had defined as May 15 through August 31 The Department does not, at present, have information to make adjustments in the MEP formula based on MEP projects that operate during intersession periods. Moreover, the Department will be able to implement this provision as part of the allocation formula for FY 1995 MEP funds only if an acceptable source of information can be found.

The Department is proposing a method for implementing section 1303(e)(3) for FY 1995, and is requesting public comment on the proposal and the availability of information to implement it (See Issue 1). With regard to changes in allocating funds beginning with FY 1996 that stem from the end of the MSRTS, the Department is requesting public comment on a number of approaches that appear to be available (See Issue 2).

Issue 1: Adjusting the FY 1995 MEP State Formula Allocation for Children Participating in Programs Operated During Intersession Periods

Subsection 1303(e)(3) of the ESEA provides for implementation of an intersession period adjustment for FY 1995 MEP awards. However, while the MSRTS can provide the Department with FTE data on the overall number ofeligible migratory children residing in each State and the number of those served by the MEP in summer periods (and this data can be adjusted to reflect the 36-month eligibility period required by section 1309(a) of Title I, as amended) for purposes of FY 1995 MEP allocations, neither MSRTS nor the Department has similar data relating to intersession periods.

The Department believes that an accurate intersession period adjustment to the FY 1995 MEP allocations can only be made using information on migratory student participation in intersession periods that is comparable to data that the MSRTS provides on counts of migratory children served in regular-term and summer programs during calendar year 1994. Thus, to make an adjustment of FY 1995 MEP allocations for intersession period participation, the Department will need data for each State on the FTE number of migratory children served by MEP projects, in calendar year 1994, in those intersession periods that occur outside the period, from May 15 to August 31, 1994, for which a summer adjustment is already being made. Additionally, these FTE counts will need to reflect only those migratory children who are eligible based on the 36-month eligibility period required by section 1309(a) of Title I, as amended.

The Department invites comments from the public, especially SEA staff, as to the availability of these data and any other options for adjusting the FY 1995 MEP allocation accurately to reflect participation by migratory children in intersession period MEP programs.

Issue 2: Collection of Migratory Childcount Data for FY 1996 and Thereafter, Given the End of the MSRTS

While FTE data from calendar year 1994 (including the summer adjustment) will be available to the Department in order to make the FY 1995 MEP allocations, the pending end of the MSRTS in 1995 requires the Department and States receiving MEP funds to utilize a new procedure to allocate MEP funds appropriated for FY 1996 and later.

The Department believes that any future procedure for determining State MEP allocations should be simple and cost-efficient. Possible approaches include, but are not necessarily limited to, the following:

- States could report standard data—either at several points in the year, annually, or perhaps once every few years—on an unduplicated count of eligible migratory children identified as residing in the State during a given year. These data could be collected and reviewed (subject to audit) for accuracy relatively easily by counting the children listed as eligible on the Certificates of Eligibility (COEs) that the State and its operating agencies will continue to use to document eligibility. (The COE is a legal document, completed by an individual authorized by the State to recruit for the MEP, which contains information explaining the basis on which a particular child has been determined to be a migratory child.) States would have to make sure that a child listed on COEs maintained by two different local agencies is counted only once for the regular year (or period)—to ensure that an unduplicated count is reported. Similarly, unique counts of children present during the summer or intersession periods could also be compiled by the States based on COEs (or other data on participants maintained by the State or its subgrantees).
- The Department could continue to use the calendar year 1994 FTE data from MSRTS to make allocations in FY 1996 and, perhaps, for subsequent years. Using 1994 data for making allocations in more than one fiscal year would be cost-effective and would require less burden on State and local agencies than collecting and reporting participation data annually. Other Federal programs, such as Title I, Part A, always have used data collected in one year to allocate funds in more than one subsequent fiscal year.
- States might report, annually or periodically, an unduplicated count of migratory children served in Title I, Part C programs during the regular school term, and in summer or intersession periods in a prior year. These data would be similar to those the States now submit for MEP participation reports.
- The Department could commission periodic national surveys of the population of migratory children in sufficient detail to yield estimates of the number of these children who reside in each State.

The Assistant Secretary invites comments on the above approaches, as well as recommendations (with justifications) for other possible options.

Invitation to Comment

The Department solicits the views of interested parties, particularly parents of migratory students, and those State and local administrators and teachers who serve migratory children under the MEP. The Assistant Secretary requests that each commenter identify his or her role in education and the perspective from which he or she views the educational system—either as a representative of an association, agency, or school (public or private), or as an individual teacher, parent or public citizen. The Assistant Secretary urges each commenter to be specific regarding his or her recommendations.

All comments submitted in response to this notice will be available for public inspection during and after the comment period in room 4100 Portals Building, 1250 Maryland Ave., SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

(Program Authority: Section 1303(e) of Title I of the ESEA, as amended.)
(Catalog of Federal Domestic Assistance Number: 84.011, Migratory Education Basic State Formula Grant Program)

Dated: January 3, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–604 Filed 1–10–95; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Wednesday
January 11, 1995

Part III

Environmental Protection Agency

40 CFR Parts 156 and 170
Worker Protection Standards; Grace Period and Retraining Activities, Exemption of Certified and Licensed Crop Advisors, Exceptions to the Early Entry Restrictions for Irrigation Activities, Limited Contact Activities, and Reduced Entry Intervals for Certain Low Risk Pesticides; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250097; FRL–4901–4]

RIN No. 2070–AC69

Pesticide Safety Training for Workers and Handlers; Grace Period and Retraining Interval

AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise the Worker Protection Standard (WPS) for agricultural pesticides by providing three options for a training grace period (number of days of employment before workers must be trained) and a phase-in period associated with the grace period. EPA is also proposing options for the retraining interval (number of years before workers or handlers must be retrained). The objective of the proposed changes to the Standard is to help meet the goal of providing a trained workforce capable of better protecting itself against pesticide illness and injury without imposing unreasonable costs on agricultural employers.

DATES: Written comments, identified by the document control number OPP–250097, must be received on or before February 10, 1995. EPA does not intend to extend this comment period.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted as comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserver@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN-2070-AC69; or through the EPA Electronic Bulletin Board by dialing 202-488-3671, enter selection "DMAIL," user name "BB—USER" or 919-541-4642, enter selection "MAIL," user name "BB—USER." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP–250097 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VII. of this document.

FOR FURTHER INFORMATION CONTACT: Jeanne Heying, Certification and Training, and Occupational Safety Branch (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1109D, CM #2, 1921 Jefferson Davis Highway, Arlington VA. Telephone: 703–305–7371.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposal is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised since publication of the final rule in August 1992 by those interested in and affected by the rule. In addition to this proposed amendment, EPA is publishing four other notices soliciting public comment on concerns raised by various affected parties. Other actions EPA is considering include: (1) Modifications to the requirements for those performing crop advisor tasks, (2) An exception to early entry restrictions for irrigation activities; (3) Reduced restricted entry intervals (REIs) for low risk pesticides; and (4) Reduced early entry restrictions for activities involving limited contact with treated surfaces.

FIFRA authorizes the EPA to regulate the sale, distribution, and use of pesticides in the United States. The Act requires generally that EPA license by registration each pesticide product sold or distributed in the United States, if use of the pesticide products will not cause "unreasonable adverse effects on the environment," a determination that takes into account the economic, social, and environmental costs and benefits of the use of any pesticide.

In 1992 EPA revised the Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to protect agricultural workers and handlers from risks associated with agricultural pesticides. The 1992 WPS superseded the original WPS promulgated in 1974. The 1992 WPS expanded the scope of the original WPS to include not only workers performing hand labor operations in fields treated with pesticides, but also workers in or on farms, forests, nurseries, and greenhouses, as well as handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The WPS contains requirements for training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals, decontamination, and emergency medical assistance.

In § 170.130(c)(4), the WPS sets out required training elements for workers, including information on pesticide hazards and exposures, signs and symptoms of pesticide poisoning, how to obtain emergency medical care, decontamination measures in case of exposure and other pesticide hazards that may arise in the course of their work.

Section 170.230(c)(4) of the WPS establishes the required training elements for handlers. These include generally the same information as for workers. However, handlers are provided additional information related to their handling activities: the meaning and format of pesticide labels; information on personal protective equipment; signs, symptoms and treatment for heat-related illness; handling pesticides and pesticide containers; environmental contamination and hazards to non-target species; and other information on their responsibilities as handlers. Training for handlers is more detailed than for workers, and is targeted specifically toward handling needs and responsibilities.

Training for workers or handlers may be conducted by certified applicators or other trainers who meet State, Federal,

or Tribal requirements. The agricultural employer, however, is responsible for assuring that workers receive required training and the handler employer is responsible for assuring that handlers receive the required training.

To assist agricultural employers in fulfilling their responsibilities to ensure training and to provide a uniform national standard for the conduct of worker training, EPA and the U.S. Department of Agriculture have established a joint training verification program. Under this program, which would be administered on a voluntary basis by States through agreements with EPA, workers who have been trained may be issued a training verification card. The card could be shown to each agricultural employer who hires the worker. Under § 170.130(d) possession of a valid card serves as proof of training, thus relieving the employer of having to provide training or to determine whether and when training is required.

The training verification program is beneficial to the agricultural employer and workers alike in that it provides a common basis for agreement that training provided to the worker meets the requirements of the WPS. EPA expects the training verification card program to benefit agricultural employers because it obviates the need to train a worker, thus minimizing the costs of the WPS training requirement. Without such a card system, the employer might have to provide training more frequently and to more workers to assure that all had received training.

For workers, possession of a card assures that they will be able to work immediately without unnecessary delay for training.

III. Current WPS Training Provisions at Issue

This proposal addresses three elements of the worker training requirements. The three elements are: the grace period before training must be provided; the phase-in period for the grace period for workers; and the retraining requirement for workers and handlers.

1. *The grace period before training must be provided.* Section 170.130(a)(3)(i) requires agricultural employers to assure that workers have been trained in pesticide safety before their 6th day of entry into areas on the agricultural establishment that have been treated with a pesticide or that have been under a restricted entry interval (REI) within the previous 30 days.

EPA emphasizes that the grace period applies only to routine worker training, not early-entry training or handler training. No changes are being proposed or considered for early entry or handler training.

2. *The interim grace period for workers.* The current WPS requires that the agricultural employer assure that a worker receives pesticide safety training before the 6th day of entry into any treated area on the agricultural establishment. Section 170.130(a)(3)(ii) provides for an exception for a 5–year period until October 20, 1997, during which time workers would be allowed to enter treated areas at the establishment for 15 days before the employer must assure that they have been trained. After October 20, 1997, the 15–day grace period is no longer in effect.

3. *The retraining requirement for workers and handlers.* Section 170.130(a)(1) requires that agricultural employers assure that each worker has been trained within the previous 5 years. Section 170.230(a)(1) requires that handler employers assure that each handler has been trained within the previous 5 years.

IV. Reasons for this Proposal

The WPS is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers and pesticide handlers through implementation of appropriate measures. Pesticide safety training is a key component of the Standard - trained, informed workers and handlers can take steps to avoid exposure or mitigate harmful pesticide effects, thereby reducing the number and severity of pesticide poisonings and other adverse effects.

Subsequent to promulgation of the final rule in 1992, the Agency received comments from farm worker groups suggesting changes in the grace period and the retraining interval. Additionally, the Agency was petitioned by the National Association of State Departments of Agriculture (NASDA) to eliminate the interim grace period. The Agency also met a number of times with farm worker groups to hear their concerns on the worker training provisions. Following is a summary of their concerns on the training grace period and 5–year retraining interval.

A. Training Grace Period

Farm worker groups are concerned that the current grace period would result in untrained workers being harmed on the job. They contrasted the WPS grace period with the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard training requirement (29 CFR 1910.1200), under which workers must be trained about hazardous chemicals in their work area before first exposure.

States and farm worker groups asserted that the grace period would be difficult to enforce. Subsequent to publication of the WPS, the California Department of Pesticide Regulation (CDPR) raised concern about the anticipated difficulties in enforcing the training requirement. They asserted that it may not be feasible to track accumulated days in treated areas in anticipation of the required training and that employers cannot track the activities of every worker in their employ.

Additionally, farm worker groups were concerned that the grace period could encourage employers to avoid providing the required training. They were particularly concerned that, because of the transient nature of the agricultural workforce, workers who move frequently might never be trained if training were required only after a 5–day grace period per establishment. They noted that some workers might not spend 5 days on any particular establishment.

Finally, the farm worker groups argued that all workers should be entitled to know how to protect themselves from pesticide residues before entering treated areas; for training to be effective in reducing risk, they argued, training must take place before possible exposure to pesticides.

B. Five-Year Retraining

Farm worker groups are concerned that the 5–year retraining interval is too long to be effective. They assert that large numbers of workers and handlers, particularly field labor contractor employees, might not have regular access to the safety poster displayed on the agricultural establishment because they are hired off the farm and taken directly to the field. EPA's confidence in the safety poster as a means of reinforcing training, they claim, is misplaced. Also, many workers and handlers may not read well (or not be literate in the poster language), so the impact of poster messages might be limited. Qualified trainers assert that repeat training enhances the retention of safety training information.

The farm worker groups also requested a shorter retraining interval. They pointed to other regulatory programs under OSHA, EPA, and State initiatives that require annual retraining. They also noted that agricultural employment is seasonal in nature, and farm workers realistically cannot be expected to remember

training information for such a long period of time. The groups asserted that more frequent retraining is needed for farm workers who are illiterate or have poor reading skills, and cannot rely on written materials to refresh their training.

In response to these concerns, EPA proposes to revise the Worker Protection Standard as described in units V. and VI. of this document.

V. The Grace Period and Interim Grace Period

EPA is proposing three options for consideration and comment: the first option involves eliminating the 15–day grace period so that employers would have to train workers before they enter a treated area, and providing a 1–year interim period before the 0– day grace period would go into effect, the second option involves shortening the 15–day grace period so that employers would be required to train workers between 1 and 5 days after the worker has been hired and the third option involves requiring a weekly training program. The Agency is interested in receiving comments on all options presented.

(1) Shortening the grace period from 15 to 0 days after a 1 year interim grace period. The Agency is considering eliminating the training grace period If the grace period were eliminated entirely, all new workers would have to be trained before entering a treated area. An interim grace period of 1 year is being proposed to allow employers to prepare for the elimination of the grace period.

Training new workers before any possible exposure may be the most protective option. No worker would lack training because he or she had not worked enough days with a single employer. By eliminating the grace period, it is expected that compliance would be easier for the employer and state enforcement officer, because there would be no need to determine whether the worker had accumulated the requisite number of workdays on the establishment.

A 0–day grace period could result in the need for more frequent, possibly daily, training sessions. More frequent training sessions could result in increased training costs. Also, workers may have to be trained more than once if the employer could not assure that the worker had already received training.

(2) *Shortening the grace period from 15 days to between 1 and 5 days.* The Agency is considering shortening the grace period from 15 days to between 1 and 5 days. Workers would be trained earlier and perhaps better able to avoid or mitigate pesticide exposures. By shortening the grace period, the possibility that workers would remain untrained because they moved frequently from employer to employer without accumulating the requisite number of days at any given establishment to require training would decrease.

Shortening the grace period is likely to increase the costs of training, since employers with higher rates of turnover in the workforce would have to schedule more frequent training sessions. Any grace period at all could mean that agricultural employers would need to track the number of days of entry each worker has accumulated in order to determine whether training must be provided. This could present a burden which could be substantial depending on the number of workers hired at the establishment, and the number who possess training verification cards.

(3) *Requiring a weekly training program.* The Agency is considering an option, where an employer would be required to provide a training session once a week to all untrained workers. This option might reduce the instances of workers entering treated areas before being trained, while reducing the training burden on employers by allowing predictability in providing training on a scheduled basis. A weekly training session may also result in less disruption to field labor activities. Also, a weekly training session may reduce cost by allowing for more trainees per session. For establishments with employee turnover, a weekly training session allows employers to "accumulate" new hires over the span of the week, potentially resulting in fewer training sessions needed than if employers were required to train each employee before applicable field entry. A weekly training session for untrained workers may, however, add a recordkeeping burden to the employer.

The Agency is interested in receiving information and comments on all options, particularly the benefits expected to be gained by shortening the grace period, as well as expected costs. Specifically, the Agency is seeking information on the following: the practicality and effectiveness of the options, how the frequency of new hires may effect the frequency of training sessions, the rate of turnover in employment among agricultural workers and handlers, situations where training before entry would not be possible, the risks and/or benefits of providing safety training information before or after entering a treated area, the feasibility of providing training on a short notice to English and non-English speaking workers, mechanisms that are available or will be available to provide training on short notice, the impact on the employer and agricultural worker of a 1 year interim grace period before the 0–day grace period would go into effect, specific problems caused by eliminating or shortening the interim grace period 5 years to 1 year and what could be done to eliminate those problems, what the regulated community has done to develop training programs in the 2 years since the WPS was issued and the estimated costs of a 0–day, 1 to 5–day grace period or a weekly training regimen.

VI. The Retraining Interval for Workers and Handlers

The Agency is proposing for comment three options for the retraining interval for workers and handlers; (1) retaining the 5 year retraining interval, (2) shortening the retraining interval from 5 to 3 years or (3) provide annual retraining.

Since chemical use patterns frequently change, and new hazards may be identified for existing chemicals, a shortened retraining interval would be helpful in mitigating the potential hazards to farm workers and handlers.

The cost to employers of providing training to workers and handlers during an "out" year (any year after the first year of implementation) increases as the retraining period decreases. First year training costs are unaffected by the retraining interval. All workers must be trained during the first year, and handlers must be trained before they first handle pesticides. Due to turnover in the workforce, training after the first year will not be limited to every third year for a 3 year retraining interval. Rather, some mix of training and retraining will occur during all typical out years. A shorter retraining interval may require more training sessions during the average out year, with higher total costs. Also, if training of new workers and retraining of workers in out years are done at the same time, the costs of retraining (regardless of frequency) may be partially subsumed in the costs for initial training.

The Agency is interested in receiving information and comments on all options, particularly the benefits expected to be gained by shortening the retraining interval, as well as the impacts of a 5 year, 3 year and annual retraining interval. Specifically, the Agency is seeking information on the following: worker and handler retention of safety training information, whether agricultural workers and handlers have a greater need for retraining than workers in other occupations, the

effectiveness of the pesticide poster in reinforcing previous training and the burdens the various retraining options might place on agricultural employers or other entities that may perform worker or handler training. Concerns with each of the options are requested as well.

Commenters supporting retaining the current 5–year retraining interval, shortening the retraining interval to 3 years, or providing annual retraining, should state explicitly the reasons for, and provide information on the need, costs and feasibility of, the recommended option.

VII. Solicitation of Comments

A record has been established for this rulemaking under docket number "OPP–250097" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

EPA is interested in receiving comments and information on all of the proposed options. Comments are requested on: (1) general worker and handler hiring and employment practices, such as the rate of turnover and employment among agricultural workers and handlers, (2) the practicality and effectiveness of the grace period options, including how the frequency of hiring would affect the frequency of training sessions, situations where training before entry would not be possible, mechanisms that are available or will be available to provide training on short notice and the estimated costs of reducing or eliminating the grace period or providing a weekly training regimen, (3) the practicality and effectiveness of eliminating the interim grace period for training and (4) the retraining interval, including the impacts of a retraining interval of less than 5 years, worker and handler retention of safety training information over time, whether agricultural workers and handlers have a greater need for retraining than workers in other occupations, the effectiveness of the pesticide poster in reinforcing previous training and the burdens the various retraining options might place on agricultural employers or other entities that may perform worker or handler training. Comments should be distinguished as applying to workers, handlers, or both, as applicable.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This proposed exception is one of the actions selected by EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raise some novel issues that are discussed below in this Unit.

To submit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Subscribe" to the Internet ListServe application for this proposed exception, send an e-mail message to: listserver@unixmail.rtpnc.epa.gov that says "Subscribe RIN–2070–AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN–2070–AC69@unixmail.rtpnc.epa.gov. All comments and data in electronic form should be identified by the docket number OPP-250097 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN– 2070–AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. To obtain further information on the electronic comment process, or on submitting comments on this proposed exception electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202–260–2253; FAX: 202–260–3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this proposed rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted by others using the RIN–2070–AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN–2070–AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN–2070–AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN–2070–AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments

submitted only in written form will not be transferred into electronic form and thus may be accessed only by reviewing them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this proposed rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this proposed rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

VIII. Statutory Requirements

As required by FIFRA section 25(a), this proposed rule was provided to the U.S. Department of Agriculture and to Congress for review. The FIFRA Scientific Advisory Panel waived its review.

USDA provided extensive written comment. The general tenor of USDA comments suggest suspending the proposed changes to the training requirement until EPA observes the efficacy of current training provisions and the feasibility of a 0–day grace period. However, the Agency maintains that the options being proposed increase the chance of protection through earlier provision of safety training. The Agency intends to observe and evaluate the effectiveness of training in the field, with whatever option is selected.

USDA's specific comments focused on the following areas: (1) Elimination of the grace period; (2) retraining interval; (3) training requirements by category; (4) the regulatory impact analysis; (5) training verification.

(1) USDA expressed concern that elimination of the 5–day grace period would create costs for the employer, by preventing scheduled training for large groups, while providing little or no increase in the protection for workers. EPA believes that the elimination of the grace period will provide increased protection to workers by providing safety information before workers enter a treated area. The incremental cost incurred by the employer does not appear to outweigh the benefits that come with the potential prevention of exposure.

EPA and USDA have differing opinions regarding the employer recordkeeping burden necessitated by a grace period. However, it is agreed that, for state regulators to verify compliance with the regulations, some employer burden of recordkeeping would be necessary during a grace period.

USDA questions the need to train workers before they enter a treated field, due to other WPS protection provided workers, while EPA believes that these provisions are part of an integrated package of measures that are effective only after being explained through training. USDA suggests that, as a means to enhance understanding of pesticide safety, employers distribute the WPS worker training handbook to newly hired employees and follow with training in a few days, however this assumes that all employees would be able to read and understand the materials.

(2) USDA questions the need for a shorter retraining interval, however, professional training organizations and farmworker groups assert that more frequent retraining is needed in order to assure retention of the substance of training sessions. More frequent retraining is especially needed for workers who may have poor reading skills and cannot rely on written materials to recall all safety information.

(3) USDA expresses concern that clear distinctions be made among handlers, early-entry workers, production laborers and harvesters, and that they may also warrant different training requirements. EPA believes that the current regulation's distinctions between workers, handlers, and early-entry workers address USDA's concerns since these categories have different training requirements. This proposal does not address the substance of training or the training requirements.

(4) USDA questions the strength of the conclusions of studies used in the regulatory impact analysis to support the assumption that risk is reduced through modifications of behavior after training. They also note that EPA uses the same number estimate for workers trained with a 0–day grace period and a 15–day grace period. In the absence of data, EPA did use the same estimate of workers, and, as a consequence, conservatively overestimated the cost of a 0–day grace period. USDA questions the accuracy of other data that EPA used in the analysis of the costs of a 0–day grace period, however, EPA used USDA data and agricultural census data for this analysis.

USDA asserts that the effect of a 0–day grace period could influence the employer to lower pay, possibly eliminate jobs. EPA believes that the cost of training would be small relative to the total cost of labor. USDA noted that EPA's estimate of the number of workers is incorrect. EPA used the same estimate of the number of workers as was used, and agreed upon by USDA, for the 1992 WPS. USDA pointed out that EPA's estimate of the number of handlers and workers is incorrect due to the use of 1987 data instead of 1990 data. EPA believed that the 1987 data were better in that they were agricultural census data as opposed to general census data.

USDA questions the use of 30 minutes per worker training session in EPA's cost estimates. EPA's worker training program was field tested in both English and Spanish, and, with questions, took approximately 30 minutes.

(5) USDA claims that the additional proof-of-identity requirement would be extremely difficult for employers to meet and would be a disincentive for employers to issue cards. This is a misreading of the WPS provision that .. "If the agricultural employer is aware or has reason to know that an EPA training verification card has not been issued in accordance with the provisions of WPS, or has not been issued to the employee bearing the card, or the date for retraining has past, an employee's possession of that training verification card does not relieve the employer of the training obligations under WPS."

USDA noted that issuing training cards would assist other employers who hire already trained workers. In addition, USDA is concerned that handlers and workers that possess cards will become preferred job applicants. USDA fears that since not all states on or verification cards it will cause a burden to job applicants in states where cards are not honored and give job preference to those employees who possess cards.

The regulation establishes a training verification program that is voluntary, therefore, not all employers will participate. However, employers who do participate will relieve themselves from the burden of retraining workers who have already been trained.

Forty states, Puerto Rico and 2 tribes have entered into an agreement to issue training verification cards. Three additional states say they will be entering into an agreement. Four states already have programs that are identical to the Federal program and will issue state cards. Over 2.5 million cards have been delivered to states who have entered into the program. By law, the employer can accept the card as verification that the employee was trained.

USDA raised concern over the verification cards that have an expiration date based on the initial 5–year retraining interval date. Training cards are valid until the expiration date stated on the card. When the retraining interval is changed, these training cards will remain valid until the expiration date on the card.

IX. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action" because it raised potentially novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The total cost of this rule depends on the combination of options under the grace period and the retraining interval selected. The costs have been estimated by EPA and are presented in the Impact Assessment for the Worker Protection Standard, Training Provisions Rule. This proposal was submitted to OMB for review, and any comments or changes made have been documented in the public record.

B. Regulatory Flexibility Act

This rule was reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it was determined that the rule would not have a significant adverse impact on a substantial number of small entities. The smallest entities regulated under the Worker Protection Standard, family-operated agricultural establishments with no hired labor, are not subject to the training requirements, and therefore have no cost associated with this rule. These small entities (with no hired labor) represent about 45 percent of the agricultural establishments within the scope of the WPS. The smallest of those entities which do hire labor are those with only one hired employee. Estimated costs per worker or handler are similar for an establishment with one employee as for larger establishments, causing no significant disproportionate burden on small entities. After the first year of implementation, the average annual training costs to comply with these regulations (not including the costs already being incurred) is also very modest, estimated at about $2.20 per worker.

The largest difference in costs per worker occurs on vegetable/fruit/nut farms, where estimated incremental first year cost per worker is $4.13 on small farms and $3.06 on larger farms; incremental first year cost per handler is estimated at $11.55 for both small and large farms. The largest cost per establishment is also on vegetable/fruit/nut farms, where incremental first year cost per establishment is estimated to be $4.13 to $11.55 for small (single-employee) farms, and $77.49 for the typical large farm. Incremental cost of the proposed training options is also very modest. Average incremental cost to vegetable/fruit/nut farms (all sizes), is estimated at $37.15 the first year and $17.51 in subsequent years.

I therefore certify that this proposal does not require a separate analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposal contains no information collection requirements, and is therefore not subject to the Paperwork Reduction Act.

D. Public Docket

EPA has established a public docket (OPP–250097) containing the information used in developing this proposed rule. The public docket is open Monday through Friday from 8 a.m. to 4 p.m. and is located in Crystal Mall #2, Room 1132, 1921 Jefferson Davis Highway, Arlington, VA.

List of Subjects in Part 170

Environmental protection, Pesticides and pests, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements.

Dated: January 3, 1995.

Carol M. Browner,
Administrator

Therefore, 40 CFR part 170 is proposed to be amended as follows:

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

Authority: 7 U.S.C. 136w.

2. In § 170.130, by revising the section heading and paragraph (a)(1), removing paragraph (a)(3), and by revising paragraph (d)(2) to read as follows:

§170.130 Pesticide safety training for workers.

(a) * * *

(1) *Requirement.* The agricultural employer shall assure that each worker required by this section to be trained has been trained in accordance with paragraph (c) of this section before the worker enters, or before between the 1st and 6th day that the worker enters any area or during the first weekly training session available to each worker provided by the employer [grace period to be determined based on public comment will be insert in the final rule] on the agricultural establishment where, within the last 30 days, a pesticide to which this subpart applies has been applied or a restricted-entry interval for such pesticide has been in effect. The agricultural employer shall assure that each such worker has been trained during the last (Agency will insert 1, 3, or 5 years in the final rule based on public comment) counting from the end of the month in which the training was completed.

* * * * *

(d) * * *

(2) If the agricultural employer is aware or has reason to know that an EPA-approved Worker Protection Standard worker training certificate has not been issued in accordance with this section, or has not been issued to the worker bearing the certificate, or the training was completed more than (Agency will insert 1, 3, or 5 years in the final rule based on public comment) before the beginning of the current month, a worker's possession of that certificate does not meet the requirements of paragraph (a) of this section.

* * * * *

3. In §170.230, by revising the section heading and paragraphs (a) and (d)(2) to read as follows:

§170.230 Pesticide safety training for handlers.

(a) *Requirement.* Before any handler performs any handling task, the handler employer shall assure that the handler has been trained in accordance with this section during the last (Agency will insert 1, 3, or 5 years in the final rule based on public comment) counting from the end of the month in which the training was completed.

* * * * *

(d) * * *

(2) If the handler employer is aware or has reason to know that an EPA-approved Worker Protection Standard handler training certificate has not been issued in accordance with this section, or has not been issued to the handler bearing the certificate, or the handler training was completed more than (Agency will insert 1, 3, or 5 years in the final rule based on public comment) before the beginning of the current month, a handler's possession of that certificate does not meet the requirements of paragraph (a) of this section.

[FR Doc. 95–583 Filed 1–6–95; 12:17 pm]

BILLING CODE 6560–50–P

---

40 CFR Part 170

[OPP–250100; FRL–4928–7]

RIN 2070–AC82

Pesticide Worker Protection Standard; Requirements for Crop Advisors

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the worker protection requirements for agricultural establishments, by exempting certified or licensed crop advisors from the requirements. EPA is also proposing to exempt crop advising employees of certified or licensed crop advisors from the WPS requirements except pesticide safety training. A temporary exemption for all persons doing crop advising tasks to allow time for acquiring licensing or certification is also proposed.

DATES: Written comments must be received on or before February 10, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Room 1132, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted in any comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments, including non-CBI copies, will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserver@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN–2070–AC69; or through the EPA Electronic Bulletin Board by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP–250100 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VI. of this document.

FOR FURTHER INFORMATION CONTACT: Donald E. Eckerman Office of Pesticide Programs (7506C) Environmental Protection Agency 401 M Street, SW Washington, DC 20460 Office location and telephone number: Room 1101, Crystal Mall 2 1921 Jefferson Davis Highway Arlington, VA 22202 Telephone: 703–305–7371.

SUPPLEMENTARY INFORMATION: EPA is proposing this rule in response to comments received from crop advisor groups requesting exemptions from the Worker Protection Standard (WPS). Specifically, EPA is proposing to amend 40 CFR Part 170, governing worker protection requirements on agricultural establishments, to exempt certified or licensed crop advisors from the requirements of the rule. EPA is also proposing to exempt crop advising employees of certified or licensed crop advisors from the WPS requirements except pesticide safety training. A temporary exemption for all persons doing crop advising tasks to allow time for acquiring licensing or certification is also proposed.

I. Statutory Authority

This proposed rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 7 U.S.C. 136w(a).

II. Background

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised since publication of the final rule in August 1992 by those interested in and affected by the rule. In addition to this proposed amendment, EPA is publishing four other notices soliciting public comment on concerns raised by various affected parties. Other actions EPA is considering include: (1) modification to the worker training requirements; (2) exceptions to early entry restrictions for irrigation activities; (3) reduced restricted entry intervals (REIs) for low risk pesticides; and (4) reduced early entry restrictions for activities involving limited contact with treated surfaces. The Agency is interested in receiving comments on all options and questions presented.

FIFRA authorizes EPA to regulate the sale, distribution, and use of pesticides in the United States. The Act generally requires that EPA license by registration each pesticide product sold or distributed in the United States, if use of that the pesticide product will not cause "unreasonable adverse effects on the environment," a determination that takes into account the economic, social, and environmental costs and benefits of the use of the product.

In 1992 EPA revised the WPS (40 CFR Part 170) (57 FR 38102, August 21, 1992) which is intended to protect agricultural workers and handlers from risks associated with agricultural pesticides. The 1992 WPS superseded the original WPS promulgated in 1974 and expanded the WPS scope to include not only workers performing hand labor operations in fields treated with

pesticides, but also workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The revisions to the WPS were intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues and pesticide handlers who may face more hazardous levels of exposure.

Under the 1992 WPS, crop advisors are defined by the tasks performed, specifically, as persons who assess pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks. Crop consultants, pest control advisors, silviculturalists, scouts and crop advisors commonly perform crop advising tasks on farms, nurseries, greenhouses and forests. As such, these individuals when performing crop advisor tasks are included under the definition of crop advisor in the WPS.

Persons performing crop advisor tasks during the pesticide application, before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria has been met, or during a restricted entry interval (REI), are included in the WPS's definition of handlers. As handlers, crop advisors may enter treated areas during the REI without time limitations, if provided with the personal protective equipment (PPE) required on the product labeling and other protections as handlers. Employees of agricultural establishments who are performing crop-advising tasks in a treated area within 30 days of the expiration of an REI are provided the same protections as workers under Part 170. Employees of commercial pesticide handling establishments who are performing crop advisor tasks in a treated area after the expiration of an REI are excluded from the definition of "worker" under Part 170 and, therefore, their presence in the treated area does not trigger any WPS requirements.

During the 1992 rulemaking, USDA expressed concerns about limiting the access of crop consultants and integrated pest management (IPM) scouts to treated areas immediately following pesticide applications. In response to this concern, EPA included crop advisors in the definition of handlers rather than workers so as to allow crop advisors unlimited access to treated areas during application and the REIs.

Since promulgation of the WPS, EPA has received a number of comments on the requirements for crop advisors. Crop advisor groups and the National Association of State Departments of Agriculture (NASDA) have commented that crop advisors are capable, by virtue of their knowledge, training and experience, of determining the appropriate precautions to be followed when working in pesticide treated areas, and therefore should be excluded from the WPS. The National Alliance of Independent Crop Consultants (NAICC) commented that crop consultants, and their field survey and scouting employees, should be exempted from many of the provisions of the WPS.

In April 1994, Congress passed the Pesticide Compliance Dates Extension Act which, among other things, exempted crop advisors from the requirements of the WPS until January 1, 1995. This delay was to allow time for EPA to resolve concerns that had been raised relative to the WPS, including the crop advisor requirements. Since the delay legislation, EPA has received additional comments, which are discussed under the appropriate sections in this preamble.

III. Exemption of a Qualified Subset of Crop Advisors from WPS Requirements

EPA is proposing to exempt a qualified subset of crop advisors, those who are certified or licensed, and their crop advisor employees from all requirements of the WPS except for pesticide safety training. Crop advisors who are certified or licensed could substitute the training received during licensing or certification, if equivalent to the WPS training.

EPA is also proposing to exempt all individuals performing crop advisor activities from all the WPS requirements until January 1, 1996 to allow time for individuals to obtain certification or licensing. After January 1, 1996 only crop advisors who are certified or licensed and their direct employees will be exempt. All others performing crop advising tasks will be subject to the full WPS requirements. Based on the comments received since the 1992 rulemaking, EPA reconsidered the requirements applicable to crop advisors and has determined that there may be a subset of crop advisors, those who are licensed or certified and trained in pesticide safety, that could be exempted from providing the protections of the WPS for themselves and their employees.

In general, the purpose of the WPS is to protect agricultural employees from the risks of exposure to pesticides. Trained crop advisors who are licensed or certified are generally more informed about the hazards associated with pesticides and good pesticide safety practices and should be capable of making informed judgement about risks and what protections should be provided for individuals performing crop advising tasks.

EPA discussed the WPS with the Agronomy Society of America in order to obtain more information that would help EPA define the subset of crop advisors that could potentially be exempted. The Agronomy Society of America informed EPA that it has a Certified Crop Advisor program administered in each participating State by a board made up of representatives of various State agencies, universities, commodity associations, and other at-large members. In order to be certified as a crop advisor under this program, the individual must pass an examination on specified subject areas, have a combination of education and experience as a crop advisor, and to maintain certification, complete continuing education credits. The subject areas in the examination include pesticide safety, WPS requirements, and various subjects related to agricultural plant production.

In addition, a variety of licensing and certification programs for crop advisors are administered by States across the country. For example, California licenses crop advisors and requires that licensees meet certain minimum qualifications including a minimum number of college level semester units in areas related to agriculture, and two years of technical experience.

The National Alliance of Independent Crop Consultants (NAICC) commented that most of their members have degrees in agriculture and train their employees in pesticide safety. NAICC further suggested that nationally recognized registries of crop consultants, or State level licenses or certifications, could be used to define the crop advisors who would be exempt from WPS. Those individuals not meeting the requirements of a licensing or certification program could continue to work as crop advisors under the same protections as currently required in the WPS. NASDA recommended in a July 1994 petition for rulemaking that the WPS "exclude paid crop advisors that work on a full-time basis for a group of agricultural employers but only part-time for any single farmer." NASDA did not provide its rationale for excluding this category of crop advisors from the WPS. NASDA also recommended that the WPS exclude persons such as government agency employees, pesticide company representatives, and

university researchers who perform crop advisor tasks.

EPA is proposing, in §170.202(c)(2), §170.130(b)(2) and §170.230(b)(2) to exempt from the WPS protections, crop advisors who are licensed or certified by a program administered or approved by a State, Tribal, or Federal agency having jurisdiction over such licensing or certification, provided that the licensing or certification requires pesticide safety training that includes all the information set forth in §170.230(c)(4). EPA is also proposing in §170.202(c)(2) to exempt employees of licensed or certified crop advisors from the WPS protections except the pesticide safety training requirements.

Under EPA's proposal, certified or licensed crop advisors, (including government agency personnel, pesticide company representatives, or university researchers) would be exempt from the WPS requirements. Currently under the WPS, if employers of government agency personnel, pesticide company representatives, or university researchers do not have a contractual relationship or exchange compensation of any type with an agricultural establishment or commercial pesticide handling establishment for crop advising activities, then neither the agricultural employer nor the commercial pesticide handling establishment is required to provide the WPS protections to the government agency personnel, pesticide company representatives, or university researchers.

Also under EPA's proposal, those crop advisors who do not become certified or licensed will remain subject to the full requirements of the WPS if they are not employed by a licensed or certified crop advisor. After January 1, 1996 only crop advisors who are certified or licensed and their direct employees will be exempt. All others performing crop advising tasks will be subject to the full WPS requirements.

EPA solicits comments on other possible ways for crop advisors to obtain training and experience equivalent to being certified or licensed by a program administered or approved by a State, Tribal, or Federal agency. Commenters suggesting other types of programs should include information on the requirements for such programs and how completion of the program could be verified for enforcement purposes.

While EPA is willing to propose exempting the employees of certified or licensed crop advisors from WPS requirements, it remains concerned that employees may not have necessary protections readily available. EPA is interested in receiving comments on industry practices that would assure that proper protections are available to employees. These include but are not limited to routine use of PPE and/or provision of PPE and decontamination supplies to employees.

IV. Temporary Exemption for Crop Advisor Activities

EPA is proposing in §170.202(c)(2) to exempt all individuals performing crop advisor activities until January 1, 1996. This will effectively extend the exemption for crop advisors in the delay legislation referenced earlier in this document and will allow those crop advisors who are not now licensed or certified to obtain such credentials prior to the end of the temporary exemption.

EPA would like comment on the proposed temporary exemption expiration date and its feasibility in terms of sufficient time for crop advisors to complete licensing or certification requirements. Also, is a total temporary exemption necessary? Should a subset of crop advisors be exempt? Or should the exemption apply to only a few of the WPS requirements?

V. Technical Amendments

EPA is revising §170.202 (c) which exempts owners of agricultural establishments from Subpart C requirements for handlers, by reorganizing the paragraph into two parts: one for owners of agricultural establishments and one for crop advisors. The existing exemption for agricultural owners is being redesignated as paragraph (1) and it has been reformatted. No substantive change has been made to the exemption for agricultural establishment owners.

VI. Public Docket and Electronic Comments

A record has been established for this rulemaking under docket number "OPP–250100" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This proposed rule amendment is one of the actions selected by EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raises some novel issues that are discussed below in this Unit.

To submit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Subscribe" to the Internet ListServe application for this proposed exception, send an e-mail message to: listserver@unixmail.rtpnc.epa.gov that says "Subscribe RIN–2070–AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN–2070–AC69@unixmail.rtpnc.epa.gov. All comments and data in electronic form should be identified by the docket number OPP–250100 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN– 2070–AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. To obtain further information on the electronic comment process, or on submitting comments on this proposed exception electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202–260–2253;

FAX: 202–260–3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this proposed rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted by others using the RIN–2070–AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN–2070–AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN–2070–AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN–2070–AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments submitted only in written form will not be transferred into electronic form and thus may be accessed only by reviewing them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this proposed rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this proposed rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

VII. Statutory Requirements

As required by FIFRA sec. 25(a), this proposed rule was provided to the U.S. Department of Agriculture and to Congress for review. The FIFRA Scientific Advisory Panel waived its review.

VIII. Consultations

EPA has had informal consultations with some States through the EPA regional offices and at regularly scheduled meetings of SFIREG where State representatives were present. No significant issues were identified as a result of EPA's discussion with the States. Additionally, as a result of consultation with USDA, EPA has revised its proposal to include the employees of crop advisors in the proposed exemption and has proposed the temporary exemption to allow time for crop advisors to become certified or licensed. EPA has also revised this document to clarify the proposal and to more directly request specific comment on the options.

IX. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action" because it raised potentially novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. In addition, the Agency estimates that the total potential cost savings associated with the proposed amendment would range from $1.7 million to $3.5 million over a ten year period, with a single crop advisor potentially saving as much as $1200 over a ten year period. This action was submitted to OMB for review, and any comments or changes made have been documented in the public record.

B. Regulatory Flexibility Act

This rule was reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it was determined that the proposed rule would not have an adverse impact on any small entities. The proposed rule will provide cost savings to an estimated 2,500 to 5,000 crop advisors and an additional 15,000 employees of crop advisors who will be affected by the proposed amendments. I therefore certify that this proposal does not require a separate Regulatory Impact Analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

EPA has determined that there are no information collection burdens under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., associated with the requirements contained in this proposal.

List of Subjects In Part 170

Administrative practice and procedure, Occupational safety and health, Pesticides and pests.

Dated: January 3, 1995.

Carol M. Browner,

Administrator

Therefore, it is proposed that 40 CFR part 170 be amended as follows:

PART 170—WORKER PROTECTION STANDARD

1. The authority citation for Part 170 would continue to read as follows:

Authority: 7 U.S.C. 136w

2. In Section 170.130 by paragraph (b) to read as follows:

§170.130 Pesticide safety training for workers.

* * * * *

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A worker who satisfies the training requirements of part 171 of this chapter.

(3) A worker who satisfies the handler training requirements of §170.230(c).

(4) A person who is licensed or certified as a crop advisor by a program administered or approved by a State, Tribal or Federal agency having jurisdiction over such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in §170.230(c)(4)

* * * * *

3. In Section 170.202 by revising paragraph (c) to read as follows:

§170.202 Applicability of this subpart.

* * * * *

(c) *Exemptions.* The handlers listed in this paragraph are exempt from the specified provisions of this subpart.

(1) *Owners of agricultural establishments.* (i) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

(A) Section 170.210(b) and (c).
(B) Section 170.222.
(C) Section 170.230
(D) Section 170.232.
(E) Section 170.234.
(F) Section 170.235.
(G) Section 170 240(e) through (g).
(H) Section 170.250.
(I) Section 170.260.

(ii) The owner of the agricultural establishment must provide the protections required by paragraph (c)(1)(i) of this section to other handlers and other persons who are not members of his immediate family.

(2) *Licensed or certified crop advisors and their employees.* (i) A person who is licensed or certified as a crop advisor by a program administered or approved by a State, Tribal or Federal agency having jurisdiction for such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in §170 230(c)(4), is not required to provide to himself or his crop advisor employees the protections of:

(A) Section 170.210(b) and (c).
(B) Section 170.232.
(C) Section 170.240.
(D) Section 170.250.
(E) Section 170.260.

(ii) Any individual when performing tasks as a crop advisor is exempt until January 1, 1996 from the requirements of:

(A) Section 170.210(b) and (c).
(B) Section 170.230.
(C) Section 170.232.
(D) Section 170.240.
(E) Section 170.250.
(F) Section 170.260.

5. In §170.230 by revising paragraph (b) to read as follows:

§170.230 Pesticide safety training for handlers.

* * * * *

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A handler who satisfies the training requirements of part 171 of this chapter.

(3) A person who is licensed or certified as a crop advisor by a program administered or approved by a State, Tribal or Federal agency having jurisdiction over such licensing or certification, provided that a requirement for such licensing or certification is pesticide safety training that includes all the information set out in paragraph (c)(4) of this section.

* * * * *

[FR Doc. 95–584 Filed 1–6–95; 12:16 pm]
BILLING CODE 6560–50–F

---

40 CFR Part 170

[OPP–250098; FRL–4917–7]

Exceptions to Worker Protection Standard Early Entry Restrictions; Irrigation Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed exceptions to rule; request for comment.

SUMMARY: EPA is considering exceptions to the Worker Protection Standard for Agricultural Pesticides (WPS), published at 57 FR 38102 (August 21, 1992), that would allow, under specified conditions, workers to perform early entry irrigation tasks for more than 1 hour per day during a restricted entry interval (REI). Early entry is entry to a pesticide-treated area before expiration of the REI.

DATES: Comments, data, or evidence should be submitted on or before February 27, 1995. EPA does not intend to extend this comment period.

ADDRESSES: Comments identified by the document control OPP–250098 should be submitted in triplicate by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environment Protection Agency, 401 M St., SW., Washington, DC 20460. All written comments filed pursuant to this notice will be available for public inspection in Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805, from 8:00 a.m. to 4:30 p.m. Monday thru Friday except legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserver@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN–2070–AC69; or through the EPA Electronic Bulletin Board by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP–250098 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VI. of this document.

FOR FURTHER INFORMATION CONTACT: Jeanne Heying, Certification, Training and Occupational Safety Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305–7666, or your regional or State official as noted in the List of Worker Protection Contact below.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised since publication of the final rule in August 1992 by those interested in and affected by the rule. In addition to this proposed amendment, EPA is publishing four other notices soliciting public comment on concerns raised by various affected parties. Other actions EPA is considering include: (1) modification to the worker training requirements; (2) requirements for crop advisors; (3) reduced restricted entry intervals (REIs) for low risk pesticides; and (4) reduced early entry restrictions for activities involving limited contact with treated surfaces. The Agency is interested in receiving comments on all options and questions presented.

Section 170.112(e) of the Worker Protection Standard for Agricultural Pesticides (WPS) (40 CFR part 170), published at 57 FR 38102 (August 21, 1992), provides a mechanism for considering exceptions to the WPS provision that limits early entry during a restricted-entry interval (REI) to perform agricultural tasks, including irrigation tasks. The Agency has received requests for exceptions to the early entry limitations for performing irrigation tasks from parties in the States of California and Hawaii. The California parties also requested an indefinite entry period for frost-prevention tasks; this request has been returned to the requesters for additional supporting information and may be considered later. The Agency is proposing for consideration a national exception to the WPS early entry restrictions for performing irrigation tasks. The purpose of this notice is to solicit further information and comment on the proposal to assist the Agency in determining whether the conditions of entry under any of the proposed exceptions would pose unreasonable risks to workers performing the permitted irrigation tasks during a restricted-entry interval.

In addition, EPA solicits further information about the economic impact of granting or not granting the proposed exceptions. For further information please contact the person list under FOR FURTHER INFORMATION CONTACT above, or your regional or State official as noted in the following List:

List of Worker Protection Contacts

EPA Regional Contacts

Ms. Pam Ringhoff
U.S. EPA, Region I
Pesticides Section (APP)
John F. Kennedy Federal Bldg.
Boston, MA 02203
Phone: 617/565-3931
FAX: 617/565-4939

Ms. Theresa Yaegel-Souffront
U.S. EPA, Region II, (MS-240)
Pesticides, & Asbestos Section
2890 Woodridge Avenue, Bldg. 209
Edison, NJ 08837
Phone: 908/906-6897
FAX: 908/321-6771

Ms. Magda Rodriguez
U.S. EPA, Region III
Pesticides Section (3AT-32)
841 Chestnut Bldg.
Philadelphia, PA 19107
Phone: 215/597-0442
FAX: 215/597-3156

Ms. Jane Horton
U.S. EPA, Region IV
Pesticides Section (4APT)
345 Courtland Street, NE
Atlanta, GA 30365
Phone: 404/347-3222
FAX: 404/347-1681

Mr. Don Baumgartner
Mr. John Forwalter
Ms. Irene Miranda
U.S. EPA, Region V
Pesticides Section (SP-14J)
77 West Jackson Boulevard
Chicago, IL 60604-3507
Phone: 312/886-7835 (Don)
886-7834 (John)
353-9686 (Irene)
FAX: 312/353-4342

Mr. Jerry Oglesby
U.S. EPA, Region VI
Pesticides Section (6T-PP)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Phone: 214/665-7563
FAX: 214/665-2164

Ms. Kathleen Fenton
U.S. EPA, Region VII
Pesticides Section (TOPE)
726 Minnesota Avenue
Kansas City, KS 66101
Phone: 913/551-7874
FAX: 913/551-7065

Mr. Ed Stearns
U.S. EPA, Region VIII
Pesticides Section (8ART-TS)
999 18th Street, Suite 500
Denver, CO 80202-2405
Phone: 303/293-1745
FAX: 303/293-1647

Ms. Katherine H. Rudolph
U.S. EPA, Region IX
Pesticides Section (A-4-5)
75 Hawthrone Street
San Francisco, CA 94105
Phone: 415/744-1065
FAX: 415/744-1073

Mr. Allan Welch
U.S. EPA, Region X
Pesticides Section (AT-083)
1200 Sixth Avenue
Seattle, WA 98101
Phone: 206/553-1980
FAX: 206/553-8338

National Contacts

REGION I

Connecticut

Ms. Debra Cattucio
Pesticides/PCB Management Division
Dept. of Environmental Protection
165 Capitol Avenue
Hartford, CT 06106-1600
Phone: 203/566-5148
FAX: 203/566-4379

Maine

Ms. Tammy Gould
Board of Pesticide Control
ME Dept. of Agriculture/Food & Rural Resources
Station 28
State Office Building
Augusta, ME 04333-0028
Phone: 207/287-2731
FAX: 207/287-7548

Massachusetts

Ms. Lillian Rivera
Pesticide Bureau/Department of Food & Agriculture
Department of Agriculture
100 Cambridge Street
Boston, MA 02202-0009
Phone: 617-727-3020
FAX: 617/727/7235

New Hampshire

Mr. Murray L. McKay, Director
Division of Pesticide Control
New Hampshire Dept. of Agriculture
Caller Box 2042
Concord, NH 03302-2042
Phone: 603/271-3550
FAX 603/271-1109

Rhode Island

Ms. Elizabeth M. Lopes-Duguay
Senior Plant Pathologist
Division of Agriculture
Department of Environmental Management
22 Hayes Street
Providence, RI 02908-5025
Phone: 401/277-2781
FAX: 401/277-6047

Vermont

Mr. John Berino
Division of Plant Industry
Laboratories & Consumer Assurance
Dept. of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901
Phone: 802/828-2431
FAX. 802/828-2361

REGION II

New Jersey

Mr. Raymond Ferrarin
Assistant Director
Pesticide Control Program
New Jersey Department of Environmental Protection and Energy
CN 411
Trenton, NJ 08625
Phone: 609/530-4122
FAX. 609/530-8324

New York

Mr James S. Moran, PE, Supervisor
Bureau of Pesticides Regulation
New York State Department of Environmental Conservation
50 Wolf Road
Albany, NY 12233-7254
Phone: 518/457-7482
FAX: 518/457-0629

Puerto Rico

Ms. Arline R. de Gonzalez, Director
Agriculture Materials Laboratory
Puerto Rico Dept. of Agriculture
P.O. Box 10163
Santurce, PR 00908
Phone: 809/796-1710
FAX. 809/796-4426

Virgin Islands

Mr Leonard Reed
Assistant Director
Division of Environmental Protection
Virgin Islands Dept. of Planning & Natural Resources
Nisky Center, Suite 231
Nisky 45 A
St. Thomas, U.S. VI 00802
Phone: 809/774-3320
FAX. 809/774-5416

REGION III

Delaware

Mr Larry Towle
Delaware Dept. of Agriculture
2320 S. Dupont Highway
Dover, DE 19901
Phone: 302/739-4811
FAX. 302/697-6287

District of Columbia

Mr Mark Greenleaf (C-T)
DCRA/ERA/ECD
Pesticides Section - Suite 203
2100 Martin Luther King, Jr. Ave. SE
Washington, DC 20020
Phone: 202/645-6080
FAX. 202/645-6622

Maryland

Mr John Bergquist
Pesticide Regulation Section
Maryland Dept. of Agriculture
50 Harry S. Truman Parkway
Annapolis, MD 21401
Phone: 410/841-5710
FAX: 410/841-2765

Pennsylvania

Mr. Dave Bingamen
Bureau of Plant Industry
PA Department of Agriculture
2301 N. Cameron Street
Harrisburg, PA 17110-9408
Phone: 717/787-4843
FAX: 717/783-3275

Virginia

Mr. Don Delorme
Office of Pesticide Management
VA Department of Agriculture & Consumer Services,
P.O. Box 1163, Rm. 403
1100 Bank Street
Richmond, VA 23219
Phone: 804/371-6558
FAX: 804/371-8598

West Virginia

Mr. Ed Hartman
West Virginia Dept. of Agriculture
P.O. Box 66
Inwood, WV 25428
Phone: 304/229-0981
FAX: 304/229-2510

REGION IV

Alabama

Mr. Pat Morgan
Pesticide Administrator
AL Dept. Agriculture & Industries P.O. Box 3336
Montgomery, AL 36109-0336
Phone: 205/242-2656
FAX: 205/240-3103

Florida

Dr Marion Fuller
Ms. Mari Dugarte-Stavania
Florida Dept. of Agriculture
3125 Conner Boulevard, MC-2
Tallahassee, FL 32399-1650
Phone: 904/488-3314
FAX. 904/922-2134

Georgia

Mr. Mike Evans
Special Projects Coordinator
Georgia Dept. of Agriculture
Entomology & Pesticides
Capitol Square, Suite 550
Atlanta, GA 30334
Phone: 404/651-7861
FAX. 404/656-3644

Kentucky

Mr Ken Richeson
Worker Protection Coordinator
Kentucky Agriculture
Div of Pesticides
500 Metro Street
Frankfort, KY 40601
Phone: 502/564-7274
FAX: 502/564-3773

Mississippi

Mr. Tommy McDaniel
Pesticide Coordinator
MDAC, Bureau of Plant Industry
P.O. Box 5207
Miss. State, MS 39762
Phone: 601/325-3390
FAX: 601/325-8397

North Carolina

Ms. Kay Glenn
Pesticide Specialist
N.C. Dept. of Agriculture
P.O. Box 27647
Raleigh, NC 27611
Phone: 919/733-3556
FAX: 919/733-9796

South Carolina

Dr. Neil Ogg
Ms. Tammy Lark
Special Programs Manager
Dept. of Fertilizer & Pesticide Control
257 Poole Agricultural Center
Clemson University, Box 340394
Clemson, SC 29634-0394
Phone: 803/656-3171
FAX: 803/656-3219

Tennessee

Ms. Karen Roecker
Worker Safety Coordinator
Tenn. Dept. of Agriculture
Div of Plant Industries
P.O. Box 40627, Melrose Station
Nashville, TN 37204
Phone: 615/360-0795
FAX: 615/360-0757

REGION V

Illinois

Mr Thomas Walker, Manager
Support Services
Bureau of Environmental Programs
IL Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield, IL 62706
Phone: 217/785-2427
FAX: 217/785-4884

Indiana

Mr Joseph Becovitz
Office of Indiana State Chemist
Purdue University
1154 Biochemistry Building
West Lafayette, IN 47907-1154
Phone: 317/494-1585
FAX. 317/494-4331

Michigan

Ms. Katherine Fedder

MI Department of Agriculture
Pesticides & Plant Pest Management Division
611 West Ottawa Street
P.O. Box 30017
Lansing, MI 48909
Phone: 517/373-1087
FAX: 517/373-4540

Minnesota

Mr Steve Poncin, Supervisor
Pesticide Enforcement Unit
MN Department of Agriculture
90 West Plato Blvd.
St. Paul, MN 55107
Phone: 612/296-5136
FAX.

Ohio

Mr Robert DeVeny
Pesticide Division Inspector
OH Department of Agriculture
65 South Front Street
Columbus, OH 43068
Phone: 216/297-6452
FAX. 614/759-1467

Wisconsin

Mr. Eric Nelson
WI Department of Agriculture
Trade & Consumer Prôtection
801 West Badger Road
Madison, WI 53708
Phone: 608/266-9429
FAX. 608/266-5307

REGION VI

Arkansas

Mr. Don Alexander/
Mr Charles Armstrong
Arkansas State Plant Board
P.O. Box 1069
Little Rock, AR 72203
Phone: 501/225-3590
FAX. 501/225-3590

Louisiana

Mr Peter Grandi
LA Department of Agriculture & Forestry
P.O. Box 3596
Baton Rouge, LA 70821-3596
Phone: 504/925-3760
FAX. 504/925-3760

New Mexico

Ms. Sherry Sanderson
New Mexico Department
P.O. Box 30005, Dept. 3AQ
Las Cruces, NM 88003-0005
Phone: 505/646-4837
FAX. 505/646-5977

Oklahoma

Mr Jerry Sullivan
Plant Industry & Consumer Services
OK State Department of Agriculture
2800 North Lincoln Blvd.
Oklahoma City, OK 73105-4298
Phone: 405/521-3864
FAX: 405/521-4912

Texas

TX Department of Agriculture
Stephen F Austin Bldg.
P.O. Box 12847
Austin, TX 78711
Phone: 512/463-7717
FAX. 512/475-1618

REGION VII

Iowa

Mr Jim Ellerhoff
Program Coordinator
IO Department of Agriculture & Land Stewardship
Henry A. Wallace Building
900 East Grand
Des Moines, IO 50319
Phone: 515/281-8506
FAX: 515/281-6800

Mr Charles Eckerman
IO Department of Agriculture & Land Stewardship
Henry A. Wallace Building
900 East Grand
Des Moines, IO 50319
Phone: 515/281-8590
FAX. 515/281-6800

Kansas

Mr Gary Boutz,
Pesticide Law Administrator
Ms. Glenda Mah,
Programs Coordinator
Kansas State Board of Agriculture
901 S. Kansas, 7th Floor
Topeka, KS 66612-1281
Phone: 913/296-5395 (G. Boutz)
913/296-0672 (G. Mah)
FAX. 913/296-0673

Missouri

Mr Jim Lea, Supervisor
Plant Health Division
MO Department of Agriculture
P.O. Box 630
Jefferson City, MO 65101
Phone: 314/751-5508
FAX: 314/751-0005

Mr Paul Andre
Programs Coordinator
MO Department of Agriculture
P.O Box 630
Jefferson City, MO 65101
Phone: 314/751-9198
FAX 314/751-0005

Nebraska

Mr Richard Reiman, Chief
Bureau of Plant Industries
NE Department of Agriculture
P.O. Box 94756, State House Station
Lincoln, NE 68509
Phone: 402/471-2394
FAX: 402/471-3252

Mr. Grier Friscoe, Manager
Mr. Jamie Green, Prog. Coord.
Pesticide/Noxious Weed Prog.
Post Office Box 94756
State House Station
Lincoln, NE 68509
Phone: 402/471-6853 (G. Friscoe)
402/471-6882 (J. Green)
FAX.

REGION VIII

Montana

Mr. Steve Baril
Environmental Management Office
Department of Agriculture
Agriculture Livestock Bldg.
Capitol Station
Helen, MT 59620
Phone: 406/444-2944
FAX. 406/444-5409

North Dakota

Mr. Jack Peterson, Director
ND Department of Agriculture
State Capitol Building
600 East Blvd. 6th Floor
Bismark, ND 58505-0020
Phone: 701/224-2231
FAX: 701/224-4567

South Dakota

Mr Brad Berven, Administrator
SD Department of Agriculture
Division of Regulatory Services
Anderson Bldg.
Pierre, SD 57501
Phone: 605/773-4012

Mr. Joshua Logg, Jr.
Pesticide Enforcement Program
Cheyenne River Sioux Tribe
P.O. Box 590
Eagle Butte, SD 57625
Phone 605/964-6551
FAX. 605/964-4151

Mr Irv Provost, Coordinator
Pesticide Enforcement Program
Natural Resources Agency
Oglal Sioux Tribe
P.O. Box 468
Pine Ridge, SD 57770

Utah

Mr Gary L. King
Department of Agriculture
350 North Redwood Road
Salt Lake City, UT 84116
Phone: 801/538-7188
FAX. 801/538-7126

REGION IX

Arizona

Mr Dan Danielson

Environmental Services Division
Department of Agriculture
1688 N 7th Street
Phoenix, AZ 85006
Phone: 602/407-2910
FAX. 602/407-2909

Navajo Nation

Mr Jefferson Biakkedy
Pesticide Regulatory Program
Navajo Environmental Protection Administration
Navajo Nation
P.O. Box 308
Fort Defiance, AZ 86504
Phone: 602/729-4155
FAX. 602/729-5246

Intertribal Council of Arizona

Ms. Elaine Wilson
Inter Tribal Council of Arizona
4205 North 7th Avenue, Suite t200
Phoenix, AZ 85013
Phone: 602/248-0071
FAX. 602/248-0080

California

Ms. Virginia Rosales
Pesticides Enforcement Branch
Department of Pesticide Regulation
CA Environmental Protection Agency
1220 N Street
Sacramento, CA 95814
Phone: 916/445-3874
FAX.

Hawaii

Mr Gerald Kinro
Pesticides Branch
Division of Plant Industry
HI Department of Agriculture
P.O. Box 22159
Honolulu, HI 96822-0159
Phone: 808/973-9401
FAX. 808/973-9418

Nevada

Mr Chuck Moses
Division of Plant Industry
NV Department of Agriculture
P.O. Box 11100
Reno, NV 89510-1100
Phone: 702/688-1180
FAX. 702/688-1178

REGION X

Alaska

Mr. Karl Kalb
Dept. of Environmental Conservation
500 South Alaska, Suite A
Palmer, AK 99645
Phone: 907/745-3236
FAX. 907/745-8125

Idaho

Mr John Helsol
Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, ID 83203
Phone: 208/238-3860
FAX: 208/237-9736

Mr Robert Hays
ID Dept. of Agriculture
P.O. Box 790
Boise, ID 83701
Phone: 208/334-3550
FAX. 208/334-228

Oregon

Mr Chris Kirby
OR Department of Agriculture
635 Capitol Street, N.E.
Salem, OR 97310-0110
Phone: 503/378-3776
FAX. 503/378-5529

Ms. Marylin Schuster
Oregon OSHA
21 Labor & Industries Bldg.
Salem, OR 97310
Phone: 503/378-3272
FAX. 503/378-5729

Washington

Mr Don Locke
WA Department of Labor & Industries
P.O. Box 44610
Olympia, WA 98504-4610
Phone: 206/956-5426
FAX. 206-956-5438

Ms. Ann Wick
WA State Dept. of Agriculture
Pesticide Management Division
P.O. Box 42589
Olympia, WA 98504-2589
Phone: 206/902-2050
FAX. 206/902-2093

A. Worker Protection Standard

The revisions to the Worker Protection Standard (WPS) promulgated at 57 FR 38102, August 21, 1992, were intended to reduce the risk of pesticide poisonings and injuries among agricultural workers, including pesticide handlers. The WPS includes three types of provisions to:

(1) Eliminate or reduce exposure to pesticides.

(2) Mitigate exposures that occur

(3) Inform employees about the hazards of pesticides.

Exposure reduction provisions include application restrictions, use of personal protective equipment (PPE), and entry restrictions.

B. Restricted Entry Intervals (REI)

Agricultural workers, in general, are prohibited from entering a pesticide-treated area during the restricted entry interval (REI) specified on the product labeling if they might contact anything treated with a pesticide.

Regulations at 40 CFR part 156, subpart K specify that WPS labeling retains all of the pesticide-specific permanent REIs set by EPA on the basis of adequate data, and retains all established interim REIs longer than those established in part 156. The WPS preamble notes: "These longer REIs have been based, in general, on either delayed [chronic] effects or other exposure hazards such as persistence, post-application chemical transformations, or potential for severe skin sensitization." In the absence of pesticide-specific REIs, the WPS establishes a range of REIs, from 12 to 72 hours, depending upon the toxicity of the active ingredient(s) and other factors.

During an REI, tasks that result in contact with treated surfaces (including soil, water, air, and plant surfaces in the treated area) are limited to the following:

(1) Short-term tasks (1 hour per day) that do not require hand labor.

(2) Tasks, including hand labor tasks, performed in a situation meeting the definition of an agricultural emergency

(3) Tasks that may be permitted by EPA through case-by-case exceptions. Exceptions may be granted pursuant to 40 CFR 170.112(e)(2), if affected persons or organizations persuade EPA that the benefits of the exception outweigh the risks associated with the exception and the workers can perform the early entry tasks without unreasonable adverse risk.

C. Current WPS Irrigation Provisions During REI

Irrigation activities expressly are excluded from the definition of "Hand labor" at 40 CFR 170.3: "Hand labor does not include operating, moving, or repairing irrigation or watering equipment...." EPA realizes that moving, adjusting, or repairing irrigation equipment may result in contact with treated surfaces, yet these tasks may be necessary while an area remains under a REI. The Agency thus has allowed entry during an REI to perform irrigation-related tasks, but has placed strict limitations on that entry

These limitations, set out at 40 CFR 170.112(c), include:

(1) There is no entry for the first 4 hours after application and thereafter until any exposure level listed on the labeling has been reached or any ventilation criteria established at 40 CFR 170.110(c)(3) or in the labeling has been met.

(2) No hand labor tasks are performed

(3) The time for any worker in treated areas under an REI does not exceed 1 hour in any 24–hour period.

(4) The required PPE is provided, cleaned, and maintained for the worker

(5) Agricultural employers ensure that workers wear required PPE, and other PPE-related protections are provided.

(6) Measures are taken to avoid heat stress (see, A Guide to Heat Stress in Agriculture, EPA HW77 March 1994).

(7) Required decontamination supplies and decontamination areas are provided.

(8) Required PPE-related, heat-stress-related, and labeling-specific safety information have been furnished.

Pursuant to The Pesticide Compliance Dates Extension Act, Pub. L. 103–231, April 6, 1994, implementation of some WPS provisions, including some entry restrictions, has been delayed until January 1, 1995. Until then, if irrigation workers contact with pesticide-treated surfaces is limited only to feet, lower legs, hands, and forearms, then coveralls plus chemical-resistant gloves and chemical-resistant footwear may be substituted for the early-entry PPE specified on the label. Also, until January 1, 1995, workers performing non-hand-labor tasks may work for an unlimited time in an area remaining under an REI. Starting January 1, 1995, routine early entry to perform non-hand labor tasks, including operating irrigation equipment, will be limited to 1 hour per worker each day if the entry would result in contact with pesticide-treated surfaces. In addition, irrigation workers must wear PPE specified on the pesticide label for early entry.

D. Irrigation Tasks Allowed by the WPS After January 1, 1995

EPA has issued the following guidance in the publication *Worker Protection Questions & Answers*, clarifying circumstances in which irrigation tasks can take place during a restricted-entry interval pursuant to the restrictions at 40 CFR 170.112:

WPS was designed to reduce the opportunities for workers to be exposed to pesticide residues in treated areas during REIs. For example, with the exceptions noted below, irrigation pipe may not be moved during REIs when that task would bring workers into contact with treated surfaces. As a result, agricultural employers should schedule pesticide applications and irrigation so that the need for irrigation involving workers during REIs will be minimized. If, however, irrigation in a treated area under a REI is essential, it is permitted under WPS under the following conditions:

1. *Without entry to treated Area.* Some irrigation tasks take place at the edges of fields, which may not be within the treated area (area to which the pesticide has been directed.) An example may be the installation or removal of pipe for furrow irrigation. As long as such activities do not cause workers to enter the treated area, they may take place without time limit or use of PPE during the REI.

2. *With Entry to Treated Area.*

a. *By Pesticide Handlers.* During chemigation or when pesticide labeling requires the pesticide to be watered-in, this task may be performed by trained handlers wearing the handler PPE specified on the product labeling. [See the Question and Answer on watering-in, found in the *Handler Activities* section of *Worker Protection Questions & Answers*, for additional details.]

b. *By Workers With No Contact.* WPS provides an exception for entry to treated areas, after any inhalation exposure level or ventilation criteria have been met, without PPE or other time limitation, when there will be no contact with the pesticide or its residues (40 CFR 170.112(b)]. Note, however, that PPE cannot be used to prevent the contact under this exception. This exception may apply to a variety of typical irrigation situations, e.g.,

- Workers moving irrigation equipment or performing other tasks in the treated area after the pesticide was correctly soil-incorporated or injected, provided the workers do not contact the soil subsurface by digging or other activities.
- Workers walking or performing other tasks in furrows after the pesticides are applied to the soil surface in a narrow band on beds and there is no contact with those treated surfaces.

c. *Short Term* — Workers may enter treated areas during REIs to perform short-term tasks [40 CFR 170.112(c)] provided that:

(1) Such entry does not take place during the first 4 hours after application and until any inhalation exposure limits or ventilation criteria are met;

(2) The entry does not involve more than 1 hour per day per worker;

(3) The worker does not perform tasks defined in WPS to be hand labor (operating irrigation equipment is not hand labor under WPS);

(4) The worker wears the early-entry PPE specified on the pesticide labeling;

(5) Is correctly informed as required for early-entry workers in the WPS; and

(6) all other applicable requirements of 40 CFR 170.112 are met.

(d) *Agricultural Emergencies.* The WPS permits early entry by workers to perform tasks including irrigation while wearing early-entry PPE, and without time limits, in response to an agricultural emergency, as defined in the regulation at 40 CFR 170.112(d).

e. *EPA-Approved Exceptions.* Section 170.112(e) of WPS permits exceptions to the general prohibition on work in treated areas during REIs when EPA has approved a special exception. Exceptions may be requested of EPA as described in that section of the regulation.

The EPA publication *Worker Protection Questions & Answers* is available through the docket at EPA Headquarters.

II. Evidence Necessary to Support Exception

The Worker Protection Standard establishes at 40 CFR 170.112(e)(2), a process to allow the Agency to initiate an exception to WPS entry restrictions, or to grant exceptions upon request from interested persons, if the benefits associated with otherwise-prohibited early entry activities exceed the risks associated with those early entry activities.

As specified in existing WPS, at 40 CFR 170.112(e)(2), data supporting an exception request should include:

(1) Crop(s) and specific production task(s) for which the exception is requested, including an explanation of the necessity to apply pesticides of types and at frequencies such that the REI would interfere with necessary and time-sensitive tasks for the requested exception period.

(2) Geographic area, including unique exposures or economic impacts resulting from REI prohibitions.

(3) Evaluation, for each crop-task combination, of technical and financial viability of alternative practices, and projection of practices most likely to be adopted by growers if no exception is granted, including rescheduling pesticide application or irrigation tasks, non-chemical pest control, machine irrigation, or use of shorter-REI pesticides.

(4) Per-acre changes in yield, market grade or quality, and changes in revenue and production cost attributable to REI prohibitions for crop and geographic area, specifying data before and after WPS implementation. Also, include factors which cause changes in revenue, market grade or quality; product performance and efficacy studies; and source of data submitted and the basis for any projections.

(5) The safety and feasibility of the requested exception, including feasibility of performing irrigation activity wearing early-entry PPE required for pesticides used; means of mitigating heat-related illness; time required daily per worker to perform irrigation activity; and methods of reducing worker exposure. Mitigating factors discussed should include availability of water for routine and emergency decontamination, and mechanical devices to reduce worker contact with treated surfaces. Discussion of the costs of early entry should include decontamination facilities, worker training, heat stress avoidance procedures, and provision, inspection, cleaning and maintenance of PPE.

(6) Why alternative practices would not be technically or financially feasible.

III. Requests for Exception and Supporting Evidence

Parties from the States of California and Hawaii each have requested exceptions to the WPS REI requirements for workers performing tasks related to irrigation. The full exception requests are available through the docket at EPA Headquarters, the Regions and the States.

A. California Growers Request for Exception

California growers have requested that workers be permitted entry into treated areas under an REI for an indefinite time to perform irrigation tasks when workers are (1) properly trained, (2) use the label-specified PPE, (3) are provided decontamination facilities, and (4) are not allowed entry to the treated area for at least 4 hours following pesticide application.

California cited a broad range of soil types, climates and crops requiring irrigation tasks such as moving pipe, turning on valves, checking sprinkler and drip irrigation nozzles, and removing debris or obstructions impeding water flow. Requesters indicate that these tasks "do not involve substantial contact with treated plants." The California requesters cite conditions specific to their state to support an REI exception.

1. *Alternate practices.* The California requesters assert that alternative practices are not technically practical because the availability of irrigation water is often at the discretion of the irrigation district. They note that often a grower does not know until the last few hours when water will arrive from the irrigation contractor.

The California requesters also state that the failure to properly irrigate plants in a timely manner induces plant stress, disrupts integrated pest management (IPM) practices, increases plant susceptibility to pests, and may ultimately increase pesticide use, resulting in greater exposure to workers.

Finally, the requesters state that the 1-hour limitation on early entry activity per worker per day unnecessarily restricts agricultural activities vital to crop production.

2. *California regulations.* The requesters cite California Regulations (Article 3, Field Worker Safety, section 6770), which permit workers to perform irrigation activities in treated areas during a restricted-entry interval, provided:

(1) Sprays have dried and dusts have settled.

(2) The workers are informed of the identity of the pesticide applied, the existence of the REI, and the protective work procedures they are required to follow.

(3) Workers are wearing the personal protective equipment required by the pesticide label for early entry.

(4) The workers are instructed to thoroughly shower with warm water and soap as soon as possible after the end of the work shift.

For certain pesticides, including all pesticides with the signal word DANGER and certain other pesticides with a history of illness or injury incidents involving workers exposed to post-application residues, the California regulations prohibit entry during a restricted-entry interval to perform hand labor tasks, such as picking, other hand harvesting, tying, pruning, tree-limb propping, disbudding, and other nonharvest cultural practices that may involve worker contact with plants. Irrigation tasks specifically are not included in this list of prohibited tasks. For all other pesticides, entry during a restricted-entry interval to perform tasks, including hand labor tasks, is permitted after sprays have dried and dusts have settled, provided the protections listed above are provided to the worker.

The California requesters state that heat-related illness will be mitigated by training workers and field-crew supervisors on heat stress symptoms and first-aid procedures. They note that drinking and handwash water and toilet facilities currently are required for all field workers under California regulations; and that the location of the nearest emergency medical care facility is listed on crop sheets that must be at each work site. They state also that WPS PPE maintenance provisions and early-entry restrictions will be required under California regulations as soon as they are revised to incorporate Federal standards.

3. *Economic impact.* The California requesters estimate a sizeable economic impact if the requested exception is denied, based upon an estimated crew of two to four workers who require 6 to 8 hours to set up a sprinkler irrigation system on a 20–acre block of a vegetable crop. They state that the WPS requirement for worker rotation after 1 hour is problematic because it would reduce efficiency and increase costs to recruit, hire, train and schedule workers; irrigators are unwilling to work for only 1 hour; and crop loss or nonuniform crop maturation would result from potential untimely irrigation of sensitive crops and seedlings.

4. *Pesticide injuries.* Requesters address the protective nature of the requested exception by citing California Department of Pesticide Regulation (CDPR) records of reported pesticide injuries through the California Pesticide Illness Surveillance Program. The requesters' evaluation of this information alleges that allowing protected workers into treated areas to conduct irrigation activities for an unlimited time after an initial period of prohibited entry does not result in significant risk of illness or injury. Requesters support their exception request with data from DPR's pesticide illness surveillance program, which tracks potential pesticide injuries. They state, "In 1990, there were approximately 2,500 alleged pesticide illnesses/ injuries reported. These included occupational and non-occupational situations. Of these, only 20 cases involved irrigators that were in fields when exposure occurred. Only 1 of the 20 irrigation-related injury cases was classified as 'definitely' related to pesticides. In that case, the worker was determined to be involved in an activity that involved contact with containers contaminated with pesticide residues. In 1990, there were over 2.2 million agricultural pesticide application reports submitted in the state. The rate of irrigator injuries to possible pesticide exposure was 1 in over 110,000 applications."

B. Hawaii Request for Exception

The State of Hawaii provided EPA with an exception request submitted by an agricultural establishment, the Hawaiian Commercial Sugar Company (HC&S). The request related specifically to irrigation activities related to planting new crops, and appeared to comprise full exemption from WPS REI requirements for all agricultural activities described in their request. Requesters specifically cite their desire to return to the pre-WPS standard allowing agricultural workers to enter a field after pesticide application, once dusts have settled and sprays have dried. It is noteworthy that this was not allowed in the legislation delaying implementation of some portions of the WPS, which provided: "Under the exception in section 2, no entry is allowed for the first 4 hours after application of the pesticide. This restriction parallels the requirements in the other exceptions to early entry promulgated in the Worker Protection Standard (WPS) at 40 CFR 170.112."

Requesters state that during seed planting there is a "buffer space" between the cover machine and the herbicide tractor to ensure that agricultural workers are not exposed to pesticide drift. The size of the buffer space is dependent upon the wind

direction. Requesters state that herbicide sprays dry within a few minutes, and that on a typical sunny day drying occurs on contact. The irrigation hook-up crew follows behind the weed control operations, and connect the irrigation tubing injected by the mechanical planter, to the irrigation mainlines existing in the field. Requesters state that the majority of irrigation work is done on the field edge, which has the least amount of pesticide.

Requesters state that timing of the irrigation operation is critical, since seed pieces are prone to desiccation and disease, and the seed needs water to germinate. Soil into which the seed pieces are placed is dry; thus if the fields are not irrigated immediately after planting, seed pieces will not germinate.

Requesters also note that irrigation system repair is conducted at the time of planting. The drip irrigation system is largely underground and the main line at the field perimeter is reused for every crop. Since it is underground, system damages from harvesting of the previous crop are not evident until planting of the section is started. Drip hookup is performed as soon as possible so system damages can be repaired and the system returned to function before the seed dehydrates. Underground pipes are composed of PVC (polyvinylchloride); thus there is a delay of at least 1 day to dry repair glues.

Requesters utilize furrow irrigation for approximately 2,000 acres of the 36,000 acre plantation, utilizing cane wash water from its factories. Installation of feeder ditches follow herbicide application in furrow irrigated fields. Some fields also are "ratooned," where cane stalks are severed at the base of the plant during harvest, and the cane plant regrows from the stubble. The mechanical planter follows the emerged cane line in ratooned fields and places seed in the gaps where there are no plants. Vegetation is present to heights less than 1 foot. Requesters state that it is readily evident when "sprays have dried and dusts have settled" in ratooned fields.

1. *Alternate practices.* The request was limited to the time until new preemergence herbicides are approved for use in sugarcane fields. Requesters note that application of water to the field before the herbicide operation would result in tractors stuck in the mud and compaction of the moist soil. They state that application of herbicides immediately after planting is critical because it allows for minimal use of pesticides — less material is needed to kill weeds as they try to emerge than to kill weeds after they emerge. Requesters state that capillary action of water is relied upon to wet the seed, this occurring within 24 to 72 hours depending upon soil type. Requesters state that if herbicide applications were delayed until after seed pieces were wetted, weed seeds would have germinated and herbicide usage rates would need to be increased.

Requesters also note that the HC&S is located on the island of Maui, in a valley with average wind speeds of approximately 30 miles per hour. Pesticide applications must be done carefully to reduce drift to non-target areas; timing of application is used as the variable to control pesticide volume applied, and tractors are used to minimize herbicide usage by more accurately directing material to the target area. Rains from 10 to 40 inches per year are very seasonal; therefore requesters state that the plantation is totally reliant upon drip irrigation for growing crops.

2. *Current regulations.* Requesters noted no pesticide regulations beyond current pesticide label requirements governing their operations. Requesters cited Hawaii's Workers Compensation Plan in discussing the safety and feasibility of their requested exception.

3. *Economic impact.* Requesters state that immature sugarcane stalks are high in moisture content and vulnerable to desiccation resulting in failure to germinate. The cut ends of the stalk (as well as damaged portions of the 40 percent of seed pieces which are damaged physically), are avenues of entry for disease organisms, specifically the fungus *Ceratocystis paradoxa* or pineapple disease. Requesters note that timely treatment, planting and irrigation of seed pieces thus is important.

Requesters note that tractor application of herbicides replaced aerial applications 7 years ago, in order to reduce herbicide usage, improve herbicide placement, reduce off-target drift, and to protect workers and the environment. Requesters also state that aerial applications are estimated to cost 20% more than current tractor costs, or $137,880 per year. Respraying by hand or tractor application is estimated to cost another $250,000 per year, to address areas missed along roads and pole lines, and increased weeds when application is delayed due to unfavorable wind conditions. Thus requesters estimate that total increased operating costs for aerial herbicide applications in place of timely tractor applications is $387,880 per year, an increase of 55 percent over current practice, as well as unquantifiable effects of potential off-target drift and potential for greater worker exposure. Nighttime aerial application is precluded by undulating terrain, poles and lines transecting fields, difficulty in determining flight path, and variable wind.

Requesters also estimate that water application before herbicide application would impair field trafficability, decrease plant growth, increase weeds, require more pesticide use and additional worker exposure, and cost approximately $301,600 or 42 percent more than current costs. Requesters estimate that using more tractors to cover the treated seed would require significant capital expenditure, with very poor return on investment since there will be significant amounts of unproductive time between tractor operations. They estimate an increase of $232,000 in operating costs per year to increase tractors and associated additional manpower, an increase of 33 percent over current operating costs, with no return on investment. Requesters also considered utilizing night operations to minimize the impact of a 12–hour REI. They estimate an increase of $188,873 in annual operating costs, or 27 percent over current costs for this alternative, primarily due to missed areas, repair to damaged risers, and installation of lights.

Finally, requesters estimate a cost of $702,000 for adhering to a stated 12–hour REI, due to delayed or reduced germination of seed pieces, a loss of at least 2 months in crop age, and the added cost of hand replanting. They estimate a loss of $2,332,800 in plantation profitability due to yield impacts.

4. *Pesticide injuries.* Requesters cite the unique nature of sugarcane cultivation in discussing the safety and feasibility of their requested exception. They note that, unlike fields with crop canopies taller than workers, such as cornfields or grape vineyards, newly planted or ratooned sugarcane fields are bare or have vegetation less than 1 foot in height. They cite company policy requiring all workers to wear long-sleeved shirts, long pants, and eye protection. They note that irrigation hookup crews wear company-provided rubber gloves and rubber boots, due to constant contact with water. They state that irrigation crews work on the field edge, which has a minimum amount of herbicide, and that agricultural workers' frequent contact with water will wash off any residue that may be contacted. They note that workers have readily available potable water supplies, ready access to medical facilities, and ready access to Workers Compensation claims if they have a work related incident.

Requesters state that company records indicate 11 pesticide related incidents between 1985 and 1993. They estimate their records cover 80 handlers and 700 workers with field oriented tasks, working 40 to 48 hours per week, 12 months per year, for 15,795,000 exposure hours. They report 10 unforeseen incidents involving handlers, including exposure due to a broken hose or fittings. Requesters note that all but one incident occurred before 1990, when operational sequences were changed to address the exposure episodes. The one incident which required absence from work did not involve pre-emergence herbicide application, but rather hand application later in the crop cycle.

IV. The Agency's Exception Proposal

A. Background

Since the Worker Protection Standard was promulgated in August 1992, the Agency has received information from growers and representatives from the Departments of Agriculture in several states regarding the 1–hour-per-worker-per-day limit during a restricted-entry interval to perform irrigation-related tasks. Most commenters, including the National Association of the State Departments of Agriculture (NASDA), asserted that the restriction would cause substantial disruption in the production of a wide variety of agricultural crops across a broad geographic area. NASDA and others urged the Agency to consider allowing entry during a restricted-entry interval for an unlimited time per day per worker, if the worker would not have substantial contact with treated surfaces, including crop foliage.

They asked the Agency also to consider establishing a single suite of personal protective equipment that could be worn by irrigation workers rather than requiring them to wear the early-entry PPE specified on the labeling of the pesticide applied to the treated area. They argued that often irrigation workers need to work in several different treated areas in a single workday and that it would be burdensome to require workers to consult the pesticide label and to change their PPE before entering each different area. Although not directly addressed in the exception requests from California and Hawaii, these concerns are reflected in EPA's following proposed exception for irrigation tasks, and in the comments and information EPA solicits through this notice.

The proposed exception specifically excludes pesticides whose labeling requires "double notification" — both the posting of treated areas and oral notification to workers. The following Table lists the active ingredients subject to this requirement, which were identified in PR Notice 93–7.

B. Worker Protection Standard "Double Notification" Active Ingredient List

The following Table 1 does not contain the active ingredients in products already bearing mandatory posting requirements prior to adoption of the WPS and which must be retained under WPS. It may also contain a few active ingredients which upon further Agency review, such as during reregistration, will be found not to require double notification (posting of treated areas and oral notification to workers). EPA expects the list to be amended prior to any final determination by the Agency. Nonetheless, EPA believes that this list contains the bulk of the active ingredients subject to double notification, and the list is included in this notice for the convenience of commenters. These pesticides contain an active ingredient categorized as highly toxic when absorbed through the skin (acute dermal toxicity), or as highly irritating (corrosive) when it contacts the skin, or otherwise are pesticides considered by EPA as posing high risk to workers for reasons such as suspected delayed effects, epidemiological data, or unusually long restricted-entry intervals. The Agency requires "double notification" for a pesticide when an incidental exposure — for example, contact from brushing against the treated surfaces — has the potential to cause an acute illness or injury or a delayed effect, such as developmental toxicity. For pesticides that contain "double notification" requirements on their labeling, the short-term (1 hour per worker per day) exception at 40 CFR 170.112(c) would continue to apply.

TABLE 1.—DOUBLE NOTIFICATION ACTIVE INGREDIENT LIST

From PR Notice 93–7, Appendix 3–A

Common name	Chemical code	CAS Number
aldicarb	098301	116–06–3
aldoxycarb	110801	1646–88–4
arsenic acid	006801	7778–39–4
arsenic trioxide	007001	1327–53–3
carbofuran	090601	1563–66–2
chlorflurenol	098801	2536–31–4
chloropicrin	081501	76–06–2
cuprous oxide	025601	1317–39–1
disulfoton	032501	298–04–4
dodine	044301	2439–10–3
endothall, dimethylcocoamine.	038905	
endothall, disodium salt.	038903	129–67–9
ethephon	099801	16672–87–0
ethoprop	041101	13194–48–4
fonofos	041701	944–22–9
(s)-(+)-lactic acid	128929	79–33–4
metam–sodium	039003	137–42–8
methamidophos	101201	10265–92–6
methyl bromide	053201	74–83–9
methyl parathion	053501	298–00–0
mevinphos	015801	7786–34–7
nicotine	056702	54–11–5
paraquat	061601	1910–42–5
parathion	057501	56–38–2
phorate	057201	298–02–2
profenofos	111401	41198–08–7
propargite	097601	2312–35–8
sabadilla alkaloids	002201	8051–02–3
sulfotepp	079501	3689–24–5
sulfuric acid	078001	7664–93–9
sulprofos	111501	35400–43–2
tefluthrin	128912	79538–32–2
terbufos	105001	13071–79–9
TPTH	083601	76–87–9

The Agency has identified a range of national irrigation options with varying time and duration of entry, required PPE, and levels of exposure. The Pesticide Compliance Dates Extension Act, Pub. L. No. 103–231, included these irrigation provisions:

[A] worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that -- (1) no hand labor activity is performed; (2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product; (3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and (4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) Protective Equipment for Irrigation Work. — For irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms, the agricultural employer may provide coveralls,

chemical resistant gloves, and chemical resistant footwear instead of the personal protective equipment specified on the label.

The Congressional Record of March 24, 1994 provides further information concerning the legislative intent of the nature of the irrigation exception:

Section 2(b) provides, until January 1, 1995, optional PPE for early entry workers operating, moving, or repairing irrigation or watering equipment where contact with the treated surfaces is limited to hands, arms, lower legs, and feet. Instead of providing the PPE on the label specified for early entry, in this situation, the agricultural employer can provide to the irrigation workers the following PPE: chemical resistant boots, chemical resistant gloves, and coveralls. This exception is only for workers performing irrigation work.

In considering the terms of a proposed national exception, one concern is the need to learn from experience how the exception is being implemented, and whether workers truly are protected under the terms of the exception. Therefore, the Agency is proposing to limit the exception to 2 years, and to review and revise the terms of the exception as appropriate based upon experience during that 2 years.

C. Proposed Terms of Exception

The Agency is considering the following proposed exception to early entry restrictions for irrigation tasks:

A worker may enter a treated area during a restricted-entry interval to perform tasks related to operating, moving, or repairing irrigation or watering equipment, if the agricultural employer ensures that the following requirements are met:

(1) The worker's only contact with treated surfaces (including, but not limited to, soil, water, air, surfaces of plants, crops, and irrigation equipment if exposed to pesticides during application) is to the feet, lower legs, hands and forearms.

(2) The tasks could not be delayed until after expiration of the restricted-entry interval or the pesticide application could not be delayed until after the task is completed.

(3) The pesticide product does not have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers ("double notification").

(4) The personal protective equipment for early entry is provided to the worker. Such personal protective equipment shall either: (a) conform with the label requirements for early entry; or (b) coveralls, chemical resistant gloves, socks, and chemical resistant footwear.

(5) No hand labor activity is performed.

(6) The time in treated areas under a restricted-entry interval for any worker does not exceed 8 hours in any 24 hour period.

(7) The requirements of 40 CFR 170.112(c)(3) through (9) are met. These are WPS requirements for all early-entry situations that involve contact with treated surfaces. They include (a) a prohibition against entry during the first 4 hours, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached; (b) PPE definitions and requirements; (c) label-specific instructions; (d) heat-related illness avoidance measures; (e) decontamination requirements; and (f) a prohibition against wearing home or taking home PPE.

(8) Notice about the exception for irrigation workers. The agricultural employer shall:

(a) Notify early-entry irrigation workers orally, before such workers enter a treated area, that the establishment is relying on this exception to allow workers to enter treated areas to complete irrigation tasks.

(b) post information about the terms and conditions of this exception. The posted information shall convey the following information:

(i) The establishment is operating under the conditions of the exception for irrigation workers.

(ii) No entry is allowed for the first 4 hours following an application, and until any exposure level has been reached or any ventilation criteria have been met.

(iii) Time in treated areas under a restricted-entry interval for any worker does not exceed 8 hours in any 24 hour period.

(iv) Decontamination and change areas are provided.

(v) Basic safety training and label-specific information must be provided to early-entry irrigation workers.

(vi) The personal protective equipment specified on the product labeling for early-entry, or a set of coveralls, chemical resistant gloves, socks, and chemical resistant footwear must be provided, cleaned, and maintained for early-entry irrigation workers.

(vii) Early-entry irrigation workers must be instructed in how to put on, use, and remove the personal protective equipment.

(viii) Measures to prevent heat stress must be implemented when appropriate.

(ix) A pesticide safety poster and information about pesticide applications must be displayed in a central location.

(x) The exception expires on January 11, 1997

(9) This exception shall expire 24 months after the effective date.

V. Comments Solicited

The Agency is interested in a full range of comments and information on these exception requests, and is providing 45 days for submission of comments. Comments should be submitted in triplicate and addressed to the Document Control Officer (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

A. Possible Exceptions for Irrigation Tasks

The Agency requests comments on whether an exception (if granted) should be limited to a geographic region that would be comprised of two or more States in one area. Comments are requested on whether an exception should be limited to California, should be limited to Hawaii, should include other states with irrigation issues similar to California and Hawaii, or should include the whole country.

In determining whether to grant an exception, and, if so, whether the exception should or should not be limited to any particular geographic areas, the Agency will assess whether the risks and benefits associated with early-entry irrigation tasks differ across the country. In that regard, it should be noted that the California and Hawaii requests contained much information that may not apply to other parts of the country. This is particularly true with regard to the issue of the need to perform early-entry tasks. On this issue, the requestors identified a number of factors which may be unique to the two States involved. Commenters are encouraged to provide information about conditions in other States, and are particularly encouraged to include in their comments whether (and to what extent) the comments apply to particular geographic areas or to the whole country.

The Agency particularly welcomes comments and risk/benefit information (including scientific data, where available) on the California, Hawaii, and Agency proposed exceptions, addressing the following issues:

(1) The risks to workers under the various proposed exceptions, and whether risks differ among irrigation tasks or crop sites.

(2) Whether use of personal protective equipment while performing irrigation work is feasible; and to what extent PPE is necessary to reduce risk to workers performing irrigation tasks.

(3) Whether it is reasonable to expect early entry irrigation workers to wear the early entry PPE required on the pesticide label.

(4) Whether feasible alternative practices would make routine early entry unnecessary to perform irrigation work.

(5) Whether an exception is necessary to perform all irrigation tasks on all crop sites, or whether the Agency decision should differentiate among irrigation tasks or crops.

(6) Whether an exception is necessary in all States, or whether the Agency decision should differentiate among States or regions (two or more States in one area) because of climate, water availability, or for other reasons.

(7) The economic impact on the agricultural industry (or portions of the agricultural industry) of continued limitation of irrigation tasks during WPS restricted-entry intervals if the requested exception (or part of the exception) is not granted.

(8) Other States' regulation of irrigation workers' exposure to pesticides.

B. Exposure Data to Evaluate Irrigation Exception Proposals

To fully evaluate the exception proposals, the Agency solicits specific information concerning the following:

(1) Potential worker exposure to pesticide residues related to early-entry irrigation activities, including setting-up, running, maintaining, checking, repairing, and moving irrigation equipment for different irrigation systems and equipment.

(2) The amount of potential worker exposure/contact with surface residues or pesticides, including residues on soil foliage, and irrigation pipes and equipment, including the expected timing, frequency, and duration of exposure.

(3) The potential for field/site variables to affect potential exposure such as type of crop, crop height and density, crop row spacing, or whether surface residues are wet or dry.

(4) Minimal exposure irrigation practices including incidental or intermittent exposure to surface residues on soil, foliage, irrigation pipes and equipment; versus potentially high exposure practices involving prolonged or continuous hand and upper body exposure from contact with residues on medium to tall crops, or moving irrigation pipes that may have high surface pesticide residues from being exposed in the field during pesticide spray operations.

C. Benefits Data to Support Exception

EPA is specifically interested in benefits data that include, but are not limited to, the following:

(1) Identification of the crops, specific production tasks and/or unique geographic areas for which this exception would apply. A well supported explanation of the use practices (e.g. typical rates, number and methods of application) that would be adversely impacted by denying the exception.

(2) Evaluation of technically and financially viable alternatives for each crop/task combination and projection of the most likely alternative(s) that would be adopted by the growers in each unique geographic area if no exception is granted (e.g., rescheduling pesticide application or irrigation tasks, using non-chemical pest controls or shorter REI pesticides, utilizing different irrigation systems or agronomic practices, producing different crops, or any other adjustments that may be relevant). The submitted evaluations of impacts should be supported with documented empirical data as fully as possible; if experimental data are lacking, the basis for projected impacts must be adequately explained and documented.

(3) Unique geographic estimates of grower impacts per acre for crop yield, market grade or quality, revenues, and production costs. These estimates should be based on the assumption that the growers will adopt the most likely alternative(s). Any new investment costs associated with the REI should be appropriately annualized. All estimates should be sufficiently documented for items such as current crop production budgets and comparative efficacy/performance studies for alternative pest control practices. Background information such as five previous years of data associated with total acres grown or harvested, total production/yield, farm level prices, market grades and other relevant information for each unique geographic area should be provided in order to establish a baseline.

(4) Aggregate grower level impacts on an annual basis for all estimated impacted acres in each unique geographic area. Estimation of expected crop price changes, if any, without the exception and the basis for these estimates.

(5) Estimation of any other significant economic impacts that are expected if the exception is not granted. Examples include impacts on consumers and foreign trade, regional shifts in commodity production, or social/community effects associated with local employment and income.

D. Other Valuable Data Solicited

The Agency also solicits comment and information (including scientific data, where available) on the Agency's proposed exception and on several possible modifications to the proposed exception that the Agency is considering. These modifications include:

(1) Establishing specific criteria for determining whether the early-entry is a necessity rather than a convenience.

(2) Excluding from the exception all pesticides with the signal word DANGER in addition to (or rather than) those with "double notification."

E. Applicability of Exceptions

EPA remains convinced that routine entry for unlimited time periods into areas remaining under a restricted-entry interval should not be allowed except under rare circumstances. Therefore, if the Agency grants a special exception for irrigation tasks, it intends, to the extent feasible, to limit the exception to situations where entry during the restricted-entry interval is a technical and economic necessity. The Agency seeks comments and information about:

(1) Criteria limiting the exception to situations where the availability of irrigation water is unpredictable or the length of the REI exceeds the acceptable watering interval for the crop.

(2) Situations where entry during a restricted-entry interval is an economic necessity.

(3) Situations where entry during a restricted-entry interval is a technical necessity

(4) Other possible criteria for limiting an exception to those circumstances where early entry is unavoidable.

(5) Excluding double-notification pesticides from any exception it may grant.

(6) Whether to exclude all products with the signal word DANGER from any exception it may grant. EPA notes, however, that signal words are based on the acute toxicity of the end-use (formulated) product by any route of entry. The signal word would not reflect any concerns about delayed effects or sensitization. Furthermore, a DANGER signal word may be a result of an irritating "inert" ingredient in the formulated product that is volatile and thus is no longer present beyond 4 hours after the application is complete. Also, the DANGER signal word may be based on oral or inhalation toxicity.

which are not usually a concern for exposures to residues on treated surfaces.

(7) Physical activities involved in irrigation. The Agency's proposed exception would allow only those irrigation tasks for which contact with the treated surfaces would be limited to the feet, lower legs, hands, and forearms. These tasks would include tasks such as operating irrigation gates, adjusting irrigation valves, and checking for or unclogging obstructions in areas with low crops or widely spaced rows. Carrying irrigation equipment that was in the treated area during application on one's shoulder or against one's chest would NOT meet these criteria.

Therefore, the Agency solicits specific information about potential worker exposure to pesticide residues during various irrigation activities, including moving, installing, operating, maintaining, checking, repairing, and unclogging irrigation equipment. The Agency also seeks comment and information about whether the irrigation-related tasks that would be performed if the exception is granted would result in exposures just to the feet, lower legs, hands, and forearms, or whether many such tasks would result in more widespread exposures due to contact with residues on medium to tall crops or on residue-laden irrigation equipment.

(8) Finally, EPA requests comment on whether to allow employers of early-entry irrigation workers to choose whether to provide the PPE specified on the pesticide label for early entry or the exception-based PPE (coveralls plus chemical-resistant gloves and footwear). For any toxicity category pesticide, the label-specified PPE might be more protective, because it might include coveralls over other work attire and/or protective eyewear. However, since the exposures are limited to the feet, lower legs, hands, and forearms, this extra PPE may not be necessary. Conversely, the coveralls plus chemical-resistant gloves and chemical-resistant footwear PPE in the proposed exception are more protective than the early-entry PPE required for toxicity III and IV (signal word CAUTION) pesticides, where chemical-resistant footwear is not required (labels will require coveralls, chemical-resistant gloves, shoes, and socks). EPA requests comment on whether to require chemical-resistant footwear for all irrigation workers under this exception, because of the long period of potential exposure. The Agency did not include protective eyewear in the proposed exception, since exposure is limited to feet, lower legs, hands, and forearms. Also many pesticides that are highly irritating to skin (and are excluded from this exception) are also highly irritating to the eyes. Therefore, many of the products most irritating to the eyes also will be excluded from the exception. However, EPA solicits comment on whether protective eyewear should be included in the minimum PPE requirement for early-entry irrigation workers under any exception due to concern about workers rubbing or wiping residues into their eyes from hands, gloves, or sleeves.

VI. Public Docket and Electronic Comments

A record has been established for this rulemaking under docket number "OPP-250098" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This proposed exception is one of the actions selected by EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raise some novel issues that are discussed below in this Unit.

To submit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Subscribe" to the Internet ListServe application for this proposed exception, send an e-mail message to: listserver@unixmail.rtpnc.epa.gov that says "Subscribe RIN–2070–AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN–2070–AC69@unixmail.rtpnc.epa.gov. All comments and data in electronic form should be identified by the docket number OPP-250098 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN– 2070–AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. To obtain further information on the electronic comment process, or on submitting comments on this proposed exception electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202–260–2253; FAX: 202–260–3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this proposed rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted by others using the RIN–2070–AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or

otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN–2070–AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN–2070–AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN–2070–AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments submitted only in written form will not he transferred into electronic form and thus may be accessed only by reviewing them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this proposed rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this proposed rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

VII. Agency Decision on Proposed Exception

EPA will publish in the **Federal Register** its decision whether to grant the requests for exception, as well as its final decision on a national exception. EPA will base its decision on whether the benefits of the exceptions outweigh the costs, including the value of the health risks attributable to the exception. An exception may be withdrawn hy the Agency at any time if the Agency receives poisoning information or other data that indicate that the health risks imposed by the early-entry exception are unacceptable or if the Agency receives other information that indicates that the exception is no longer necessary or prudent.

List of Subjects

Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: January 3, 1995

Lynn R. Goldman,

Assistant Administrator for Prevention. Pesticides and Toxic Substances.

[FR Doc. 95–585 Filed 1–6–95; 12:16 pm]
BILLING CODE 6560–50–F

---

40 CFR Part 170

[OPP–250101; FRL–4930–4]

Exceptions to Worker Protection Standard Early Entry Restrictions; Limited Contact Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed exceptions to rule; request for comment.

SUMMARY: EPA is proposing an exception to the Worker Protection Standard for Agricultural Pesticides (WPS), that would allow, under specified conditions, workers to perform early entry limited contact tasks for up to 3 hours per day during a restricted entry interval (REI). Early entry is entry into a pesticide-treated area before the expiration of the REI.

DATES: Comments, data, or evidence should be submitted on or before February 27, 1995. EPA does not intend to extend this comment period.

ADDRESSES: Comments identified by the document control number OPP– 250101 should be submitted in triplicate by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. All written comments filed pursuant to this notice will be available for public inspection in Room 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805, from 8:00 a.m. to 4:30 p.m. Monday thru Friday except legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by sending a "Subscribe" message to listserver@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN–2070–AC69; or through the EPA Electronic Bulletin Board by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. All comments and data in electronic form must he identified by the docket number OPP–250101 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit VI. of this document.

FOR FURTHER INFORMATION CONTACT: Cathy Kronopolus, Certification, Training and Occupational Safety Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305–7371

SUPPLEMENTARY INFORMATION:

I. Background

Section 170.112(e) of the Worker Protection Standard for Agricultural Pesticides (WPS) (40 CFR part 170), published at 57 FR 38102 (August 21, 1992), provides the procedure for considering exceptions to the WPS provision that limits early entry during a restricted entry interval (REI) to perform agricultural tasks. EPA has received a request for exception to the early entry limitations for performing limited contact tasks from the National Association of State Departments of Agriculture (NASDA). EPA is considering a national exception to the WPS early entry restrictions for performing limited contact tasks. The purpose of this Notice is to solicit further information and comment to assist EPA in determining whether the conditions of entry under the proposed exception would pose unreasonable risks to workers performing the permitted limited contact tasks during a restricted entry interval. In addition, EPA solicits further information about the economic impact of granting or not granting the proposed exception.

This proposed WPS rule amendment is one of a series of Agency actions in response to concerns raised since publication of the final rule in August 1992 by those interested in and affected by the rule. In addition to this proposed amendment, EPA is publishing four other notices soliciting public comment on concerns raised by various affected parties. Other actions EPA is considering include: (1) modification to the worker training requirements; (2) exceptions to early entry restrictions for irrigation activities; (3) reduced restricted entry intervals (REIs) for low risk pesticides; and (4) requirements for crop advisors. The Agency is interested in receiving comments on all options and questions presented.

A. Worker Protection Standard

The Worker Protection Standard (WPS) promulgated at 57 FR 38102, August 21, 1992, is intended to reduce the risk of pesticide exposure and related poisonings and injuries among agricultural workers and pesticide handlers. The WPS includes provisions to: (1) eliminate or reduce exposure to pesticides; (2) mitigate exposures that occur; and (3) inform employees about the hazards of pesticides. Provisions to reduce exposure include application restrictions, use of personal protective equipment (PPE), and entry restrictions.

B. Entry Restrictions

Agricultural workers, in general, are prohibited from entering a pesticide-treated area during the restricted entry interval (REI) specified on the product labeling. REIs are the time period after the end of the pesticide application during which entry into the pesticide treated area is restricted. In the absence of pesticide-specific REIs, the WPS establishes a range of interim REIs, from 12 to 72 hours, depending upon the toxicity of the active ingredient(s) and other factors.

C. Exceptions to Entry Restrictions

The WPS contains exceptions to the general prohibitions against workers entering a pesticide-treated area during the REI. The exception provisions of §170.112 permit entry into the treated area during the REI (i.e. early entry) under specified conditions to perform tasks that result in contact with treated surfaces:

(1) *Short term tasks.* Section 170.112(c) permits exceptions to the general prohibition on work in treated areas during REIs for short-term tasks, with adequate PPE, decontamination, and exposure time limits.

(2) *Agricultural emergencies.* Section 170.112(d) permits exceptions to the prohibition against entry into treated areas during REIs for agricultural emergencies. The WPS permits early entry by workers to perform tasks while wearing early-entry PPE, and without time limits, in response to an agricultural emergency.

(3) *EPA-approved exception.* Section 170.112(e) permits exceptions to the prohibition on work in treated areas during REIs when EPA has approved a special exception. Case-by-case exceptions may be granted if affected persons or organizations persuade EPA that the benefits of the exception outweigh the risks associated with the exception.

In addition, §170.112(b) establishes an exception for activities where no contact with treated surfaces will occur. Under this provision, often referred to as 'no contact' entry, workers are allowed unlimited entry into pesticide-treated areas before the expiration of the REI without personal protective equipment when no contact with pesticide residues on treated surfaces or in soil, water, or air will occur.

II. Request for Exception and Supporting Evidence

In a July 8, 1994 petition for rulemaking, NASDA requested that EPA reduce WPS requirements for low contact work during the REI. In particular, NASDA asked for limited PPE for low contact activities, consisting of coveralls, chemical-resistant gloves, and footwear, and a "somewhat longer period than the one-hour in twenty-four hour period currently allowed by the exception for short-term activities."

In a subsequent meeting with EPA on low contact activities, NASDA suggested defining low contact as follows:

> Low contact means a task related to the production of agricultural plants that results in minimal body exposure. Personal protective equipment cannot be used to achieve low contact status for purposes of this definition, but rather the level of contact must be inherent in the nature of the task performed. The task must also meet one of the following:
>
> (1) Results in only incidental worker body contact with treated surfaces due to the stage of growth (seedlings) or nature of the crop (size of plants), the way the task is performed (use of long handled tools or operator placement on equipment), or the way the pesticide was applied (soil incorporated)
>
> (2) Is a very short-term task, involving worker body contact with treated surfaces that are of only a few minutes' duration and which occur at widely separated intervals

This proposed definition was developed with the help of the American Association of Pesticide Control Officials (AAPCO).

NASDA also provided EPA with lists of tasks that they assert could require entry into treated areas during an REI, and proposed that allowance for the accomplishment of these tasks be covered under any definition of 'low contact'. The lists of proposed low or limited contact activities were provided to NASDA by state pesticide regulatory agencies. In reviewing the lists of tasks, EPA found: (1) many of the tasks may already be allowed under the exception for activities with no contact set out in §170.112(b), (2) other tasks were identified as clearly hand labor tasks or handler tasks that could result in substantial contact with pesticide treated surfaces, (3) many tasks were irrigation-related activities, which EPA is addressing in a separate exception proposal, and (4) some were non-hand labor tasks that could, in some circumstances, be accomplished with minimal contact with pesticide residues on treated plants, soil, and other surfaces, depending on how the task was performed.

III. EPA's Exception Proposal

A. Background

NASDA's membership includes state Departments of Agriculture, the state agencies that, in most instances, are responsible for enforcing the WPS. EPA

has seriously considered NASDA's request and acknowledges that there may be certain non-hand labor tasks that may be necessary while a treated area remains under an REI, such that the benefits resulting from the performance of these tasks outweigh the risks associated with the tasks as long as the workers can perform the early entry tasks with minimal contact. While the WPS does provide in §170.112 for exceptions for short-term tasks and 'no contact' tasks, EPA recognizes that there may be non-hand labor tasks that may not be able to be performed under the time limitations of the short-term (1 hour) exception, or may not completely fit under the provisions of the no contact or agricultural emergency exceptions.

B. Discussion of EPA's proposal

EPA proposes an exception that would allow workers to perform limited contact tasks for up to 3 hours during the REI if: (1) the tasks must be performed during the REI, (2) the inhalation exposure level or ventilation criteria have been met (3) the tasks result in minimal contact with treated surfaces, (4) contact with pesticides is limited to forearms, hands, lower legs, and feet, and (5) the specified PPE requirements are met.

There may be non-hand labor tasks that must be performed during the REI that are necessary for crop production. Examples of possible limited contact tasks include: (1) the operation and repair of weather monitoring equipment, and frost protection equipment, (2) repair of greenhouse heating, air conditioning, and ventilation equipment (3) repair of non-application field equipment, and (4) maintaining and moving beehives.

The following scenarios provide examples of limited contact tasks:

(1) The information collected from weather monitoring equipment is often critical for the successful implementation of integrated pest management and agricultural production (e.g., rainfall amounts, degree days). Weather information is used to schedule pesticide and irrigation applications, and it may be necessary to enter the treated area during an REI to collect the information. Weather equipment may be stationed in more than one location around a large treated area, and it may take longer than 1 hour for the worker to walk to each site to complete the information collection. The worker must walk through the treated area, but all of the treated plants are well below knee-height and/or are sufficiently spaced apart so that the task may be accomplished in a manner that results in minimal contact with treated surfaces, and such contact is only to lower arms, hands, lower legs, and feet.

(2) On occasion, unanticipated repairs must be made to non-application field equipment while in the treated area during an REI. The immediate repair of the non-application field equipment is necessary and important to crop production. The nature of the breakdown, and/or the size of the equipment may hinder the removal of the equipment from the treated field for repair, and the repair may not be able to be completed within an hour.

The proposed exception specifically excludes pesticides whose labeling requires "double notification", i.e., the labeling requires both the posting of treated areas and oral notification to workers. EPA requires double notification for a pesticide when exposure — for example, contact with treated surfaces — has the potential to cause acute illness or injury. For pesticides that contain double notification requirements on their labeling, the short-term (1 hour per worker per day) exception at 40 CFR 170.112(c) and PPE requirements would still apply. For the convenience of commenters, the following Appendix A lists the active ingredients subject to WPS that may be subject to the double notification requirement.

Appendix A

Worker Protection Standard "Double Notification" Active Ingredient List

Please note that Appendix A (From PR Notice 93–7, Appendix 3–A) is incomplete in several respects: first, it does not contain the active ingredients in products already bearing mandatory posting requirements prior to adoption of the WPS and that must be retained under WPS; second, it may contain a few active ingredients that will be found to not require double notification upon further EPA review (such as reregistration), and third, active ingredients requiring double notification may be added during reregistration or other Agency action. Nonetheless, EPA believes that this list contains the bulk of the active ingredients subject to double notification. These listed pesticides contain an active ingredient categorized as highly toxic when absorbed through the skin (acute dermal toxicity), or as highly irritating (corrosive) when it contacts the skin, or otherwise is considered by EPA as high risk to workers. In addition, the exception excludes pesticides whose labels prohibit any person from entering during the REI. In other words, the label does not allow the use of the exceptions set out in §170.112.

COMMON NAME	CHEMICAL CODE	CAS NUMBER
aldicarb	098301	116-06-3
aldoxycarb	110801	1646-88-4
arsenic acid	006801	7778-39-4
arsenic trioxide	007001	1327-53-3
carbofuran	090601	1563-66-2
chlorflurenol	098801	2536-31-4
chloropicrin	081501	76-06-2
cuprous oxide	025601	1317-39-1
disulfoton	032501	298-04-4
dodine	044301	2439-10-3
endothall, dimethylcocoamine	038905	
endothall, disodium salt	038903	129-67-9
ethephon	099801	16672-87-0

COMMON NAME	CHEMICAL CODE	CAS NUMBER
ethoprop	041101	13194-48-4
fonofos	041701	944-22-9
(s)-(+)-lactic acid	128929	79-33-4
metam-sodium	039003	137-42-8
methamidophos	101201	10265-92-0
methyl bromide	053201	74-83-9
methyl parathion	053501	298-00-0
mevinphos	015801	7786-34-7
nicotine	056702	54-11-5
paraquat	061601	1910-42-5
parathion	057501	56-38-2
phorate	057201	298-02-2
profenofos	111401	41198-08-7
propargite	097601	2312-35-8
sabadilla alkaloids	002201	8051-02-3
sulfotepp	079501	3689-24-5
sulfuric acid	078001	7664-93-9
sulprofos	111501	35400-43-2
tefluthrin	128912	79538-32-2
terbufos	105001	13071-79-9
TPTH	083601	76-87-9

EPA is proposing to establish a reduced set of PPE for limited contact tasks, although the worker may wear the PPE specified on the label even if the early entry PPE specified on the label is less restrictive than the reduced set. Based on the limitations in the exception, EPA expects that contact will not be significant and a reduced set of PPE will be adequate.

EPA is proposing to limit the exception to 24 months (2 years), and to review and revise the terms of the exception as appropriate based upon experience during that 2 years.

C. Proposed Terms of Exception

EPA is proposing an exception to the early entry restriction for limited contact tasks, and is considering the following definition for 'limited contact task':

"For the purposes of this exception, the term 'limited contact task' means a non-hand labor task that is performed by workers that results in minimal contact with treated surfaces (including but not limited to soil, water, air, surfaces of plants, and equipment), and where such contact with treated surfaces is limited to the forearms, hands, lower legs, and feet."

Under the proposed exception, a worker may enter a treated area during a restricted entry interval to perform a limited contact task if the agricultural employer ensures that the following requirements are met:

(1) The pesticide product does *not* have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers ("double notification"), or a restriction prohibiting any person, other than an appropriately trained and equipped handler, from entering during the restricted entry interval.

(2) No hand labor activity is performed.

(3) The time in a treated area under a restricted entry interval for any worker does not exceed 3 hours in any 24 hour period.

(4) The personal protective equipment for early entry must be provided to the worker by the agricultural employer for all tasks. Such personal protective equipment shall either: (a) conform with the label requirements for early entry PPE; or (b) consist of coveralls, chemical resistant gloves, socks, and chemical resistant footwear. In either case, the PPE must conform to the standards set out in §170.112(c)(4)(i) through (x).

(5) Workers are notified verbally, before such workers enter a treated area, that the establishment is relying on this exception to allow workers to enter treated areas to perform limited contact tasks.

(6) The task cannot be delayed until after the expiration of the restricted entry interval, or the pesticide application could not be delayed until the task was completed.

(7) For all limited contact tasks, the requirements of §170.112(c)(3) -(9) are met. These are WPS requirements for all early entry situations that involve contact with treated surfaces, and include (a) a prohibition against entry during the first 4 hours, and until applicable ventilation criteria have been met, and until any label specified inhalation exposure level has been reached, (b) informing workers of safety information on the product labeling, (c) provision, proper management, and care of personal protective equipment, (d) heat-related illness prevention, (e) requirements for decontamination facilities, and (f) prohibition on taking personal protective equipment home.

IV. Options Considered

EPA considered including hand labor tasks in this exception, but determined that hand labor tasks could not be performed with limited contact. The WPS defines hand labor as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to,

harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors. Hand labor tasks involve substantial contact and are by nature high exposure scenarios and potentially high risk.

EPA considered eliminating the PPE requirement for coveralls, but has several concerns about eliminating this requirement. Under §170.112(c), early entry workers are required to remove PPE before going home and may not take it home. If only long sleeved shirts and long pants are worn, it may not be possible for workers to remove their work clothes when they leave the treated area, enter their vehicles, and return home. This could result in contamination of the vehicles from their clothing, causing an increased exposure risk to potentially toxic pesticide residues for all vehicle occupants. Additionally, EPA believes that coveralls will assure greater risk reduction for workers since the WPS requires agricultural employers to assure proper handling, care and maintenance of these items. There is no such requirement for personal clothing.

EPA considered requiring that protective eyewear be included in the minimum PPE requirement if required on the product labeling for early entry because of concern about workers rubbing or wiping residues into their eyes from hands, gloves, or sleeves. EPA decided not to propose a requirement for eyewear as part of the minimal set at this time because the performance of limited contact tasks should result in minimal worker contact with treated surfaces.

EPA considered eliminating PPE requirements for tasks that must be performed when unanticipated repairs of non-application field equipment arise, but rejected this option because EPA believes that in some instances equipment repair could result in significant exposure. Unanticipated equipment repairs would be expected to occur infrequently, and some repairs may be able to be performed with almost no contact to treated surfaces. EPA continues to be concerned that some PPE is needed to provide adequate protection for all worker activities given the range and nature of equipment repair tasks and the potential for even limited exposure to highly toxic pesticides.

V. Comments Solicited

EPA is interested in a full range of comments and information on the proposed exception and on the exception options presented, and is providing 45 days for the submission of comments.

1. *Need for an exception.* EPA solicits comment on whether early entry for limited contact activities is necessary. Specifically, EPA requests comments on why specific limited contact tasks could not normally be delayed until the expiration of the REI, or why the application could not be delayed until the tasks are completed. EPA requests comments on why alternative practices would not be technically or financially viable (such as placing beehives and weather monitoring stations outside areas normally treated with pesticides). EPA also requests comments on the economic impacts on agricultural employers if they cannot enter the treated area during the REI for limited contact activities. Commenters should be task specific in their response.

EPA requests information on the expected costs in terms of decreased yield, grade or quality or other economic cost as a result of being unable to perform some tasks during an REI. In addition, EPA requests information on the frequency of tasks that must be done during an REI and the amount of time required to complete those tasks per occurrence and per agricultural establishment for a typical growing season.

2. *Definition of "limited contact".* EPA requests specific comments on the proposed definition of 'limited contact tasks'. EPA is particularly concerned about defining limited contact activities in a way that may inadvertently result in unnecessary routine early entry, which may increase risk to workers. Does the proposed definition encompass tasks or activities that are inherently high risk? Are there non-hand labor activities that should be covered by the exception but do not fall under the definition as proposed? EPA also requests information on whether worker exposures for the tasks that fall within the proposed exception could reasonably be limited to lower legs and feet, hands and forearms, or if greater exposure would result due to the nature of the activity.

EPA also solicits comments on whether there are hand labor tasks that must be done during the REI, and whether these tasks can be accomplished without subjecting workers to substantial contact.

3. *Safety and feasibility factors.* EPA requests information on the safety and feasibility of a limited contact exception. Information should include, at minimum, the feasibility of performing the limited contact activity while wearing PPE; means of mitigating heat stress concerns; the cumulative amount of time required, per worker, per day for necessary limited contact activities; any suggested methods of reducing the worker's exposure for a given task; and any other alternative practices, such as mechanical devices that reduce workers' exposure to treated surfaces. The information should describe the costs (time and materials) of providing the protective measures in the terms of the proposed exception.

4. *Duration of exposure.* Because exposure is determined both by the amount and the duration of contact with pesticides, EPA proposes to limit the total amount of time in treated areas to perform limited contact tasks to 3 hours per worker per day. EPA believes most limited contact activities can be completed in significantly less than 3 hours, but certain circumstances may exist that would necessitate more than 3 cumulative hours of early entry. EPA requests comment on whether 3 hours is adequate, or if some amount of time less than 3 hours would be sufficient.

5. *Exclusion of "double notification"* EPA requests comments on the exclusion of double notification pesticides from this proposed exception. What impact, if any, on agricultural growers might result if double notification pesticides were to be excluded from the limited contact exception? Will the exclusion of double notification pesticides from the exception sufficiently reduce risk to workers? EPA also requests information on pesticide-related worker injuries or illnesses as a result of performing the types of tasks that would fall under this proposed limited contact exception.

6. *PPE requirements.* EPA solicits comments on the risks and benefits for the PPE options under a limited contact exception. Is PPE feasible for workers performing limited contact tasks, and to what extent is PPE necessary to reduce worker risk for different tasks?

EPA specifically requests information on whether protective eyewear should be included in the minimum PPE requirement if required on the product labeling for early entry because of concern about workers rubbing or wiping residues into their eyes from hands, gloves, or sleeves.

EPA is interested in any information concerning whether there are certain limited contact tasks (such as repair of non-application equipment and frost protection tasks) and early entry situations (such as entry into fields that

have been treated with toxicity category IV pesticides) that may not require the use of PPE, or may allow the use of a reduced set of PPE (e.g., only waterproof gloves and chemical resistant boots).

7. *Duration of exception.* EPA requests comments on whether the proposed 24 month (2–year) limit is appropriate for this exception, or why a longer or shorter period may be more practical.

VI. Public Docket and Electronic Comments

A record has been established for this rulemaking under docket number "OPP-250101" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

EPA is interested in a full range of comments and information on these proposed revisions and particularly welcomes comments supported by data. Comments are requested on: (1) general worker and handler hiring and employment practices, such as the rate of turnover and employment among agricultural workers and handlers, (2) the practicality and effectiveness of the proposed elimination of the grace period, including how the frequency of hiring would affect the frequency of training sessions, situations where training before entry would not be possible, mechanisms that are available or will be available to provide training on short notice and the estimated costs of reducing or eliminating the grace period or providing a weekly training regimen, (3) the proposal to eliminate the phase-in period for the training grace period and (4) the retraining interval, including the impacts of a retraining interval of less than 5 years, worker and handler retention of safety training information over time, whether agricultural workers and handlers have a greater need for retraining than workers in other occupations, the effectiveness of the pesticide poster in reinforcing previous training and the burdens the various retraining options might place on agricultural employers or other entities that may perform worker or handler training. Comments should he distinguished as applying to workers, handlers, or both, as applicable.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This Notice is one of the actions selected hy EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raise some novel issues that are discussed below in this Unit.

To suhmit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Suhscribe" to the Internet ListServe application for this Notice, send an e-mail message to: listserver@unixmail.rtpnc.epa.gov that says "Suhscribe RIN–2070–AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN–2070–AC69@unixmail.rtpnc.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. All comments and data in electronic form should be identified by the docket number OPP–250101 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN– 2070–AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov

To obtain further information on the electronic comment process, or on submitting comments on this Notice electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202–260–2253; FAX: 202–260–3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this Proposed Rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted hy others using the RIN–2070–AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN–2070–AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN–2070–AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN–2070–AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments submitted only in written form will not be transferred into electronic form and thus may be accessed only by reviewing

them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this Proposed Rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this Proposed Rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

VII. EPA Decision on Proposed Exception

EPA will publish in the **Federal Register** its final decision on whether to grant the request for a national exception. EPA will base its decision on whether the benefits of the exceptions outweigh the costs. An exception may be withdrawn by EPA at any time if EPA receives poisoning information or other data that indicate that the health risks imposed by the early entry exception are unacceptable or if EPA receives other information that indicates that the exception is no longer necessary or prudent.

Dated: January 3, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–586 Filed 1–6–95; 12:15 pm]

BILLING CODE 6560–50–F

---

40 CFR Part 156

[OPP–00399; FRL–4927–6]

Worker Protection Standard; Reduced Restricted Entry Intervals for Certain Pesticides, Request for Comments on Draft Policy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, Request for Comment.

SUMMARY: EPA is soliciting comments on a proposed policy, which would be issued in a Pesticide Regulation Notice (PRN) entitled: "Worker Protection Standard: Reduced Restricted Entry Intervals for Certain Pesticides. EPA proposes to allow registrants to reduce the interim Worker Protection Standard (WPS) restricted entry intervals (REIs) from 12 to 4 hours for certain low risk pesticides. A proposed list of active ingredients that are candidates for reduced interim WPS REIs would be included in the PRN. End-use products containing active ingredients that appear on the list would be evaluated using the criteria described within the PRN to determine if the current REI may be reduced to 4 hours. To facilitate the availability of the proposed policy to anyone who may be interested in commenting, this notice presents the proposed policy as it would appear in a PRN.

DATES: Written comments, identified by the docket number [OPP– 00399], must be received on or before February 27, 1995.

ADDRESSES: By mail, submit comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Public Response and Program Resources Branch, Field Operations Division, RM 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone number for the OPP Docket is (703) 305– 5805. Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed notice and any written comments will be available for public inspection in Room 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by any of three different mechanisms: by sending electronic mail (e-mail) to: Docket-OPPTS@epamail.epa.gov; by, sending a "Subscribe" message to listserver@unixmail.rtpnc.epa.gov and once subscribed, send your comments to RIN-2070-AC69; or through the EPA Electronic Bulletin Board by dialing 202-488-3671, enter selection "DMAIL," user name "BB—USER" or 919-541-4642, enter selection "MAIL," user name "BB—USER." Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPP-00399 since all five documents in this separate part provide the same electronic address. No CBI should be submitted through e-mail. Electronic comments on this proposed rule, but not the record, may be viewed or new comments filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in unit XV. of this document.

FOR FURTHER INFORMATION CONTACT: By mail, Judy Smith or Ameesha Mehta, Certification, Training, and Occupational Safety Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 11th floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, 22202, (703)–305–7666.

SUPPLEMENTARY INFORMATION: The Agency is proposing to issue a Pesticide Regulation Notice (PRN) to allow registrants to reduce the current interim WPS REIs from 12 to 4 hours for certain low risk pesticides. In order to provide ample opportunity for review and

comment by all interested parties, this notice presents the proposed policy as it would appear in the PRN. Comments are invited on all aspects of the proposed PRN, but particularly on whether active ingredients should be added to or deleted from the list of candidate active ingredients, whether the criteria for allowing the REI reduce are appropriate, and whether there should be a time limit within which registrants may change their registrations by notification, as opposed to the submission of a formal registration amendment.

This proposed policy is one of a series of Agency actions in response to concerns raised since the publication of the final WPS in August 1992 by those interested in and affected by the rule. In addition to this draft PRN, EPA is also proposing and seeking public comment on actions regarding: (1) the worker training requirements; (2) the early entry restrictions for irrigation activities; (3) restricted intervals (REIs) for limited contact activities; and, (4) requirements for crop advisors.

I. Summary of the Proposed PRN

The PRN would permit registrants to reduce the current interim WPS REIs from 12 to 4 hours for certain low risk pesticides. Using the criteria outlined below, the Agency screened 480 WPS "in-scope" pesticides and determined that the end-use products for 75 active ingredients would be eligible for REI reduction. Attachment A lists the potential candidate active ingredients that the Agency believes would be eligible for REI reduction under the PRN.

Registrants of end-use products containing these active ingredients may apply the criteria discussed below to determine whether their product would be eligible for the reduced REI. A registrant who wishes the Agency to consider an end-use product for a reduced REI that does not meet all criteria, would need to submit an application for amendment of the registration.

The Agency is proposing to allow registrants to revise labeling to reflect the reduced REI through a notification process that could be used until August 31, 1995. After that date, registrants would need to submit applications for amendment of a registration and await Agency approval. Such applications would be evaluated as routine amendments and approved on the basis of the criteria in the PRN.

If a registrant believes that an active ingredient, not listed as a candidate for reduced REI in Attachment A, meets the criteria discussed below, and that products containing that active ingredient should be eligible for a reduced REI through the notification process, the registrant should immediately contact Judy Smith at the address provided in the FOR FURTHER INFORMATION CONTACT section.

If the Agency determines at any time that the reduced REI is not appropriate, EPA will direct the registrant to revise the REI on the label as appropriate.

II. Applicability

The PRN would only apply as follows:

1. To products subject to the WPS labeling requirements in 40 CFR part 156, subpart K.

2. To products containing one or more of the active ingredients listed in Attachment A. A product which contains an active ingredient not listed in Attachment A would not eligible for the notification procedures in the PRN.

3. To currently registered end-use products with interim WPS REIs. New registrations would not be within the scope of the PRN. Pending applications for registration will be considered against the criteria of this notice, and, if acceptable, would be permitted the reduced REI when registered.

III. Background

The 1992 WPS established an interim minimum REI of 12 hours for all end-use pesticide products for agricultural uses. (Longer interim REIs were established for more toxic products.) The 12–hour minimum REI was established for two reasons: (1) to substitute for the "sprays have dried and dusts have settled" REI previously used; and (2) to incorporate a margin of safety for unknown adverse effects.

The Agency has been requested by numerous registrants and pesticide users to consider reducing the minimum 12 hour REI for lower toxicity products that they believe do not need a 12 hour REI to protect workers.

The REIs established through the WPS are interim measures until the reregistration process or other comprehensive EPA review process results in a definitive REI determination. In an effort to avoid diversion of Agency resources from the risk evaluation conducted in the reregistration process, regulatory relief in the form of a four hour REI is proposed for those active ingredients that clearly pose very low, post-application risks to workers.

IV. Policy and Rationale

EPA has considered whether there may be some end-use products for which a 12–hour REI is not necessary, and has identified a limited set of lower toxicity active ingredients for which it is prepared to allow reduction of the REI for EPs that meet certain criteria. The active ingredient list is limited because a reduction of the WPS REI from 12 to 4 hours could result in dermal and eye exposures that would equal exposures experienced by entry immediately following application, and because any risk mitigation benefits gained by not allowing workers to reenter treated areas before 12 hours is lost. For these reasons, the Agency is proposing to permit only those end-use products that contain active ingredients meeting the criteria in Unit IV to be eligible for a reduced REI.

The Agency believes that reducing the REIs for pesticides which meet the criteria below would not substantially increase risks to workers. Reducing the REI would provide agricultural producers with greater flexibility and may promote the use of these inherently less toxic products over those with greater risks and longer REIs.

After August 31, 1995, registrants must use the existing label amendment process to request a reduction in a REI.

V. Criteria for Active Ingredient Selection

EPA considered for inclusion in Attachment A active ingredients in three categories: microbial pesticides (living organisms, including protozoans, fungi, bacteria, and viruses); biochemical pesticides (materials that occur in nature and possess a non-toxic mode of action to the target pest(s); and certain conventional chemical pesticides. The following criteria were used to select the active ingredients in Attachment A:

1. The active ingredient is in Toxicity category III or IV based upon data on acute dermal toxicity, primary skin irritation, and primary eye irritation. Acute oral toxicity data were used in place of acute dermal toxicity if no acute dermal data were available.

2. The active ingredient is not a sensitizer (or in the case of biochemical and microbial active ingredients, no known reports of hypersensitivity exist).

3. No known adverse health effects are associated with the active ingredient, i.e. carcinogenicity, mutagenicity, developmental effects, reproductive effects.

4. EPA does not possess incident information (illness or injury reports) that are "definitely" or "probably" related to post- application exposures to the active ingredient.

5. The active ingredient also may not be a cholinesterase inhibitor

The Agency determined that a total of 397 potential active ingredients were in Toxicity Category 3 or 4 for at least one of the following guideline studies: oral, inhalation, dermal, skin irritation, and eye irritation. After this initial screening, 109 of the 397 active ingredients whose end-use products would have REIs greater than 12 hours were excluded, resulting in 287 potential candidates. The REI's of these 109 active ingredients were set utilizing chemical specific data via the registration, reregistration, or special review process. The remaining 287 active ingredients were then screened to determine if both the dermal toxicity and eye irritation tests resulted in Toxicity Category 3 or 4, and the results of the sensitization/hypersensitization test were negative. Candidates failing to meet this criteria were excluded from consideration. This screen reduced the number to 88 active ingredients. From this group of 88 active ingredients, an additional 13 were excluded for subchronic, developmental, reproductive, mutagenicity, or carcinogenicity concerns, or if the registration was not supported currently. This resulted in 75 active ingredients as potential candidates for REI reduction to 4 hours.

Some active ingredients are not included on the list in Attachment A because they have been the subject of a reregistration eligibility document (RED), in which the Agency concluded that a 12 hour REI was necessary to protect workers. These active ingredients would not be eligible for reduced REIs through the notification process outlined in the PRN. It should be noted that WPS does not apply to pheromones utilized in insect traps and will not be included in the PRN.

VI. Agency Determination for Adding Active Ingredients To Candidate List

If a registrant believes an active ingredient meets the criteria set forth in Part IV of the PR Notice, and that products containing that active ingredient should be eligible for a reduced REI through the notification process, the registrant should contact Judy Smith in Certification, Training and Occupational Safety Branch, Field Operations Division (7506C), 401 M St., SW., Washington DC 20460, before August 31, 1995. If a registrant or other party has information or data indicating that an active ingredient should not be on the candidate list, the registrant must notify the Agency before August 31, 1995. To be considered for a reduced REI, the active ingredient must meet the criteria outlined in the PRN, based upon studies determined by the Agency to be acceptable. The registrant would be required to submit the studies [or cite their MRID numbers and provide copies of Agency reviews that confirm that the criteria are met]. For additional information on this issue, registrants should contact Judy Smith (703–305–7666) as early in the comment period as possible.

VII. Procedures for Determining Eligibility of End-Use Products

If the active ingredient(s) is included on Attachment A, the registrant must evaluate the product to determine if the EP is eligible for REI reduction. To be acceptable, the following criteria must be met. The registrant must certify to the Agency that the EP meets all of the criteria outlined below:

1. The registrant has submitted or cited studies for the EP on acute dermal toxicity, primary skin irritation, primary eye irritation and skin sensitization (or hypersensitivity if the product contains a microbial or biochemical active ingredient). The Agency need not have completed these study reviews.

a. The registrant must cite the MRID numbers for all studies submitted.

b. If EPA has permitted the use of studies performed on a substantially similar EP to fulfill the acute toxicity data requirements, the registrant must submit proof that EPA has approved the use of these studies.

c. If EPA has waived a data requirement for one or more of the required studies, the registrant must submit proof that the data were waived.

d. If all studies on the EP have not been submitted, cited, or waived, the REI may not be reduced for the end-use product at this time.

2. Based on the acute toxicity studies, the product is in Toxicity category III or IV.

3. Based on the sensitization or hypersensitivity studies, the product is not a sensitizer or there have been no reports of hypersensitivity.

4. The registrant has no data indicating, and is not aware of, adverse health effects associated with the EP, i.e., carcinogenicity, mutagenicity, developmental effects, reproductive effects.

5. The registrant is not aware and has not been informed of incident information (illness or injury reports) that are "definitely" or "probably" (as defined by the California Incident Reporting System) related to post-application exposures to the product.

VIII. Procedure for Notification/ Certification

A. Notification Statement

For each product that qualifies for the notification procedures, the registrant would be required to submit:

1. An Application for Registration (EPA Form 8570–1), identified as a notification under this PRN.

2. Three copies of a revised label, clearly marked to highlight the revised REI.

3. The information required to demonstrate that the product is eligible for the reduced REI.

4. The following certification statement:

I certify that this notification is consistent with the provisions of PR Notice 95–x and that no other changes have been made to the labeling or the confidential statement of formula of this product.

I further understand that if this notification is not consistent with the terms of PR Notice 95–x, this product may be in violation of FIFRA and I may be subject to enforcement action and penalties under sections 12 and 14 of FIFRA. I understand that the Agency may direct a change in the REI of a product subject to this notice if the Agency determines that a change is appropriate, and that products may be subject to regulatory and enforcement action if the appropriate changes are not made.

B.Final Printed Labeling

For each product, final printed labeling must be submitted either as part of the notification or separately in accordance with PR Notice 82–2, before the product may be distributed or sold.

IX. Sale and Distribution

After the PRN is issued and once the registrant has submitted the information and certification specified in Unit VIII. the registrant would be able to sell or distribute products bearing the registrant-certified revised labeling that was submitted to the Agency.

X. Permitted Relabeling of Product in Channels of Trade

After the PRN is issued, registrants revising their labeling to reduce an interim REI from 12 hours to 4 hours may revise labeling of products through stickering or full relabeling. Stickering, or full relabeling, may occur at sites where product is not under direct registrant control (such as distribution or retail sites), by any person the registrant designates, and without registration of the site as a pesticide producing establishment. The registrant, however, retains full responsibility for ensuring that such labeling modifications are carried out correctly.

XI. Agency Determination to Revise the REI

Registrants should note that FIFRA sec. 6(a)(2) requires that they submit to the Agency any information or data concerning any adverse effect, illness or injury associated with a product or its use, including those resulting from post-application exposures.

If, on the basis of information received from a registrant or other sources, the Agency determines that the 4–hour REI should be increased, the Agency will inform the registrant of that determination and of the new REI that must replace the 4–hour REI. The Agency will also inform the registrant at that time of actions, if any, that must be taken with respect to existing stocks of product labeled with a 4–hour REI.

The Agency intends to bring misbranding actions and issue stop sale, use, and removal orders if the appropriate changes and actions are not taken immediately upon notification to the registrant.

XII. Compliance

Registrants are responsible for the content and accuracy of labeling and for compliance with labeling requirements. Registrants that submit notifications which do not comply with the PRN or EPA's requirements may be subject to enforcement action under FIFRA sections 12 and 14.

Registrants electing to sell or distribute products bearing registrant-verified revised labeling run the risk that the proposed label is incorrect and must be revised. In most cases, incorrectly reducing the REI from 12 hours to 4 hours would be considered a serious error possibly requiring stop-sale orders, recalls, or civil penalties. A serious error is one which may create a potential for harm to workers, handlers, or other persons, or the environment, or when the errors prevent achievement of basic goals of the WPS or FIFRA.

XIII. Consultations

EPA consulted with USDA and their comments were considered in the preparation of this document. In addition, although this action is not a "significant regulatory action" under Executive Order 12866 (58 FR 51735, October 4, 1993), it was submitted to the Office of Management and Budget for a 10–day informal review. Any changes made have been documented in the public record.

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is not a "significant regulatory action." This action does not raise potential novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Nevertheless, this action was submitted to OMB for review, and any comments or changes made have been documented in the public record.

XIV. Attachment A

Attachment A—Candidate List of Active Ingredients Eligible for Reduced Entry Intervals (REIs).

Acetylchitin
Agrobacterium radiobacter
Ampelomyces quisqualis isolate M–10
Azadirachtin
B. t. subsp. aizawai
B. t. subsp. aizawai strain GC–91
B. t. subsp. israelensis
B. t. subsp. kurstaki
B. t. subsp. kurstaki HD–263
B. t. subsp. kurstaki strain EG2348
B. t. subsp. kurstaki strain EG2371
B. t. subsp. kurstaki strain EG2424
B. t. subsp. san diego
B. t. subsp. tenebrionis
Bacillus popilliae and B. lentimorbus
Bacillus sphaericus
Bacillus subtilis GB03
Bacillus subtilis MBI 600
Boron sodium oxide, tetrahydrate
Calcium oxytetracycline
Chlorsulfuron
Colletotrichum gleosporioides spores
Cytokinin
D-Phenothrin
Disparlure: cis-7,8-epoxy-2-methyloctadecane
Ethoxyquin
Fenridazon
Gibberellic acid
Gibberellin A4 mixt. with Gibberellin A7
Gliocladium virens G-21
Gossyplure: Hexadecadien-1-ol, acetate
Indole-3-butyric acid
Kinoprene
Lagendidium giganteum, mycelium or oospores
Metsulfuron-methyl
Mineral oil
Muscalure, component of (E)-9-Tricosene
Muscalure, component of (Z)-9-Tricosene
Nicosulfuron
Nosema locustae
Oxytetracycline hydrochloride
Periplanone B
Phytophthora palmivora, chlamydospores
Polyhedral inclusion bodies of Douglas fir tussock moth NPV
Polyhedral inclusion bodies of Heliothis NPV
Polyhedral inclusion bodies of Neodiprion sertifer NPV
Polyhedral inclusion bodies of Gypsy moth NPV
Polyhedral occlusion bodies of Autographa californica NPV
Polyhedral occlusion bodies of beet armyworm NPV
Pseudomonas cepacia type Wisconsin
Pseudomonas fluorescens 1629RS
Pseudomonas fluorescens A506
Pseudomonas fluorescens EG-1053
Pseudomonas fluorescens Strain NCIB 12089
Pseudomonas syringae 742RS
Puccinia canaliculate (Schweinitz) Langerheim (ATCC ???)
Sesame plant, ground
Siduron
Silica gel
Silicon dioxide
Sodium carboxymethyl cellulose
Sodium metaborate (NaBO2)
Soybean oil
Streptomyces griseoviridis
Streptomycin
Streptomycin sesquisulfate
Sulfometuron methyl
Thifensulfuron methyl
Tomato pinworm pheromone: (E)-4-tridecen-1-yl acetate
Tomato pinworm pheromone: (Z)-4-tridecen-1-yl acetate
Triacontanol
Triasulfuron
Trichoderma harzianum (ATCC 20476)
Trichoderma harzianum Rifai strain KRL-AG2
Trichoderma polysporum (ATCC 20475)

XV. Public Docket and Electronic Comments

A record has been established for this rulemaking under docket number "OPP-00399" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Written comments should be mailed to: Public Response and Program Resources Branch, Field Operations Division (7506C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

As part of an interagency "streamlining" initiative, EPA is experimenting with submission of public comments on selected **Federal Register** actions electronically through the Internet in addition to accepting comments in traditional written form. This proposed exception is one of the actions selected by EPA for this experiment. From the experiment, EPA will learn how electronic commenting works, and any problems that arise can be addressed before EPA adopts electronic commenting more broadly in its rulemaking activities. Electronic commenting through posting to the EPA Bulletin Board or through the Internet using the ListServe function raise some

novel issues that are discussed below in this Unit.

To submit electronic comments, persons can either "subscribe" to the Internet ListServe application or "post" comments to the EPA Bulletin Board. To "Subscribe" to the Internet ListServe application for this proposed exception, send an e-mail message to: listserver@unixmail.rtpnc.epa.gov that says "Subscribe RIN–2070–AC69 <first name> <last name>." Once you are subscribed to the ListServe, comments should be sent to: RIN–2070–AC69@unixmail.rtpnc.epa.gov. All comments and data in electronic form should be identified by the docket number OPP-00399 since all five documents in this separate part provide the same electronic address.

For online viewing of submissions and posting of comments, the public access EPA Bulletin Board is also available by dialing 202–488–3671, enter selection "DMAIL," user name "BB—USER" or 919–541–4642, enter selection "MAIL," user name "BB—USER." When dialing the EPA Bulletin Board type <Return> at the opening message. When the "Notes" prompt appears, type "open RIN– 2070–AC69" to access the posted messages for this document. To get a listing of all files, type "dir/all" at the prompt line. Electronic comments can also be sent directly to EPA at:

Docket-OPPTS@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. To obtain further information on the electronic comment process, or on submitting comments on this proposed exception electronically through the EPA Bulletin Board or the Internet ListServe, please contact John A. Richards (Telephone: 202–260–2253; FAX: 202–260–3884; Internet: richards.john@epamail.epa.gov).

Persons who comment on this proposed rule, and those who view comments electronically, should be aware that this experimental electronic commenting is administered on a completely public system. Therefore, any personal information included in comments and the electronic mail addresses of those who make comments electronically are automatically available to anyone else who views the comments. Similarly, since all electronic comments are available to all users, commenters should not submit electronically any information which they believe to be CBI. Such information should be submitted only directly to EPA in writing as described earlier in this Unit.

Commenters and others outside EPA may choose to comment on the comments submitted by others using the RIN–2070–AC69 ListServe or the EPA Bulletin Board. If they do so, those comments as well will become part of EPA's record for this rulemaking. Persons outside EPA wishing to discuss comments with commenters or otherwise communicate with commenters but not have those discussions or communications sent to EPA and included in the EPA rulemaking record should conduct those discussions and communications outside the RIN–2070–AC69 ListServe or the EPA Bulletin Board.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically in the RIN–2070–AC69 ListServe or the EPA Bulletin Board, in accordance with the instructions for electronic submission, into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. All the electronic comments will be available to everyone who obtains access to the RIN–2070–AC69 ListServe or the EPA Bulletin Board; however, the official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. (Comments submitted only in written form will not be transferred into electronic form and thus may be accessed only by reviewing them in the Public Response and Program Resources Branch as described above.)

Because the electronic comment process is still experimental, EPA cannot guarantee that all electronic comments will be accurately converted to printed, paper form. If EPA becomes aware, in transferring an electronic comment to printed, paper form, of a problem or error that results in an obviously garbled comment, EPA will attempt to contact the comment submitter and advise the submitter to resubmit the comment either in electronic or written form. Some commenters may choose to submit identical comments in both electronic and written form to ensure accuracy. In that case, EPA requests that commenters clearly note in both the electronic and written submissions that the comments are duplicated in the other medium. This will assist EPA in processing and filing the comments in the rulemaking record.

As with ordinary written comments, at the time of receipt, EPA will not attempt to verify the identities of electronic commenters nor to review the accuracy of electronic comments. Electronic and written comments will be placed in the rulemaking record without any editing or change by EPA except to the extent changes occur in the process of converting electronic comments to printed, paper form.

If it chooses to respond officially to electronic comments on this proposed rule, EPA will do so either in a notice in the **Federal Register** or in a response to comments document placed in the rulemaking record for this proposed rule. EPA will not respond to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or conversion to printed, paper form as discussed above. Any communications from EPA employees to electronic commenters, other than those described in this paragraph, either through Internet or otherwise are not official responses from EPA.

List of Subjects in 40 CFR Part 156

Labeling, Occupational Safety and health, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: January 3, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs

[FR Doc 95–587 Filed 1–6–95; 12:15 pm]

BILLING CODE 6560–50–F

federal register

Wednesday
January 11, 1995

Part IV

Environmental Protection Agency

40 CFR Part 192

Groundwater Standards for Remedial Actions at Inactive Uranium Processing Sites; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[FRL–3510–1]

RIN 2060–AC03

Groundwater Standards for Remedial Actions at Inactive Uranium Processing Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is issuing final regulations to correct and prevent contamination of groundwater beneath and in the vicinity of inactive uranium processing sites by uranium tailings. EPA issued regulations (40 CFR part 192, subparts A, B, and C) for cleanup and disposal of tailings from these sites on January 5, 1983. These new regulations replace existing provisions at 40 CFR 192.20(a)(2) and (3) that were remanded by the U.S. Court of Appeals for the Tenth Circuit on September 3, 1985. They are promulgated pursuant to Section 275 of the Atomic Energy Act, as amended by Section 206 of the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95–604).

The regulations apply to tailings at the 24 locations that qualify for remedial action under Title I of Public Law 95–604. They provide that tailings must be stabilized and controlled in a manner that permanently eliminates or minimizes contamination of groundwater beneath stabilized tailings, so as to protect human health and the environment. They also provide for cleanup of contamination that occurred before the tailings are stabilized.

EFFECTIVE DATE: February 10, 1995.

ADDRESSES: *Background Documents.* A report ("Groundwater Protection Standards for Inactive Uranium Tailings Sites, Background Information for Final Rule," EPA 520/1–88–023) has been prepared in support of these regulations. Another report ("Groundwater Protection Standards for Inactive Uranium Tailings Sites, Response to Comments," EPA 520/1–88–055) contains the detailed responses of the Environmental Protection Agency to comments on the standard by the reviewing public. Single copies of these documents may be obtained from the Program Management Office (6601J), Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, DC 20460; (202) 233–9354.

Docket. Docket Number R–87–01 contains the rulemaking record. The docket is available for public inspection between 8 a.m.–4 p.m., weekdays, at EPA's Central Docket Section (LE–131), Room M–1500, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Allan C.B. Richardson, Criteria and Standards Division (6602J), Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, DC 20460; telephone (202) 233–9213.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 8, 1978, Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978 (henceforth called "UMTRCA"). In UMTRCA, Congress found that uranium mill tailings "* * * may pose a potential and significant radiation health hazard to the public, and * * * that every reasonable effort should be made to provide for stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings." The Act directs the Administrator of the Environmental Protection Agency (EPA) to set "* * * standards of general application for the protection of the public health, safety, and the environment * * *" to govern this process of stabilization, disposal, and control.

UMTRCA directs the Department of Energy (DOE) to conduct such remedial actions at the inactive uranium processing sites as will insure compliance with the standards established by EPA. This remedial action is to be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC). Upon completion of the remedial action program, the depository sites will remain in the custody of the Federal government under an NRC license.

The standards apply to residual radioactive material at the 24 processing sites designated, as provided in the Act, by DOE. Residual radioactive material is defined as any wastes which DOE determine to be radioactive, either in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores, or in other forms which relate to such processing, such as sludges and captured contaminated water from these sites. (Additional wastes that do not meet this definition may be subject to regulation as hazardous waste under the Solid Waste Disposal Act (SWDA) as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).)

Standards are required for two types of remedial actions: disposal and cleanup of residual radioactive material. Disposal is here used to mean the operation that places tailings in a permanent condition which will minimize risk of harmful effects to the health of people and harm to the environment. Cleanup is the operation that eliminates, or reduces to acceptable levels, the potential health and environmental consequences of tailings or their constituents that have been dispersed from tailings piles or disposal areas by natural forces or by human activity, through removal of residual radioactive materials from land, buildings, and groundwater.

On January 5, 1983, EPA promulgated final standards for the disposal and cleanup of the inactive mill tailings sites under UMTRCA (48 FR 590). These standards were challenged in the Tenth Circuit Court of Appeals by several parties (Case Nos. 83–1014, 83–1041, 83–1206, and 83–1300). On September 3, 1985, the court dismissed all challenges except one: it set aside the groundwater provisions of the regulations at 40 CFR 192.20(a)(2) and (3) and remanded them to EPA "* * * to treat these toxic chemicals that pose a groundwater risk as it did in the active mill site regulations." On September 24, 1987, EPA proposed new standards to replace those remanded. A public hearing was held in Durango, Colorado, on October 29, 1987. In response to requests from several commenters at the public hearing and a later request by the American Mining Congress, the public record for comments on the proposed standard was not closed until January 29, 1988. With this notice, EPA is establishing final standards to replace those set aside.

II. Summary of Background Information

Beginning in the 1940's, the U.S. Government purchased large quantities of uranium for defense purposes. As a result, large piles of tailings were created by the uranium milling industry. Tailings piles pose a hazard to public health and the environment because they contain radioactive and toxic constituents which emanate radon to the atmosphere and may leach into groundwater. Tailings, which are a sand-like material, have also been removed from tailings piles in the past for use in construction and for soil

conditioning. These uses are inappropriate, because the radioactive and toxic constituents of tailings may elevate indoor radon levels, expose people to gamma radiation, and leach into ground and surface waters.

Most of the mills are now inactive and many of the sites were abandoned. These abandoned sites are being remediated under Title I of UMTRCA. Congress designated 22 specific inactive sites in Title I of UMTRCA, and the DOE subsequently added two more. Most remaining uranium mill tailings sites are regulated by the NRC or States and will be reclamated under Title II of UMTRCA. (DOE also owns one inactive site at Monticello, Utah, that is not included under UMTRCA). The Title I sites are located in the West, predominantly in arid areas, except for a single site at Canonsburg, Pennsylvania. Before disposal operations began, tailings piles at the inactive sites ranged in area from 5 to 150 acres and in height from only a few feet to as much as 230 feet. The amount at each site ranges from residual contamination to 2.7 million tons of tailings. The 24 designated Title I sites combined contain about 26 million tons of tailings covering a total of about 1000 acres.

Under the provisions of Title I of UMTRCA, the DOE is responsible for the disposal of tailings at these sites, which will then be licensed to DOE by NRC for long term surveillance and maintenance, following NRC approval of the remediation. In addition, tailings that were dispersed from the piles by natural forces or that have been removed for use in or around buildings or on land are being retrieved and replaced on the tailings piles prior to their disposal.

UMTRCA, as originally enacted, required that DOE complete all these remedial actions within 7 years of the effective date of EPA's standards, that is, by March 5, 1990. At the end of 1993 disposal actions had been completed at ten sites: Canonsburg, Pennsylvania, one of two sites in areas of high precipitation (Falls City, Texas is the other); Shiprock, New Mexico; Salt Lake City, Utah; Lakeview, Oregon; Green River, Utah; Spook and Riverton, Wyoming; Lowman, Idaho; Tuba City, Arizona; and Durango, Colorado. Disposal actions were well advanced at eight other sites: Rifle (two piles), Grand Junction, and Gunnison, Colorado; Monument Valley, Arizona; Mexican Hat, Utah; Falls City, Texas; and Ambrosia Lake, New Mexico. The remaining sites are in the advanced stages of planning and should be under construction within the next two years. In view of the rate of progress with remedial work, Congress in 1988 extended the completion date for disposal and most cleanup activities until September 30, 1994, and provided further "* * * that the authority of the Secretary to perform groundwater restoration activities under this title is without limitation." (Uranium Mill Tailings Remedial Action Amendments Act of 1988, P.L. 100–616, November 5, 1988; 42 U.S.C. 7916). Section 1031 of the Energy Policy Act of 1992 further extended the completion date for UMTRCA surface stabilization (disposal) activities to September 30, 1996.

The most important hazardous constituent of uranium mill tailings is radium, which is radioactive. Other potentially hazardous substances in tailings piles include arsenic, molybdenum, selenium, uranium, and, usually in lesser amounts, a variety of other toxic substances. The concentrations of these materials in tailings vary from pile to pile, ranging from 2 to more than 100 times local background soil concentrations. A variety of organics is also known to have been used at these sites.

Exposure to radioactive and toxic substances may cause cancer and other diseases, as well as genetic damage and teratogenic effects. Tailings pose a risk to health because: (1) Radium in tailings decays into radon, a gaseous radioactive element which is easily transported in air and the radioactive decay products of which may lodge in the lungs; (2) individuals may be directly exposed to gamma radiation from the radioactivity in tailings; and (3) radioactive and toxic substances from tailings may leach into water and then be ingested with food or water, or inhaled following aeration. It is the last of these hazards that is primarily addressed here. (Although radon from radium in groundwater is unlikely to pose a substantial hazard at these locations, these standards also address that potential hazard.) The other hazards are covered by existing provisions of 40 CFR part 192.

EPA's technical analysis was based on detailed reports for 14 of the 24 inactive uranium mill tailings sites that had been developed by late 1988 for the Department of Energy by its contractors. Preliminary data for the balance of the sites were also examined. Those data showed that the volumes of contaminated water in aquifers at the 24 sites range from a few tens of millions of gallons to 4 billion gallons. In a few instances mill effluent was apparently the sole source of this groundwater. Each of the 14 sites examined in detail had at least some groundwater contamination beneath and/or beyond the site. In some cases the groundwater upgradient of the pile already exceeded EPA drinking water standards for one or more contaminants due to mineralization sources or due to anthropogenic sources other than the uranium milling activities, thus making it unsuitable for use as drinking water without treatment and, in some extreme cases, for most other purposes before it was contaminated by effluent from the mill. Some contaminants from the tailings piles are moving offsite quickly and others are moving slowly. The time for natural flushing of the contaminated portions of these aquifers was estimated to vary from a couple of years to many hundreds of years. Active restoration was estimated to take from less than 5 years at most sites to approximately 50 years at one site.

DOE currently estimates that there is approximately 4.7 billion gallons of contaminated water, but this estimate does not include all sites. One site, Lowman, Idaho, shows no sign of contamination related to the processing activities, while the site with the largest amount of contamination, Monument Valley, Arizona, has an estimated 0.75 billion gallons of contaminated water. The DOE estimate does not include those sites where current assessments indicate that supplemental standards should be applied, because contamination at these sites has been hard to quantify.

Contaminants that have been identified in the groundwater downgradient from a majority of the sites include uranium, sulfate, iron, manganese, nitrate, chloride, molybdenum, selenium, and total dissolved solids. Radium, arsenic, fluoride, sulfide, chromium, cadmium, vanadium, lead, and copper have also been found in the groundwater at one or more sites.

UMTRCA requires that the standards established under Title I provide protection that is consistent, to the maximum extent practicable, with the requirements of RCRA. In this regard, regulations established by EPA for hazardous waste disposal sites under RCRA provide for the specification of a groundwater protection standard for each waste management area in the facility permit (see 40 CFR part 264, subpart F). The groundwater protection standard includes a list of specific hazardous constituents relevant to each waste management area, a concentration limit for each hazardous constituent, the point of compliance, and the compliance period. The subpart F regulations specify that the concentration limits may be set at

general numerical limits (maximum concentration limits (MCLs)) for some hazardous constituents or at their background level in groundwater unless alternate concentration limits (ACLs) are requested and approved. ACLs may be requested based upon data which would support a determination that, if the ACL is satisfied, the constituent would not present a current or potential threat to human health and the environment. This standard incorporates many of these provisions into the regulations for the Title I sites.

III. Changes and Clarifications in Response to Comments

These final standards modify and clarify some of the provisions of the proposed standards as a result of information and views submitted during the comment period and at the public hearing. EPA received many comments on the proposed standards. Twenty-three letters were received and eight individuals testified at the public hearing. Comments were submitted from private citizens, public interest groups, members of the scientific community, and representatives of industry and of State and Federal agencies. EPA has carefully reviewed and considered these comments in preparing its detailed Response to Comments and the final Background Information Document and in developing the final standards. EPA's responses to major comments are summarized below.

Uranium Concentration Limit

Several commenters pointed out that the Agency used inappropriate dose conversion values (nonstochastic) for uranium and radium (instead of the more appropriate stochastic values) in developing the proposed concentration limit for uranium. These comments were correct. We have reevaluated the risks associated with ingestion of uranium, using current risk factors for radiocarcinogenicity of uranium, and have also considered the chemical toxicity of uranium. We have concluded that the level proposed, 30 pCi/liter, provides an adequate margin of safety against both carcinogenic and toxic effects of uranium, and that the level should be expressed in terms of the concentration of radioactivity, because it is related to the principal health risk, and can accommodate different levels of radioactive disequilibrium between uranium-234 and uranium-238

EPA's Office of Groundwater and Drinking Water has also examined these factors, and, on July 18, 1991, proposed the MCL for uranium in drinking water be set at a chemical concentration comparable to the limit on radioactivity promulgated in this regulation. Should the MCL for drinking water, as finally promulgated, provide a level of health protection different from that provided by the limit in this regulation, EPA will reconsider the limit at that time. On the basis of the above considerations, the limit for uranium has been established at 30 pCi/liter for this regulation.

Molybdenum Concentration Limit

Several reviewers objected to the proposed inclusion of a limit on molybdenum. They pointed out that EPA has not established a drinking water standard for this element. While this is true, the drinking water regulations also make provision for health advisories in the case of contaminants that are problems only in special situations. Molybdenum in the vicinity of uranium mill tailings is such a special case. Uranium mill tailings often contain high concentrations of molybdenum that can leach into groundwater in concentrations that may cause toxic effects in humans and cattle. This rule therefore continues to contain a limit on the concentration of molybdenum in groundwater. The value chosen remains the same as that proposed, as discussed in Section IV below.

Other Groundwater Limits

These groundwater limits incorporate MCLs issued under the Safe Drinking Water Act (SDWA) (42 USC 300f, et seq.) and in effect for sites regulated under RCRA from the time these limits were proposed on September 24, 1987, to the present. However, on January 30, 1991, EPA issued new MCLs for some of the inorganic constituents included in the present limits, and proposed new drinking water standards for radioactive constituents were published on July 18, 1991 (56 FR 3526 and 33050). Following publication of final drinking water standards for radioactive constituents, EPA will consider whether the benefits and costs implied by differences between these limits and the new drinking water standards warrant proposing to incorporate the new values into both the Title I and the Title II limits for groundwater

Application of These Regulations to Vicinity Properties

Several commenters questioned the wisdom of applying these regulations to vicinity properties. (Vicinity properties are real properties or improvements in the vicinity of a tailings pile that are determined by DOE, in consultation with the NRC, to be contaminated with residual radioactive materials.) They indicated that if the portion of the proposed rule requiring detailed assessment and monitoring were applied to all vicinity properties, it would greatly expand the cost of the program without providing additional benefits. Since only a few vicinity properties contain sufficient tailings to constitute a significant threat of groundwater contamination, we have concluded that detailed assessment and monitoring, followed by identification of listed constituents and groundwater standards, is *not* required at all vicinity properties. It is necessary only at those vicinity properties with a significant potential for groundwater contamination, as determined by the DOE (with the concurrence of NRC) using factors such as those in EPA's RCRA Facility Assessment Guidance document. It should be noted that this modification applies to the requirement for detailed assessment and monitoring only; the standards for cleanup of groundwater contamination are not changed. In addition, we note that the minimal quantities of residual radioactive materials left behind at vicinity properties after compliance with subpart B do not constitute disposal sites under subpart A.

Application of State Regulations to These Sites

Some commenters expressed the view that these regulations should require consistency with State laws and regulations. EPA's regulations for licensed mill tailings sites under Title II of this Act do not contain such a provision. (Although NRC Agreement States may, under the Atomic Energy Act, adopt standards which "* * * are equivalent to the extent practicable or more stringent * * *," they have not done so under UMTRCA.) We have decided that decisions regarding consistency with State laws and regulations should be made by DOE in consultation with the States, as provided by Section 103 of the Act In making these decisions in cases where an approved Wellhead Protection Area, under the Safe Drinking Water Act, is associated with the site, however, DOE must comply with the provisions of that program, unless an exemption is granted by the President of the United States. In addition, contamination on the site that is not covered by UMTRCA (because it is not related to the processing operation) may be covered by Federal or State RCRA programs.

Application of Institutional Controls During an Extended Remedial Period

Several comments were received concerning the effectiveness, reliability,

and enforceability of institutional controls to be applied during a remedial period that has been extended to take advantage of natural flushing. EPA recognizes that some institutional controls, such as advisories or signs, although desirable as secondary measures, are not appropriate as primary measures for preventing human exposure to contaminated water. For this reason, the regulations permit institutional controls to be used in place of remediation only when DOE is able to ensure their effectiveness will be maintained during their use. The standards require that institutional controls "* * * effectively protect public health and the environment and satisfy beneficial uses of groundwater * * *" during their period of application. In this regard, we note that tribal, state, and local governments can also play a key role in assuring the effectiveness of institutional controls. In some cases this may be effected through changes in tribal, state, or local laws to ensure the enforceability of institutional controls by the administrative or judicial branches of government entities. One State indicated that some institutional controls, such as deed restrictions, should not be viewed as restrictions since they do not empower any agency to prohibit access to contaminated water. However, judicial enforcement of deed restrictions can be as effective as administrative enforcement of other institutional controls by a government agency. Therefore, deed restrictions are an acceptable institutional control if they are enforceable by a court with jurisdiction over the site at which they are used, and if the implementing agency will take appropriate steps to assure their effective application.

Some commenters expressed the view that, if institutional controls are used, this use must be restricted to the 7-year period for remediation authorized in Section 112(a) of UMTRCA. EPA believes that it is not possible to achieve cleanup of groundwater at all of the sites within 7 years, no matter what reclamation scheme is employed. It is therefore necessary to consider time frames other than that originally contemplated in UMTRCA for completion of remedial actions. Congress, in granting an extension of the authorization in Section 112(a) of UMTRCA for disposal and cleanup actions from March 5, 1990 to September 30, 1994, provided further "* * * that the authority of the Secretary to perform groundwater restoration activities under this title is without limitation." (Uranium Mill Tailings Remedial Action Amendments Act of 1988 (42 U.S.C. 7916)). In addition, under Section 104(f)(2) of the Act (42 U.S.C. 7919(f)(2)), the NRC may require maintenance of corrective and institutional measures that are already in place at the time authorization under Section 112(a) expires, without time limitation.

The provisions for use of natural flushing when appropriate institutional controls are in place are consistent with existing regulations under Title II, although they are not explicit in those regulations. In cases where groundwater contamination is detected, the Title II regulations specify when corrective actions must begin, but do not specify a time when corrective actions must be completed. These provisions under Title I provide additional guidance on the length of time over which institutional control may reasonably be relied upon, and further guidance on the kinds of institutional provisions that would be appropriate at any uranium tailings site. In addition, use of institutional controls is not limited to extended remedial periods. Interim institutional controls may also be used to protect public health or the environment, when DOE finds them necessary and appropriate, prior to commencing active remedial action, during active remedial action, or during implementation of other compliance strategies.

Other comments addressed a variety of matters, including the monitoring of institutional controls, the relationship between long-term maintenance responsibilities and the 100-year limit on use of institutional controls, types of institutional controls, longer or shorter extended remedial periods, and the legality of institutional controls under UMTRCA. These matters are addressed in the Response to Comments, published separately as a background document.

Point of Compliance

Several commenters objected to the definition of the point of compliance in the disposal standards (subpart A), and suggested that it be defined at some finite distance from the edge of the remediated tailings instead of at the downgradient edge of the pile, as in regulations established under RCRA. They indicated that the remediated tailings may seep a minor amount of contamination, which may cause the standards to be exceeded at the proposed point of compliance, under conditions where there would be no detriment to human health or the environment at small distances away This difficulty can be solved, as proposed, by moving the point of compliance or, alternatively, by granting an ACL if it can be shown that such levels of contamination will not impair human health or damage the environment. We have concluded the latter is more in keeping with the regulations established under RCRA. The standards provide that DOE may request an ACL under such circumstances and NRC may approve such a request if contamination of groundwater will not endanger human health or degrade the environment. It is our view that this requirement would usually be satisfied at any site where the minor seepage noted above is not projected to extend beyond a few hundred meters from the waste management area and will not extend outside the site boundary. This could occur under a variety of circumstances where important roles are played by attenuation, dilution, or by vapor transport in unsaturated zones.

Under the cleanup standard (subpart B), the DOE is required to characterize the extent of contamination from the site and clean it up wherever it exceeds the standards. This characterization and confirmation of cleanup will be carried out through the monitoring program established under § 192.12(c)(3). Although the DOE is not required to clean up preexisting contamination that is located beneath a remediated tailings pile, they are required to consider this contamination when developing their plan(s) for remedial action and will have to clean up any contamination that will migrate from beneath the pile and exceed the concentration limits established in accordance with § 192.02(c)(3).

Alternate Concentration Limits

Several reviewers commented that EPA should not, for a variety of reasons, delegate the responsibility for approving ACLs to the NRC. Others stated that the standards were so strict that ACLs would be needed at every site. EPA considered a number of approaches to the provision for granting ACLs. These included deleting the ACL provision, establishing (by regulation) generic criteria for ACLs to be implemented by NRC, providing for some form of EPA review or oversight of ACL implementation, and (as in the proposed regulation) providing for no EPA role in setting ACLs at individual sites.

EPA has decided not to delete the ACL provision because it is clearly needed, if for no other reason than to deal with the possibilities of unavoidable minor projected seepage over the extremely long-term design life (1000 years) of the disposal required, in most cases, by these standards, and of

cleanup situations involving pollutants for which no MCLs exist. Establishment of a complete set of regulations specifying generic criteria for granting ACLs presents difficulties for rulemaking, since ACL determinations often involve complex judgments that are not amenable to being reduced to simple regulatory requirements. In this regard we note that such regulations do not yet exist in final form for sites directly regulated under RCRA. However, the Agency has issued interim final Alternate Concentration Limit Guidance (OSWER Directive 9481.00; EPA/SW–87–017), and has proposed several relevant rules, e.g., under 40 CFR parts 264, 265, 270, and 271, for Corrective Action for Solid Waste Management Units at Hazardous Waste Management Facilities (55 FR 30798; July 27, 1990). In addition, the NRC proposed a draft Technical Position on Alternate Concentration Limits for Uranium Mills at Title II sites on March 21, 1994 (59 FR 13345). EPA has reviewed the NRC draft Technical position, and we find that it is consistent, in general, with EPA's own guidance and proposed rules. The NRC draft position does not, however, specify an upper limit on risks to humans from carcinogens. We have reconsidered the issue of EPA review or oversight of ACLs at Title I sites in light of this review, and concluded that, in the interests of assuring that public health is adequately protected while at the same time minimizing the regulatory burden on DOE, the best course of action is to specify that upper limit in this regulation and assign the responsibility for making determinations for ACLs at individual sites to NRC. Accordingly, in this rule, in the implementing guidance contained in subpart C, § 192.20(a)(2), we now specify that the criterion for known or suspected carcinogens contained in the above-referenced RCRA documents should be applied in granting ACLs. That criterion specifies that ACLs should be established at levels which represent an excess.lifetime risk, at a point of exposure, no greater than 10^{-4} to 10^{-6} to an average individual.

EPA is required by UMTRCA (Section 206) to be consistent, to the maximum extent practicable, with RCRA. For this reason, relevant portions of the RCRA regulations have been incorporated. For example, these regulations provide for the use of ACLs when it can be shown that the criteria specified in § 192.02(c)(3)(ii) are satisfied. It remains the view of the Agency that, as at the Title II sites, an ACL is appropriate if the NRC has determined that these criteria are satisfied when the otherwise applicable standard will be met within the site boundary (or at a distance of 500 meters, if this is closer). It is clear that ACLs will usually be appropriate to accommodate the controlled minor seepage anticipated from properly designed tailings disposal within such distances, when public use is not possible.

Cost

Greater consideration of cost and cost-benefit analysis was requested by several commenters. In 1983, Congress amended UMTRCA to provide that when establishing standards the Administrator should consider, among other factors, the economic costs of compliance We have considered these costs in two ways. First, we compared them to the benefit, expressed in terms of the value of the product—processed uranium ore—which has led to contamination of groundwater at these sites. We estimate the present value of the processed uranium ore from these sites as approximately 3 9 billion dollars (1989 dollars). The estimated cost of compliance is approximately 5.5% of this value, and we judge this to be a not unreasonable incremental cost for the remediation of contamination from the operations which produced this uranium. As a second way of considering the economic costs of compliance, we examined the cost of alternative ways to supply the resources for future use represented by these groundwaters. As noted earlier, water is a scarce resource in the Western States where this cleanup would occur. When other resources have been exhausted, the only remaining alternative to cleaning up groundwater in the vicinity of these sites is to replace this water by transporting water from the nearest alternative source. Our analysis of the costs of doing this indicates that it is significantly more costly to supply water from alternative sources than it would be to clean up the groundwater at these sites. We have concluded, therefore, that this final rule involves a reasonable relationship between the overall costs and benefits of compliance.

The RCRA subpart F regulations do not include cost as a consideration for the degree of cleanup of groundwater, and these regulations also do not provide for site-specific standards based on site-specific costs. Nonetheless, it is clearly desirable and appropriate to apply the most cost-effective remedies available to meet these standards at each site, and we anticipate that DOE will make such choices in choosing the remedies it applies to satisfy these standards. Further, once the basic criteria for establishing ACLs set forth in § 192.02(c)(3)(ii)(B) have been satisfied, if a higher level of protection is reasonably achievable, this should be carried out. However, we do not believe it is appropriate to apply detailed cost/benefit balancing judgments to justify lesser levels of protection for ground water The benefits of cleaning up groundwater are often not quantifiable and may not become known for many years; therefore, site-specific cost-benefit analyses are difficult to apply in such situations. Moreover, Congress provided no authority that protection of ground water at each site should be limited by cost/benefit considerations, even after reconsidering the question in the 1984 amendments

Some reviewers raised the issue of additional costs arising from use of these standards in other applications, such as CERCLA cleanups. We recognize that there may be costs associated with using these standards as precedents for other waste cleanup projects. However, the reasonableness of incurring such costs should be assessed when it is possible to do so with complete information, that is, at the time of application of these standards as precedents for situations other than the one for which they were developed.

Natural Restoration

The use of natural restoration of an aquifer was discussed by several reviewers. Some felt that it was a viable and desirable alternative, because it is easy and inexpensive to apply, for groundwaters that are not expected to be used for drinking or other purposes during the cleanup period. Others felt that it should be prohibited because it required a reliance on institutional controls and would circumvent active cleanup of groundwater. EPA believes that the use of natural restoration can be a viable alternative in situations where water use and ecological considerations are not affected, and cleanup will occur within a reasonable time. We have concluded that institutional controls, when enforced by government entities, or that otherwise have a high degree of permanence, can be relied on for periods of time up to 100 years, and that adequate safeguards are provided through NRC oversight of the implementation of these standards to prevent this alternative from being used to circumvent active cleanup of water that will be used by nearby populations.

Commenters suggested that natural restoration was not adequate to restore water quality at these sites. DOE has indicated that they expect that natural restoration may be all that is necessary at up to eight sites and could be used

in conjunction with active remedial measures at several other sites. Natural restoration is most valuable when the contaminated aquifer discharges into a surface water body that will not be adversely affected by the contamination.

Pile and Liner Design

The design of the remediated pile and the use of a liner was of concern to several commenters, and recommendations were given for suitable designs. These commenters feared that water would continually infiltrate the remediated piles and contaminate groundwater

These EPA standards would not be satisfied by designs which allow contamination that would adversely affect human health or the environment. Further, current engineering designs for covers incorporate a number of features that control infiltration to extremely low levels. These may include an erosion barrier (with vegetation, where feasible) to transpire moisture and reduce infiltration; rock filters and drains to drain and laterally disperse any episodic infiltration; very low permeability infiltration barriers to intercept residual infiltration; and finally, the thick radon barrier, which further inhibits infiltration. The combined effect of these features is to reduce the overall hydrological transmission of covers to levels on the order of one part in a billion, with a resulting high probability that there will be no saturated zone of leachate in or below the tailings. EPA expects DOE to use such state-of-the-art designs wherever it is appropriate to do so because of the proximity of groundwater.

Under the provisions of UMTRCA, the detailed design of the pile and its cover is the responsibility of DOE, and confirmation of the viability of the design to satisfy EPA's standards is the responsibility of NRC. EPA's responsibility is to promulgate the standards to which the disposal must conform. It would be inconsistent with the division of responsibilities set forth in UMTRCA to specify actual designs for the piles in these regulations. In this connection, the requirement to provide a liner when tailings are moved to a new location in a wet state is properly seen as a generic management requirement. Any liner for this purpose would only serve a useful purpose for the relatively short time over which the moisture content of the pile adjusts to its long-term equilibrium value, after which the cover design would determine the groundwater protection capability of the disposal.

Restricted List of Constituents

Commenters were overwhelmingly opposed to a restricted list of radioactive or toxic constituents and recommended that the entire list of constituents be relied upon. It is the Agency's experience that, under RCRA, no changes in this list have been requested based on the criteria provided in § 264.93(b). These criteria allow for hazardous constituents to be excluded based on a determination that the constituent does not pose a substantial present or potential hazard to human health or the environment. Therefore, that portion of the RCRA standards which specify conditions for the exclusion of constituents from the RCRA list of hazardous constituents has been excluded as unnecessary.

However, a short list of compounds has been developed by EPA for use in monitoring groundwater under RCRA. This rule incorporates that list of constituents (Appendix IX of part 264) in place of the complete list in Appendix I for the monitoring programs required at §§ 192.02(c)(1), 192.03, and 192.12(c)(1). However, the rule still requires that all hazardous constituents listed in Appendix I be considered when corrective action is necessary

IV. Summary of the Final Standard

These final standards consist of three parts: a first part governing protection against future groundwater contamination from tailings piles after disposal; a second part that applies to the cleanup of contamination that occurred before disposal of the tailings piles; and a third part that provides guidance on implementation and specifies conditions under which supplemental standards may be applied.

A. The Groundwater Standard for Disposal

The standard for protection of groundwater after disposal (subpart A) is divided into two parts that separately address actions to be carried out during periods of time designated as the disposal and post-disposal periods. The disposal and post-disposal periods are defined in a manner analogous to the closure and post-closure periods, respectively, in RCRA regulations. However, there are some differences regarding their duration and the timing of any corrective actions that may become necessary due to failure of disposal systems to perform as designed. (Because there are no mineral processing activities currently at these inactive sites, standards are not needed for an operational period.) The disposal period, for the purpose of this regulation, is defined as that period of time beginning on the effective date of the original Title I part 192 standard for the inactive sites (March 7, 1983) and ending with completion of all actions related to disposal except post-disposal monitoring and any corrective actions that might become needed as a result of failure of completed disposal. The post-disposal period begins with completion of disposal actions and ends after an appropriate period for the monitoring of groundwater to confirm the adequacy of the disposal. The groundwater standard governing the actions to be carried out during the disposal period incorporates relevant requirements from subpart F of part 264 of this chapter (§§ 264.92–264.95). The standard for the post-disposal period reflects relevant requirements of § 264.111 of this Chapter. The disposal standard also includes provisions for monitoring and any necessary corrective action during both disposal and post-disposal periods These provisions are essentially the same as those governing the licensed (Title II) uranium mill tailings sites (40 CFR 192, subparts D and E; see also the **Federal Register** notices for those standards published on April 29, 1983 and on October 7, 1983). Several additional constituents are regulated. however, in these final Title I regulations.

These regulations do not change existing requirements at Title I sites for the period of time disposal must be designed to comply with the standards. and therefore remain identical to the requirements for licensed (Title II) sites in this respect. The Agency also recently promulgated final regulations for spent nuclear fuel, and high level and transuranic radioactive wastes (40 CFR part 191; 58 FR 66398, December 20, 1993). Those standards specify a different design period for compliance (10,000 years versus 1000 years) for two principle reasons: (1) The level of radioactivity, and therefore the level of health risk, in the wastes addressed under 40 CFR part 191 is many orders of magnitude greater than those addressed here. (The radioactivity of tailings is typically 0.4 to 1.0 nCi/g, 40 CFR part 191 wastes are always greater than 100 nCi/g, and are typically far higher.) (2) The volume of uranium mill tailings is far greater than the waste volumes addressed under 40 CFR part 191. The containment that would be required to meet a 10,000 year requirement is simply not feasible for the volumes of tailings involved (the option of underground disposal was addressed and rejected in the original

rulemakings for the Title I and Title II sites).

These regulations require installation of monitoring systems upgradient of the point of compliance (i.e., in the uppermost aquifer upgradient of the edge of the tailings disposal site) or at some other point adequate to determine background levels of any listed constituents that occur naturally at the site. The disposal should be designed to control, to the extent reasonably achievable for 1000 years and, in any case, for at least 200 years, all listed constituents identified in residual radioactive materials at the site to levels for each constituent derived in accordance with § 192.02(c)(3). Accordingly, the elements of the groundwater protection standard to be specified for each disposal site include a list of relevant constituents, the concentration limits for each such constituent, and the compliance point.

These standards provide for consideration of ACLs if the disposal cannot reasonably be designed to assure conformance to background levels (or those in Table 1) over the required term. ACLs can be granted provided that, after considering practicable corrective actions, a determination can be made that it satisfies the values given by implementing the conditions for ACLs under § 192.02(c)(3)(ii).

The standards for Title II sites require use of a liner under new tailings piles or lateral extensions of existing piles. These standards for remedial action at the inactive Title I sites do not contain a similar provision. EPA assumes that the inactive piles will not need to be enlarged. Several, however, will be relocated. However, unlike tailings at the Title II sites, which generally may contain large amounts of process water, the inactive tailings contain little or no free water. Such tailings, if properly located and stabilized with a cover adequate to ensure an unsaturated zone, are not likely to require a liner in order to protect groundwater.

However, a liner would be needed for an initial drying-out period to meet these groundwater standards if a situation arose where the tailings initially contained water above the level of specific retention. For example, tailings to which water was added to facilitate their removal to a new site (i.e., through slurrying), or for compaction during disposal. (It is anticipated that piles will never be moved to areas of high precipitation or situated within a zone of water table fluctuation.) Section 192.20(a)(3) requires the remedial plan to address how any such excess water in tailings would be dealt with. In such circumstances it will normally be necessary to use a liner or equivalent to assure that groundwater will not be contaminated while the moisture level in the tailings adjusts to its long-term equilibrium value. Currently, however, DOE plans do not include slurrying any tailings to move them to new locations. Further, for all but two sites, of which one has already been closed (Canonsburg) and at the other (Falls City) disposal actions are well advanced, the tailings are located in arid areas where annual precipitation is low

Disposal designs which prevent migration of listed constituents in the groundwater for only a short period of time would not provide appropriate protection. Such approaches simply defer adverse groundwater effects. Therefore, measures which only modify the gradient in an aquifer or create barriers (e.g., slurry walls) would not of themselves provide an adequate disposal.

Section 192.02(d) requires that a site be closed in a manner that minimizes further maintenance. Depending on the physical properties of the sites, candidate disposal systems, and the effects of natural processes over time, measures required to satisfy these standards will vary from site to site. Actual site data, computational models, and prevalent expert judgment may be used in deciding that proposed measures will satisfy the standards. Under the provisions of Section 108(a) of UMTRCA, the adequacy of these judgments is determined by the NRC.

For the post-disposal period, a groundwater monitoring plan is required to be developed and implemented. The plan will require monitoring for a period of time deemed sufficient to verify, with reasonable assurance, the adequacy of the disposal to achieve its design objectives for containment of listed constituents. EPA expects this period of time to be comparable, in most cases, to that required under § 264.117 of Title 40 for waste sites regulated under RCRA (i.e., a few decades). However, there may be situations where longer or shorter periods are appropriate. Installation and commencement of the monitoring required under § 192.03 will satisfy this EPA standard, for the purposes of licensing of the site by the NRC.

With regard to this monitoring, UMTRCA provides that, after remediation is completed and custody is transferred to a Federal agency, NRC may require that the Federal agency having custody of each remediated tailings site "* * * undertake such monitoring, maintenance, and emergency measures * * *and other actions as [NRC] deems necessary to comply with [EPA's standards]" (UMTRCA, Section 104(f)(2)). Although it is not intended that routine monitoring be carried out as a requirement for conformance to these standards for the 200- to 1000-year period over which the disposal is designed to be effective, NRC may require more extensive monitoring to comply with EPA's standards, as NRC deems necessary under § 104(f)(2) of the Act.

During the post-disposal period, if listed constituents from a disposal site are detected in excess of the groundwater standards, these regulations require a corrective action program designed to bring the disposal and the groundwater into compliance with the provisions of § 192.02(c)(3) and subpart B, respectively. In designing such a corrective action program, the implementing agencies may consider all of the provisions available under subparts A, B, and C. A modification of the monitoring program sufficient to demonstrate that the corrective measures will be successful is also required. In designing future corrective action programs, the implementing agencies may also wish to consider the guidance provided by new regulations now being developed for the RCRA program that will be proposed as subpart S to Title 40. However, the requirements of Part 192 will still govern regulatory determinations of acceptability.

Additional Regulated Constituents

For the purpose of this regulation only, the Agency is regulating, in addition to the hazardous constituents referenced by § 264.93, molybdenum, nitrate, combined radium-226 and radium-228, and combined uranium-234 and uranium-238. Molybdenum, radium, and uranium were addressed by the Title II standards because these radioactive and/or toxic constituents are found in high concentrations at many mill tailings sites. These regulations add numerical limits for these constituents. Nitrate was added because it had been identified in concentrations far in excess of drinking water standards in groundwater at a number of the inactive sites.

The concentration limit for molybdenum in groundwater from uranium tailings is set at 0.1 milligram per liter. This is the value of the provisional Adjusted Acceptable Daily Intake (AADI) for drinking water developed by EPA under the Safe Drinking Water Act (50 FR 46958). The Agency has established neither a maximum concentration limit goal

(MCLG) nor a maximum concentration limit (MCL) for molybdenum because it occurs only infrequently in water. According to the most recent relevant report of the National Academy of Sciences (*Drinking Water and Health*, 1980, Vol. III), molybdenum from drinking water, except for highly contaminated sources, is not likely to constitute a significant portion of the total human intake of this element. However, as noted above, uranium tailings are often a highly concentrated source of molybdenum, and it is therefore appropriate to include a standard for molybdenum in this rule. In addition to the hazard to humans, our analysis of toxic substances in tailings in the Final Environmental Impact Statement for Remedial Action Standards for Inactive Uranium Processing Sites (EPA 520/4–82–013–1) found that, for ruminants, molybdenum in concentrations greater than 0.05 ppm in drinking water would lead to chronic toxicity. This concentration included a safety factor of 10; the standard provides for a safety factor of 5, which we consider adequately protective for ruminants.

The standard for combined uranium-234 and uranium-238 due to contamination from uranium tailings is 30 pCi per liter. The level of health risk associated with this standard is equivalent to the level proposed as the MCL for uranium in drinking water by EPA (56 FR 33050, July 18, 1991). The standard promulgated here applies to remedial actions for uranium tailings only. When the Agency has established a final MCL for isotopes of uranium in drinking water, we will consider whether this standard needs to be reviewed.

The limit for nitrate (as nitrogen) is 10 mg per liter. This is the value of the drinking water standard for nitrate.

B. The Cleanup Standard

With the exception of the point of compliance provision, the standard (subpart B) for cleanup of contaminated groundwater contains the same basic provisions as the standard for disposal in subpart A. In addition, it provides for the establishment of supplemental standards under certain conditions, and for use of institutional control to permit passive restoration through natural flushing when no public water system is involved.

Although the standards specify a single point of compliance for conformance to the groundwater standards for disposal, this does not suffice for the cleanup of groundwater that has been contaminated before final disposal. Instead, in this case compliance must be achieved anywhere contamination above the levels established by these standards is found or is projected to be found in groundwater outside the disposal area and its cover. The standards require DOE to establish a monitoring program adequate to determine the extent of contamination (§ 192.12(c)(1)) in groundwater around each processing site. The possible presence of any of the inorganic or organic hazardous constituents identified in tailings or used in the processing operation should be assessed. The plan for remedial action referenced under § 192.20(b)(4) should document the extent of contamination, the rate and direction of movement of contaminants, and consider future movement of the plume. The cleanup standards normally require restoration of all contaminated groundwater to the levels provided for under § 192.02(c)(3). These levels are either background concentrations, the levels specified in Table 1 in the rule, or ACLs. In cases where the groundwater is not classified as of limited use, any ACL should be determined under the assumption that the groundwater may be used for drinking purposes. In certain circumstances, however, supplemental standards set at levels that would be achieved by remedial actions that come as close to meeting the otherwise applicable standards as is reasonably achievable under the circumstances may be appropriate. Such supplemental standards and ACLs are distinct regulatory provisions and may be considered independently. The regulations provide that supplemental standards may be granted if:

- Groundwater at the site is of limited use (§ 192.11(e)) in the absence of contamination from residual radioactive materials; or
- Complete restoration would cause more environmental harm than it would prevent; or
- Complete restoration is technically impracticable from an engineering perspective.

The use of supplemental standards for limited use groundwater applies the groundwater classification system proposed in EPA's 1984 Groundwater Protection Strategy. As proposed for use in these standards (52 FR 36003, September 24, 1987), Class III encompasses groundwaters that are not a current or potential source of drinking water because of widespread, ambient contamination caused by natural or human-induced conditions, or cannot provide enough water to meet the needs of an average household. These standards adopt the proposed definition of limited use groundwater. However, for the purpose of qualifying for supplemental standards, human-induced conditions exclude contributions from residual radioactive materials.

Water which meets the definition of limited use groundwater may, nevertheless, reasonably be or be projected to be useful for domestic, agricultural, or industrial purposes. For example, in some locations higher quality water may be scarce or absent. Therefore, § 192.22(d) requires the implementing agencies to remove any additional contamination that has been contributed by residual radioactive materials to the extent that is necessary to preserve existing or reasonably projected beneficial uses in areas of limited water supplies. At a minimum, at sites with limited use groundwater, the supplemental standards require such management of contamination due to tailings as is required to assure protection of human health and the environment from that contamination. For example, if the additional contamination from the tailings would cause an adverse effect on drinkable groundwater that has a significant interconnection with limited use groundwater over which the tailings reside, then the additional contamination from the tailings will have to be abated.

Supplemental standards are also appropriate in certain other cases similar to those addressed in Section 121(d)(4) of the Superfund Amendments and Reauthorization Act of 1986 (SARA). SARA recognizes that cleanup of contamination could sometimes cause environmental harm disproportionate to the effects it would alleviate. For example, if fragile ecosystems would be impaired by any reasonable restoration process (or by carrying a restoration process to extreme lengths to remove small amounts of residual contamination), then it might be prudent not to completely restore groundwater quality. Such a situation might occur, for example, if the quantity of water that would be lost during remediation is a significant fraction of that available in an aquifer that recharges very slowly. Decisions regarding tradeoffs of environmental damage can only be based on characteristics peculiar to the specific location of the site. We do not yet know whether such situations exist in the UMTRCA program, but EPA believes that use of supplemental standards should be possible in such situations, after thorough investigation and consideration of all reasonable restoration alternatives.

Based on currently available information, we are not aware that at least substantial restoration of groundwater quality is technically impracticable from an engineering perspective at any of the designated sites. However, our information is incomplete. For example, there may not be enough water available in a very small aquifer to carry out remediation and retain the groundwater resource, or, in other cases, some contaminants may not be removable without destroying the aquifer. EPA believes that DOE should not be required to institute active measures that would completely restore groundwater at these sites if such restoration is technically impracticable from an engineering perspective, and if, at a minimum, protection of human health and the environment is assured. Consistent with the provisions of SARA for remediation of waste sites generally, the standards therefore permit supplemental standards in such situations at levels achievable by site-specific alternate remedial actions. A finding of technical impracticability from an engineering perspective requires careful and extensive documentation, including an analysis of the degree to which remediation is practicable. It should be noted that the phrase "technically impracticable from an engineering perspective" means that the remedial action cannot reasonably be put into practice; it does not mean a conclusion derived from the balancing of costs and benefits. In addition to documentation of technical matters related to cleanup technology, DOE should also include a detailed assessment of such site-specific matters as transmissivity of the geologic formation, aquifer recharge and storage, contaminant properties (e.g., withdrawal and treatability potential), and the extent of contamination.

Finally, for aquifers where compliance with the groundwater standards can be projected to occur naturally within a period of less than 100 years, and where the groundwater is not now used for a public water system and is not now projected to be so used within this period, this rule permits extension of the remedial period to that time, provided institutional control and an adequate verification plan which assures satisfaction of beneficial uses is established and maintained throughout this extended remedial period.

Active restoration should be carefully considered when evaluating the use of such passive restoration. The provision to permit reliance on natural restoration is based on the judgment that sole reliance on active cleanup may not always be warranted under these standards promulgated pursuant to UMTRCA. This may be the case for situations where active cleansing to completely achieve the standards is impracticable, environmentally damaging, or excessively costly, if groundwater can reach the levels required by the standards through natural flushing within an acceptable period of time. This mechanism may be considered where groundwater concentration limits can be met through partial (or complete) reliance on natural processes and no use of the water as a source for a public water system exists or is projected. Any institutional control that may be required to effectively protect public health and the environment and assure that beneficial uses that the water could have satisfied are provided for in the interim must be verified for effectiveness and modified as necessary. Alternate standards are not required where final cleanup is to be accomplished through natural flushing, since those established under § 192.02(c)(3) must be met at the end of the remedial period.

The regulations establish a time limit on such extension of the remedial period to limit reliance on extended use of institutional controls to manage public access to contaminated groundwater. Following the precedent established by our rule for high-level radioactive wastes (40 CFR 191.14(a)), use of institutional controls is permitted for this purpose only when they will be needed for periods of less than 100 years.

The effectiveness of institutional controls must be verified and maintained over the entire period of time that they are in use. Examples of acceptable measures include use restrictions enforceable by the administrative or judicial branches of government entities, and measures with a high degree of permanence, such as Federal or State ownership of the land containing the contaminated water. In some instances, a combination of institutional controls may be needed to provide adequate protection, such as providing an alternate source of water for drinking or other beneficial uses and restricting inappropriate use of contaminated groundwater. However, institutional control provisions are not intended to require DOE to provide water for uses that the groundwater would not have been available or suitable for in the absence of contamination from residual radioactive materials. Institutional controls that are not adequate by themselves include such measures as health advisories, signs, posts, admonitions, or any other measure that requires the voluntary cooperation of private parties. However, such measures may be used to complement other enforceable institutional controls.

Restoration of groundwater may be carried out by removal, wherein the contaminated water is removed from the aquifer, treated, and either disposed of, used, or re-injected into the aquifer, and *in situ*, through the addition of chemical or biological agents to fix, reduce, or eliminate the contamination in place. Appropriate restoration will depend on characteristics of specific sites and may involve use of a combination of methods. Water can be removed from an aquifer by pumping it out through wells or by collecting the water from intercept trenches. Slurry walls can sometimes be put in place to contain contamination and prevent further migration of contaminants, so that the volume of contaminated water that must be treated is reduced. The background information document contains a more extensive discussion of candidate restoration methods.

Previously EPA reviewed preliminary information for all 24 sites and detailed information for 14 to make a preliminary assessment of the extent of the potential applicability of supplemental standards and the use of passive remediation. Approximately two-thirds of the sites appear to be located over potable (or otherwise useful) groundwater and the balance over limited use groundwaters. DOE, based on more recent information, feels that up to ten sites are candidates for supplemental standards, and that the rate at which natural flushing is occurring at up to eight of the sites permits consideration of passive remediation under institutional control as the sole remedial method. Some sites exhibit conditions that could be amenable to a combination of strategies. Further, EPA is not able to predict the applicability of provisions regarding technical impracticability or excess environmental harm, since this requires detailed analysis of specific sites, but anticipates that wide application is unlikely. It is emphasized that the above assessment is not based on final results for the vast majority of these sites, and is, therefore, subject to change.

RCRA regulations, for hazardous waste disposal units regulated by EPA, provide that acceptable concentrations of constituents in groundwater (including ACLs) are determined by the Regional Administrator (or an authorized State). EPA's regulations under Title II of UMTRCA provide that the NRC, which regulates active sites, replace the EPA Regional Administrator for the above functions when any

contamination permitted by an ACL will remain on the licensed site or within 500 meters of the disposal area, whichever is closer. Because Section 108(a) of UMTRCA requires the Commission's concurrence with DOE's selection and performance of remedial actions to conform to EPA's standards, this rule makes the same provision for administration by the NRC of those functions for Title I as it did in the case of the Title II standards, and also provides for NRC concurrence on supplemental standards.

V. Implementation

UMTRCA requires the Secretary of Energy to select and perform the remedial actions needed to implement these standards, with the full participation of any State that shares the cost. The NRC must concur with these actions and, when appropriate, the Secretary of Energy must also consult with affected Indian tribes and the Secretary of the Interior.

The cost of remedial actions is being borne by the Federal Government and the States as prescribed by UMTRCA. The clean-up of groundwater is a large-scale undertaking for which there is relatively little long-term experience. Groundwater conditions at the inactive processing sites vary greatly, and, as noted above, engineering experience with some of the required remedial actions is limited. Although preliminary engineering assessments have been performed, specific engineering requirements and detailed costs to meet the groundwater standards at each site have yet to be determined. We believe that costs averaging about 10–15 million (1993) dollars for each of the approximately fourteen tailings sites at which remedial action may be required are most likely.

The benefits from the cleanup of this groundwater are difficult to quantify. In some instances, groundwater that is contaminated by tailings is now in use and will be restored. Future uses that will be preserved by cleanup are difficult to project. In the areas where the tailings were processed, groundwater is an important resource due to the arid condition of the land. However, much of the contamination at these sites occurs in shallow alluvial aquifers. At some of these sites such aquifers have limited use because of their generally poor quality and the availability of better quality water from deeper aquifers.

Implementation of the disposal standard for protection of groundwater will require a judgment that the method chosen provides a reasonable expectation that the provisions of the standard will be met, to the extent reasonably achievable, for up to 1000 years and, in any case, for at least 200 years. This judgment will necessarily be based on site-specific analyses of the properties of the sites, candidate disposal systems, and the potential effects of natural processes over time. Therefore, the measures required to satisfy the standard will vary from site to site. Actual site data, computational models, and expert judgment will be the major tools in deciding that a proposed disposal system will satisfy the standard.

The purpose of the groundwater cleanup standard is to provide the maximum reasonable protection of public health and the environment. Costs incurred by remedial actions should be directed toward this purpose. We intend the standards to be implemented using verification procedures whose cost and technical requirements are reasonable. Procedures that provide a reasonable assurance of compliance with the standards will be adequate. Measurements to assess existing contamination and to determine compliance with the cleanup standards should be performed with 1 reasonable survey and sampling procedures designed to minimize the cost of verification.

The explanations regarding implementation of these regulations in §§ 192.20(a)(2) and (3) have been revised to remove those provisions that the Court remanded and to reflect these new requirements.

These standards are not expected to affect the disposal work DOE has already performed on tailings. On the basis of consultations with DOE and NRC, we expect, in general, that a pile designed to comply with the disposal standards proposed on September 24, 1987, will also comply with these disposal standards for the control of groundwater contamination. DOE will have to determine, with the concurrence of the NRC, what additional work may be needed to comply with the groundwater cleanup requirements. However, any such cleanup work should not adversely affect the control systems for tailings piles that have already been or are currently being installed.

However, at three sites (Canonsburg, PA; Shiprock, NM; and Salt Lake City, UT) the disposal design was based on standards remanded in part on September 3, 1985. We have considered these sites separately, based on information supplied by DOE, and reached the tentative conclusion that modification of the existing disposal cells is not warranted at any of them. Final determinations will be made by DOE, with the concurrence of NRC.

The disposal site at Canonsburg, PA, is located above the banks of Chartiers Creek. Contamination that might seep from the encapsulated tailings will reach the surface within the site boundary, and is then diluted by water in the creek to insignificant levels. Under these circumstances, this site qualifies for an ACL under § 192.02(c)(3)(ii), and modification of the existing disposal cell is not warranted.

The site at Shiprock, NM, which is located above the floodplain of the San Juan River, is over an aquifer that may not be useful as a source of water for drinking or other beneficial purpose because of its quality, areal extent, and yield. Most of the groundwater in this aquifer appears to have originated from seepage of tailings liquor from mill impoundments and not to be contributing to contamination of any currently or potentially useful aquifer Additionally, the quality of this water may be degraded by uncontrolled disposal of municipal refuse north and south of the site. DOE is currently in the process of completing its characterization of this groundwater, and may or may not recommend use of a supplemental standard under § 192.21(g). In any case, however, it appears unlikely that modification of the existing disposal cell will be necessary.

The site containing the tailings from the Salt Lake City mill is located at Clive, Utah, over groundwater that contains dissolved solids in excess of 10,000 mg/l and is not contributing to contamination of any currently or potentially useful aquifer. Under these circumstances, this site also qualifies for a supplemental standard under § 192.21(g), and modification of the existing disposal cell is not warranted.

VI. Relationship to Other Policy and Requirements

In July 1991 EPA completed development of a strategy to guide future EPA and State activities in groundwater protection and cleanup. A key element of this strategy is a statement of 'EPA Groundwater Protection Principles' [1] that has as its overall goals the prevention of adverse effects on human health and the environment and protection of the environmental integrity of the nation's groundwater resources. To achieve these

[1] *Protecting the Nation's Groundwater: EPA's Strategy for the 1990s*. The Final Report of the EPA Groundwater Task Force. U.S. Environmental Protection Agency, Washington. (Report 21Z–1020). July 1991

goals, EPA developed principles regarding prevention; remediation; and Federal, State, and local responsibilities. These principles are set forth and their implementation by this rule summarized below.

(1) With respect to prevention: groundwater should be protected to ensure that the nation's currently used and reasonably expected drinking water supplies, both public and private, do not present adverse health risks and are preserved for present and future generations. Groundwater should also be protected to ensure that groundwater that is closely hydrologically connected to surface waters does not interfere with the attainment of surface water quality standards, which is necessary to protect the integrity of associated ecosystems. Groundwater protection can be achieved through a variety of means including: pollution prevention programs; source controls; siting controls; the designation of wellhead protection areas and future public water supply areas; and the protection of aquifer recharge areas. Efforts to protect groundwater must also consider the use, value, and vulnerability of the resource, as well as social and economic values.

This rule for uranium mill tailings protects groundwater by requiring that disposal piles be designed to avoid any new contamination of groundwater that would threaten human health or the environment in the future. Water is scarce in the Western States where these disposal sites occur. Currently almost half of the water consumed in Arizona and New Mexico and 20 to 30 percent of the water consumed in Utah, Colorado, Idaho, and Texas is groundwater. The population in the Mountain States is expected to increase more than that of any other region between now and the year 2010. In particular, the population in Colorado, New Mexico, Arizona, and Utah is expected to increase dramatically. Thus, in order to ensure that all currently used and reasonably expected drinking water supplies near these sites, both public and private, are adequately protected for use by present and future generations, these rules apply drinking water standards to all potable groundwater The rule also requires that hydrologically-connected aquifers and surface waters, including designated wellhead protection areas and future public water supply areas, be identified and protected, and that other beneficial uses of groundwater besides drinking be identified and protected, including the integrity of associated ecosystems. In this regard we note that DOE has not identified any critical aquatic habitats that have been or could be adversely affected by contamination from these sites.

(2) With respect to remediation: groundwater remediation activities must be prioritized to limit the risk of adverse effects to human health risks first and then to restore currently used and reasonably expected sources of drinking water and groundwater closely hydrologically connected to surface waters, whenever such restorations are practicable and attainable.

Pursuant to our responsibilities under Section 102(b) of UMTRCA, EPA advised DOE in 1979 concerning the criteria which should govern the order in which these sites should be cleaned up. Those criteria specified, in essence, that sites capable of affecting the health of human populations the most should be remediated first. As a result DOE has divided the 24 sites into three levels of priority, based on the populations affected. In order to facilitate implementation of these principles, we have, in this rule, provided DOE with flexibility to prioritize their cleanup activities so as to first minimize human exposure, then restore reasonably expected drinking water sources, and finally to clean up groundwater only when restoration is practicable and attainable. This has been done by relaxing the requirements for cleanup of water:

(a) If it is not a current or potential source of drinking water (i.e., it meets the definition of limited use),

(b) Where natural processes will achieve the standards and there is no current or planned use,

(c) Where adverse environmental impact will occur, and (d) where cleanup is technologically impracticable.

(3) With respect to Federal, State, and local responsibilities: the primary responsibility for coordinating and implementing groundwater protection programs has always been and should continue to be vested with the States. An effective groundwater protection program should link Federal, State, and local activities into a coherent and coordinated plan of action. EPA should continue to improve coordination of groundwater protection efforts within the Agency and with other Federal agencies with groundwater responsibilities.

In the case of the sites covered by these regulations, UMTRCA specifies a primary role for Federal rather than State agencies. However, since these regulations are modeled after existing RCRA regulations, this will serve to insure coherence and coordination with similar prevention and remediation actions by EPA, the States, and other Federal agencies. For example, the concentration limits in groundwater for listed constituents at the sites covered by this rule are the same as those specified for cleanup and disposal at RCRA sites by EPA and the States and at uranium mill sites licensed by NRC.

Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), EPA must determine whether a rule is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is may be a "significant regulatory action," because it may qualify under criterion #4 above on the basis of comments submitted to EPA by letter on January 15, 1993, as a result of OMB review under the previous Executive Order 12291. This action was therefore resubmitted to OMB for review. Comments from OMB to EPA for their review under the previous Executive Order and EPA's response to those comments are included in the docket. Any changes made in response to OMB suggestions or recommendations as a result of the current review will be documented in the public record.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1986, the Agency is required to state the information collection requirements of any standard published on or after July 1, 1988. In response to this requirement, this standard contains no information collection requirements and imposes no reporting burden on the public.

List of Subjects in 40 CFR Part 192

Environmental protection, Groundwater, Radiation protection, Uranium.

Dated: December 14, 1994.

Carol M. Browner,

Administrator, Environmental Protection Agency.

For the reasons set forth in the preamble, 40 CFR part 192 is amended as follows:

PART 192—HEALTH AND ENVIRONMENTAL PROTECTION STANDARDS FOR URANIUM AND THORIUM MILL TAILINGS

1. The authority citation for part 192 continues to read as follows:

Authority: Section 275 of the Atomic Energy Act of 1954, 42 U.S.C. 2022, as added by the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95–604, as amended.

Subpart A—Standards for the Control of Residual Radioactive Materials From Inactive Uranium Processing Sites

2. Section 192.01 is amended by revising paragraphs (a) and (e) and adding paragraphs (g) through (r) to read as follows:

§ 192.01 Definitions.

(a) *Residual radioactive material* means:

(1) Waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and

(2) Other wastes (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

* * * * *

(e) *Depository site* means a site (other than a processing site) selected under Section 104(b) or 105(b) of the Act.

* * * * *

(g) *Act* means the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

(h) *Administrator* means the Administrator of the Environmental Protection Agency.

(i) *Secretary* means the Secretary of Energy.

(j) *Commission* means the Nuclear Regulatory Commission.

(k) *Indian tribe* means any tribe, band, clan, group, pueblo, or community of Indians recognized as eligible for services provided by the Secretary of the Interior to Indians.

(l) *Processing site* means:

(1) Any site, including the mill, designated by the Secretary under Section 102(a)(1) of the Act; and

(2) Any other real property or improvement thereon which is in the vicinity of such site, and is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

(m) *Tailings* means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

(n) *Disposal period* means the period of time beginning March 7, 1983 and ending with the completion of all subpart A requirements specified under a plan for remedial action except those specified in § 192.03 and § 192.04.

(o) *Plan for remedial action* means a written plan (or plans) for disposal and cleanup of residual radioactive materials associated with a processing site that incorporates the results of site characterization studies, environmental assessments or impact statements, and engineering assessments so as to satisfy the requirements of subparts A and B of this part. The plan(s) shall be developed in accordance with the provisions of Section 108(a) of the Act with the concurrence of the Commission and in consultation, as appropriate, with the Indian Tribe and the Secretary of Interior.

(p) *Post-disposal period* means the period of time beginning immediately after the disposal period and ending at termination of the monitoring period established under § 192.03.

(q) *Groundwater* means water below the ground surface in a zone of saturation.

(r) *Underground source of drinking water* means an aquifer or its portion:

(1)(i) Which supplies any public water system as defined in § 141.2 of this chapter; or

(ii) Which contains a sufficient quantity of groundwater to supply a public water system; and

(A) Currently supplies drinking water for human consumption; or

(B) Contains fewer than 10,000 mg/l total dissolved solids; and

(2) Which is not an exempted aquifer as defined in § 144.7 of this chapter.

3. Section 192.02 is revised to read as follows:

§ 192.02 Standards.

Control of residual radioactive materials and their listed constituents shall be designed [1] to:

(a) Be effective for up to one thousand years, to the extent reasonably achievable, and, in any case, for at least 200 years, and,

(b) Provide reasonable assurance that releases of radon-222 from residual radioactive material to the atmosphere will not:

(1) Exceed an average [2] release rate of 20 picocuries per square meter per second, or

(2) Increase the annual average concentration of radon-222 in air at or above any location outside the disposal site by more than one-half picocurie per liter.

(c) Provide reasonable assurance of conformance with the following groundwater protection provisions:

(1) The Secretary shall, on a site-specific basis, determine which of the constituents listed in Appendix I to Part 192 are present in or reasonably derived from residual radioactive materials and shall establish a monitoring program adequate to determine background levels of each such constituent in groundwater at each disposal site.

(2) The Secretary shall comply with conditions specified in a plan for remedial action which includes engineering specifications for a system of disposal designed to ensure that constituents identified under paragraph (c)(1) of this section entering the groundwater from a depository site (or a processing site, if residual radioactive materials are retained on the site) will not exceed the concentration limits established under paragraph (c)(3) of this section (or the supplemental standards established under § 192.22) in the uppermost aquifer underlying the site beyond the point of compliance established under paragraph (c)(4) of this section.

(3) Concentration limits:

(i) Concentration limits shall be determined in the groundwater for listed constituents identified under paragraph (c)(1) of this section. The concentration of a listed constituent in groundwater must not exceed:

(A) The background level of that constituent in the groundwater; or

(B) For any of the constituents listed in Table 1 to subpart A, the respective value given in that Table if the background level of the constituent is below the value given in the Table; or

(C) An alternate concentration limit established pursuant to paragraph (c)(3)(ii) of this section.

(ii)(A) The Secretary may apply an alternate concentration limit if, after

[1] Because the standard applies to design, monitoring after disposal is not required to demonstrate compliance with respect to § 192.02(a) and (b).

[2] This average shall apply over the entire surface of the disposal site and over at least a one-year period. Radon will come from both residual radioactive materials and from materials covering them. Radon emissions from the covering materials should be estimated as part of developing a remedial action plan for each site. The standard, however, applies only to emissions from residual radioactive materials to the atmosphere.

considering remedial or corrective actions to achieve the levels specified in paragraphs (c)(3)(i)(A) and (B) of this section, he has determined that the constituent will not pose a substantial present or potential hazard to human health and the environment as long as the alternate concentration limit is not exceeded, and the Commission has concurred.

(B) In considering the present or potential hazard to human health and the environment of alternate concentration limits, the following factors shall be considered:

(*1*) Potential adverse effects on groundwater quality, considering:

(*i*) The physical and chemical characteristics of constituents in the residual radioactive material at the site, including their potential for migration;

(*ii*) The hydrogeological characteristics of the site and surrounding land;

(*iii*) The quantity of groundwater and the direction of groundwater flow;

(*iv*) The proximity and withdrawal rates of groundwater users;

(*v*) The current and future uses of groundwater in the region surrounding the site;

(*vi*) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(*vii*) The potential for health risks caused by human exposure to constituents;

(*viii*) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to constituents;

(*ix*) The persistence and permanence of the potential adverse effects;

(*x*) The presence of underground sources of drinking water and exempted aquifers identified under § 144.7 of this chapter; and

(*2*) Potential adverse effects on hydraulically-connected surface-water quality, considering:

(*i*) The volume and physical and chemical characteristics of the residual radioactive material at the site;

(*ii*) The hydrogeological characteristics of the site and surrounding land;

(*iii*) The quantity and quality of groundwater, and the direction of groundwater flow;

(*iv*) The patterns of rainfall in the region;

(*v*) The proximity of the site to surface waters;

(*vi*) The current and future uses of surface waters in the region surrounding the site and any water quality standards established for those surface waters;

(*vii*) The existing quality of surface water, including other sources of contamination and their cumulative impact on surface water quality;

(*viii*) The potential for health risks caused by human exposure to constituents;

(*ix*) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to constituents; and

(*x*) The persistence and permanence of the potential adverse effects.

(4) Point of compliance: The point of compliance is the location at which the groundwater concentration limits of paragraph (c)(3) of this section apply The point of compliance is the intersection of a vertical plane with the uppermost aquifer underlying the site, located at the hydraulically downgradient limit of the disposal area plus the area taken up by any liner, dike, or other barrier designed to contain the residual radioactive material.

(d) Each site on which disposal occurs shall be designed and stabilized in a manner that minimizes the need for future maintenance.

4. Section 192.03 is added to read as follows:

§ 192.03 Monitoring.

A groundwater monitoring plan shall be implemented, to be carried out over a period of time commencing upon completion of remedial actions taken to comply with the standards in § 192.02, and of a duration which is adequate to demonstrate that future performance of the system of disposal can reasonably be expected to be in accordance with the design requirements of § 192.02(c). This plan and the length of the monitoring period shall be modified to incorporate any corrective actions required under § 192.04 or § 192.12(c).

5. Section 192.04 is added to read as follows:

§ 192.04 Corrective Action.

If the groundwater concentration limits established for disposal sites under provisions of § 192.02(c) are found or projected to be exceeded, a corrective action program shall be placed into operation as soon as is practicable, and in no event later than eighteen (18) months after a finding of exceedance. This corrective action program will restore the performance of the system of disposal to the original concentration limits established under § 192.02(c)(3), to the extent reasonably achievable, and, in any case, as a minimum shall:

(a) Conform with the groundwater provisions of § 192.02(c)(3), and

(b) Clean up groundwater in conformance with subpart B, modified as appropriate to apply to the disposal site.

6. Table 1 is added to subpart A to read as follows:

TABLE 1 TO SUBPART A.—MAXIMUM CONCENTRATION OF CONSTITUENTS FOR GROUNDWATER PROTECTION

Constituent concentration [1]	Maximum
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Nitrate (as N)	10.
Molybdenum	0.1
Combined radium-226 and radium-228.	5 pCi/liter
Combined uranium-234 and uranium-238 [2]	30 pCi/liter
Gross alpha-particle activity (excluding radon and uranium).	15 pCi/liter
Endrin (1,2,3,4,10,10-hexachloro-6,7-exposy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo,endo-5,8-dimethanonaphthalene).	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma insomer).	0.004
Methoxychlor (1,1,1-trichloro-2,2'-bis(p-methoxyphenylethane)).	0.1
Toxaphene ($C_{10}H_{10}Cl_6$, technical chlorinated camphene, 67–69 percent chlorine).	0.005
2,4-D (2,4-dichlorophenoxyacetic acid).	0.1
2,4,5-TP Silvex (2,4,5-trichlorophenoxypropionic acid).	0.01

[1] Milligrams per liter, unless stated otherwise.

[2] Where secular equilibrium obtains, this criterion will be satisfied by a concentration of 0.044 milligrams per liter (0.044 mg/l). For conditions of other than secular equilibrium, a corresponding value may be derived and applied, based on the measured site-specific ratio of the two isotopes of uranium.

Subpart B—Standards for Cleanup of Land and Buildings Contaminated with Residual Radioactive Materials from Inactive Uranium Processing Sites

7. Section 192.11 is amended by revising paragraph (a) and adding paragraph (e) to read as follows:

192.11 Definitions.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as defined in subpart A.

* * * * *

(e) *Limited use groundwater* means groundwater that is not a current or potential source of drinking water because (1) the concentration of total dissolved solids is in excess of 10,000 mg/l, or (2) widespread, ambient contamination not due to activities involving residual radioactive materials from a designated processing site exists that cannot be cleaned up using treatment methods reasonably employed in public water systems, or (3) the quantity of water reasonably available for sustained continuous use is less than 150 gallons per day. The parameters for determining the quantity of water reasonably available shall be determined by the Secretary with the concurrence of the Commission.

8. In § 192.12, the introductory text is republished without change and paragraph (c) is added to read as follows:

192.12 Standards.

Remedial actions shall be conducted so as to provide reasonable assurance that, *as a result of residual radioactive materials from any designated processing site:*

* * * * *

(c) The Secretary shall comply with conditions specified in a plan for remedial action which provides that contamination of groundwater by listed constituents from residual radioactive material at any designated processing site (§ 192.01(1)) shall be brought into compliance as promptly as is reasonably achievable with the provisions of § 192.02(c)(3) or any supplemental standards established under § 192.22. For the purposes of this subpart:

(1) A monitoring program shall be carried out that is adequate to define backgroundwater quality and the areal extent and magnitude of groundwater contamination by listed constituents from residual radioactive materials (§ 192.02(c)(1)) and to monitor compliance with this subpart. The Secretary shall determine which of the constituents listed in Appendix I to part 192 are present in or could reasonably be derived from residual radioactive material at the site, and concentration limits shall be established in accordance with § 192.02(c)(3).

(2) (i) If the Secretary determines that sole reliance on active remedial procedures is not appropriate and that cleanup of the groundwater can be more reasonably accomplished in full or in part through natural flushing, then the period for remedial procedures may be extended. Such an extended period may extend to a term not to exceed 100 years if:

(A) The concentration limits established under this subpart are projected to be satisfied at the end of this extended period,

(B) Institutional control, having a high degree of permanence and which will effectively protect public health and the environment and satisfy beneficial uses of groundwater during the extended period and which is enforceable by the administrative or judicial branches of government entities, is instituted and maintained, as part of the remedial action, at the processing site and wherever contamination by listed constituents from residual radioactive materials is found in groundwater, or is projected to be found, and

(C) The groundwater is not currently and is not now projected to become a source for a public water system subject to provisions of the Safe Drinking Water Act during the extended period.

(ii) Remedial actions on groundwater conducted under this subpart may occur before or after actions under Section 104(f)(2) of the Act are initiated.

(3) Compliance with this subpart shall be demonstrated through the monitoring program established under paragraph (c)(1) of this section at those locations not beneath a disposal site and its cover where groundwater contains listed constituents from residual radioactive material.

Subpart C—Implementation

9. In § 192.20, paragraphs (a)(2) and (a)(3) and the first sentence of paragraph (b)(l) are revised and paragraphs (a)(4) and (b)(4) are added to read as follows:

192.20 Guidance for implementation.

* * * * *

(a)(1) * * *

(2) Protection of water should be considered on a case-specific basis, drawing on hydrological and geochemical surveys and all other relevant data. The hydrologic and geologic assessment to be conducted at each site should include a monitoring program sufficient to establish background groundwater quality through one or more upgradient or other appropriately located wells. The groundwater monitoring list in Appendix IX of part 264 of this chapter (plus the additional constituents in Table A of this paragraph) may be used for screening purposes in place of Appendix I of part 192 in the monitoring program. New depository sites for tailings that contain water at greater than the level of "specific retention" should use aliner or equivalent. In considering design objectives for groundwater protection, the implementing agencies should give priority to concentration levels in the order listed under § 192.02(c)(3)(i). When considering the potential for health risks caused by human exposure to known or suspected carcinogens, alternate concentration limits pursuant to paragraph 192.02(c)(3)(ii) should be established at concentration levels which represent an excess lifetime risk, at a point of exposure, to an average individual no greater than between 10^{-4} and 10^{-6}.

TABLE A TO § 192.20(a)(2)—ADDITIONAL LISTED CONSTITUENTS

Nitrate (as N)
Molybdenum
Combined radium-226 and radium-228
Combined uranium-234 and uranium-238
Gross alpha-particle activity (excluding radon and uranium)

(3) The plan for remedial action, concurred in by the Commission, will specify how applicable requirements of subpart A are to be satisfied. The plan should include the schedule and steps necessary to complete disposal operations at the site. It should include an estimate of the inventory of wastes to be disposed of in the pile and their listed constituents and address any need to eliminate free liquids; stabilization of the wastes to a bearing capacity sufficient to support the final cover; and the design and engineering specifications for a cover to manage the migration of liquids through the stabilized pile, function without maintenance, promote drainage and minimize erosion or abrasion of the cover, and accommodate settling and subsidence so that cover integrity is maintained. Evaluation of proposed designs to conform to subpart A should be based on realistic technical judgments and include use of available empirical information. The consideration of possible failure modes and related corrective actions should be limited to reasonable failure assumptions, with a demonstration that the disposal design is generally amenable to a range of corrective actions.

(4) The groundwater monitoring list in Appendix IX of part 264 of this chapter (plus the additional constituents in Table A in paragraph (a)(2) of this section) may be used for screening purposes in place of Appendix I of part 192 in monitoring programs. The monitoring plan required under § 192.03 should be designed to include verification of site-specific assumptions used to project the performance of the disposal system. Prevention of

contamination of groundwater may be assessed by indirect methods, such as measuring the migration of moisture in the various components of the cover, the tailings, and the area between the tailings and the nearest aquifer, as well as by direct monitoring of groundwater. In the case of vicinity properties (§ 192.01(l)(2)), such assessments may not be necessary, as determined by the Secretary, with the concurrence of the Commission, considering such factors as local geology and the amount of contamination present. Temporary excursions from applicable limits of groundwater concentrations that are attributable to a disposal operation itself shall not constitute a basis for considering corrective action under § 192.04 during the disposal period, unless the disposal operation is suspended prior to completion for other than seasonal reasons.

(b)(l) Compliance with § 192.12(a) and (b) of subpart B, to the extent practical, should be demonstrated through radiation surveys. * * *

* * * * *

(4) The plan(s) for remedial action will specify how applicable requirements of subpart B would be satisfied. The plan should include the schedule and steps necessary to complete the cleanup of groundwater at the site. It should document the extent of contamination due to releases prior to final disposal, including the identification and location of listed constituents and the rate and direction of movement of contaminated groundwater, based upon the monitoring carried out under § 192.12(c)(1). In addition, the assessment should consider future plume movement, including an evaluation of such processes as attenuation and dilution and future contamination from beneath a disposal site. Monitoring for assessment and compliance purposes should be sufficient to establish the extent and magnitude of contamination, with reasonable assurance, through use of a carefully chosen minimal number of sampling locations. The location and number of monitoring wells, the frequency and duration of monitoring, and the selection of indicator analytes for long-term groundwater monitoring, and, more generally, the design and operation of the monitoring system, will depend on the potential for risk to receptors and upon other factors, including characteristics of the subsurface environment, such as velocity of groundwater flow, contaminant retardation, time of groundwater or contaminant transit to receptors, results of statistical evaluations of data trends, and modeling of the dynamics of the groundwater system. All of these factors should be incorporated into the design of a site-specific monitoring program that will achieve the purpose of the regulations in this subpart in the most cost-effective manner. In the case of vicinity properties (§ 192.01(l)(2)), such assessments will usually not be necessary. The Secretary, with the concurrence of the Commission, may consider such factors as local geology and amount of contamination present in determining criteria to decide when such assessments are needed. In cases where § 192.12(c)(2) is invoked, the plan should include a monitoring program sufficient to verify projections of plume movement and attenuation periodically during the extended cleanup period. Finally, the plan should specify details of the method to be used for cleanup of groundwater.

10. In § 192.21, the introductory text and paragraph (b) are revised, paragraph (f) is redesignated as paragraph (h), and new paragraphs (f) and (g) are added to read as follows:

§ 192.21 Criteria for applying supplemental standards

Unless otherwise indicated in this subpart, all terms shall have the same meaning as defined in Title I of the Act or in subparts A and B. The implementing agencies may (and in the case of paragraph (h) of this section shall) apply standards under § 192.22 in lieu of the standards of subparts A or B if they determine that any of the following circumstances exists:

* * * * *

(b) Remedial actions to satisfy the cleanup standards for land, § 192.12(a), and groundwater, § 192.12(c), or the acquisition of minimum materials required for control to satisfy §§ 192.02(b) and (c), would, notwithstanding reasonable measures to limit damage, directly produce health and environmental harm that is clearly excessive compared to the health and environmental benefits, now or in the future. A clear excess of health and environmental harm is harm that is long-term, manifest, and grossly disproportionate to health and environmental benefits that may reasonably be anticipated.

* * * * *

(f) The restoration of groundwater quality at any designated processing site under § 192.12(c) is technically impracticable from an engineering perspective.

(g) The groundwater meets the criteria of § 192.11(e).

* * * * *

11. In § 192.22, paragraphs (a) and (b) are revised and paragraph (d) is added to read as follows:

192.22 Supplemental standards.

* * * * *

(a) When one or more of the criteria of § 192.21(a) through (g) applies, the Secretary shall select and perform that alternative remedial action that comes as close to meeting the otherwise applicable standard under § 192.02(c)(3) as is reasonably achievable.

(b) When § 192.21(h) applies, remedial actions shall reduce other residual radioactivity to levels that are as low as is reasonably achievable and conform to the standards of subparts A and B to the maximum extent practicable.

* * * * *

(d) When § 192.21(b), (f), or (g) apply, implementing agencies shall apply any remedial actions for the restoration of contamination of groundwater by residual radioactive materials that is required to assure, at a minimum, protection of human health and the environment. In addition, when § 192.21(g) applies, supplemental standards shall ensure that current and reasonably projected uses of the affected groundwater are preserved.

12. Appendix I is added to part 192 to read as follows:

Appendix I to Part 192—Listed Constituents

Acetonitrile
Acetophenone (Ethanone, 1-phenyl)
2-Acetylaminofluorene (Acetamide, N-9H-fluoren-2-yl-)
Acetyl chloride
1-Acetyl-2-thiourea (Acetamide, N-(aminothioxymethyl)-)
Acrolein (2-Propenal)
Acrylamide (2-Propenamide)
Acrylonitrile (2-Propenenitrile)
Aflatoxins
Aldicarb (Propenal, 2-methyl-2-(methylthio)-,O-[(methylamino)carbonyl]oxime
Aldrin (1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro(1α,4α,4aβ,5α,8α,8aβ)-)
Allyl alcohol (2-Propen-1-ol)
Allyl chloride (1-Propane,3-chloro)
Aluminum phosphide
4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
5-(Aminomethyl)-3-isoxazolol (3(2H)-Isoxazolone,5-(aminomethyl)-)
4-Aminopyridine (4-Pyridineamine)
Amitrole (lH-1,2,4-Triazol-3-amine)
Ammonium vanadate (Vanadic acid, ammonium salt)
Aniline (Benzenamine)
Antimony and compounds, N.O.S.[1]

[1] The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this appendix.

Aramite (Sulfurous acid, 2-chloroethyl 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester)
Arsenic and compounds, N.O.S.
Arsenic acid (Arsenic acid H_3AsO_4)
Arsenic pentoxide (Arsenic oxide As_2O_5)
Auramine (Benzamine, 4,4'-carbonimidoylbis[N,N-dimethyl-])
Azaserine (L-Serine, diazoacetate (ester))
Barium and compounds, N.O.S.
Barium cyanide
Benz[c]acridine (3,4-Benzacridine)
Benz[a]anthracene (1,2-Benzanthracene)
Benzal chloride (Benzene, dichloromethyl-)
Benzene (Cyclohexatriene)
Benzenearsonic acid (Arsenic acid, phenyl-)
Benzidine ([1,1'-Biphenyl]-4,4'-diamine)
Benzo[b]fluoranthene (Benz[e]acephananthrylene)
Benzo[j]fluoranthene
Benzo[k]fluoranthene
Benzo[a]pyrene
p-Benzoquinone (2,5-Cyclohexadiene-1,4-dione)
Benzotrichloride (Benzene, (trichloromethyl)-)
Benzyl chloride (Benzene, (chloromethyl)-)
Beryllium and compounds, N.O.S.
Bromoacetone (2-Propanone, 1-bromo-)
Bromoform (Methane, tribromo-)
4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
Butyl benzyl phthalate (1,2-Benzenedicarbozylic acid, butyl phenylmethyl ester)
Cacodylic acid (Arsinic acid, dimethyl)
Cadmium and compounds, N.O.S.
Calcium chromate (Chromic acid H_2CrO_4, calcium salt)
Calcium cyanide ($Ca(CN)_2$)
Carbon disulfide
Carbon oxyfluoride (Carbonic difluoride)
Carbon tetrachloride (Methane, tetrachloro-)
Chloral (Acetaldehyde, trichloro-)
Chlorambucil (Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-)
Chlordane (4,7-Methano-1H-indene,1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-)
Chlorinated benzenes, N.O.S.
Chlorinated ethane, N.O.S.
Chlorinated fluorocarbons, N.O.S.
Chlorinated naphthalene, N.O.S.
Chlorinated phenol, N.O.S.
Chlornaphazin (Naphthalenamine, N,N'-bis(2-chlorethyl)-)
Chloroacetaldehyde (Acetaldehyde, chloro-)
Chloroalkyl ethers, N.O.S.
p-Chloroaniline (Benzenamine, 4-chloro-)
Chlorobenzene (Benzene, chloro-)
Chlorobenzilate (Benzeneacetic acid, 4-chloro-α-(4-chlorophenyl)-α-hydroxy-, ethyl ester)
p-Chloro-m-cresol (Phenol, 4-chloro-3-methyl)
2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
Chloroform (Methane, trichloro-)
Chloromethyl methyl ether (Methane, chloromethoxy-)
β-Chloronapthalene (Naphthalene, 2-chloro-)
o-Chlorophenol (Phenol, 2-chloro-)
1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl-))
3-Chloropropionitrile (Propanenitrile, 3-chloro-)
Chromium and compounds, N.O.S.
Chrysene
Citrus red No. 2 (2-Naphthalenol, 1-[(2,5-dimethoxyphenyl)azo]-)
Coal tar creosote
Copper cyanide (CuCN)
Creosote
Cresol (Chresylic acid) (Phenol, methyl-)
Crotonaldehyde (2-Butenal)
Cyanides (soluble salts and complexes), N.O.S.
Cyanogen (Ethanedinitrile)
Cyanogen bromide ((CN)Br)
Cyanogen chloride ((CN)Cl)
Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl)
2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
Cyclophosphamide (2H-1,3,2-Oxazaphosphorin-2-amine,N,N-bis(2-chloroethyl) tetrahydro-,2-oxide)
2,4-D and salts and esters (Acetic acid, (2,4-dichlorophenoxy)-)
Daunomycin (5,12-Naphthacenedione,8-acetyl-10-[(3-amino-2,3,6-trideoxy-α-Llyxo-hexopyranosyl)oxyl-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-,(8S-cis))
DDD (Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-)
DDE (Benzene, 1,1-(dichloroethylidene)bis[4-chloro-)
DDT (Benzene, 1,1'-(2,2,2-trichloroethlyidene)bis[4-chloro-)
Diallate (Carbomothioic acid, bis(1-methylethyl)-,S-(2,3-dichloro-2-propenyl) ester)
Dibenz[a,h]acridine
Dibenz[a,j]acridine
Dibenz[a,h]anthracene
7H-Dibenzo[c,g]carbazole
Dibenzo[a,e]pyrene (Naphtho[1,2,4,5-def]crysene)
Dibenzo[a,h]pyrene (Dibenzo[b,def]crysene)
Dibenzo[a,i]pyrene (Benzo[rst]pentaphene)
1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
Dibutylphthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
o-Dichlorobenzene (Benzene, 1,2-dichloro-)
m-Dichlorobenzene (Benzene, 1,3-dichloro-)
p-Dichlorobenzene (Benzene, 1,4-dichloro-)
Dichlorobenzene, N.O.S. (Benzene; dichloro-, N.O.S.)
3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
1,4-Dichloro-2-butene (2-Butene, 1,4-dichloro-)
Dichlorodifluoromethane (Methane, dichlorodifluoro-)
Dichloroethylene, N.O.S.
1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
1,2-Dichloroethylene (Ethene, 1,2-dichloro-,(E)-)
Dichloroethyl ether (Ethane, 1,1'-oxybis[2-chloro-)
Dichloroisopropyl ether (Propane, 2,2'-oxybis[2-chloro-)
Dichloromethoxy ethane (Ethane, 1,1'-[methylenebis(oxy)bis[2-chloro-)
Dichloromethyl ether (Methane, oxybis[chloro-)
2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
2,6-Dichlorophenol (Phenol, 2,6-dichloro-)
Dichlorophenylarsine (Arsinous dichloride, phenyl-)
Dichloropropane, N.O.S. (Propane, dichloro-,)
Dichloropropanol, N.O.S. (Propanol, dichloro-,)
Dichloropropene; N.O.S. (1-Propane, dichloro-,)
1,3-Dichloropropene (1-Propene, 1,3-dichloro-)
Dieldrin (2,7:3,6-Dimethanonaphth[2,3-b]oxirene,3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a,octahydro-,(1aα,2β,2aα,3β,6β,6aα,7β,7aα)-)
1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
Diethylarsine (Arsine, diethyl-)
1,4 Diethylene oxide (1,4-Dioxane)
Diethylhexyl phthalate (1,2-Benzenedicarboxlyic acid, bis(2-ethylhexl) ester)
N,N-Diethylhydrazine (Hydrazine, 1,2-diethyl)
O,O-Diethyl S-methyl dithiophosphate (Phosphorodithioic acid, O,O-diethyl S-methyl ester)
Diethyl-p-nitrophenyl phosphate (Phosphoric acid, diethyl 4-nitrophenyl ester)
Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
O,O-Diethyl O-pyrazinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester)
Diethylstilbesterol (Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-,(E)-)
Dihydrosafrole (1,3-Benxodioxole, 5-propyl-)
Diisopropylfluorophosphate (DFP) (Phosphorofluoridic acid, bis(1-methyl ethyl) ester)
Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino) 2-oxoethyl] ester)
3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-)
p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
7,12-Dimethylbenz[a]anthracene (Benz[a]anthracene, 7,12-dimethyl-)
3,3'-Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
Dimethylcarbamoyl chloride (carbamic chloride, dimethyl-)
1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
α,α-Dimethylphenethylamine (Benzeneethanamine, α,α-dimethyl-)
2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
Dimethylphthalate (1,2-Benzenedicarboxylic acid, dimethyl ester)
Dimethyl sulfate (Sulfuric acid, dimethyl ester)
Dinitrobenzene, N.O.S. (Benzene, dinitro-)
4,6-Dinitro-o-cresol and salts (Phenol, 2-methyl-4,6-dinitro-)
2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
2,4-Dinitrotoluene (Benzene, 1-methyl-2,4-dinitro-)
2,6-Dinitrotoluene (Benzene, 2-methyl-1,3-dinitro-)
Dinoseb (Phenol, 2-(1-methylpropyl)-4,6-dinitro-)
Di-n-octyl phthalate (1,2-Benzenedicarboxylic acid, dioctyl ester)
1,4-Dioxane (1,4-Diethyleneoxide)
Diphenylamine (Benzenamine, N-phenyl-)

1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
Di-n-propylnitrosamine (1-Propanamine,N-nitroso-N-propyl-)
Disulfoton (Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester)
Dithiobiuret (Thioimidodicarbonic diamide [$(H_2N)C(S)]_2NH$)
Endosulfan (6,9,Methano-2,4,3-benzodioxathiepin,6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9ahexahydro,3-oxide)
Endothall (7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid)
Endrin and metabolites (2,7:3,6-Dimethanonaphth[2,3-b]oxirene,3,4,5,6,9,9-hexachloro1a,2,2a,3,6,6a,7,7a-octahydro,(1aα,2β,2aβ,3α,6α,6aβ,7β,7aα)-)
Epichlorohydrin (Oxirane, (chloromethyl)-)
Epinephrine (1,2-Benzenediol,4-[1-hydroxy-2-(methylamino)ethyl]-,(R)-,)
Ethyl carbamate (urethane) (Carbamic acid, ethyl ester)
Ethyl cyanide (propanenitrile)
Ethylenebisdithiocarbamic acid, salts and esters (Carbamodithioic acid, 1,2-Ethanediylbis-)
Ethylene dibromide (1,2-Dibromoethane)
Ethylene dichloride (1,2-Dichloroethane)
Ethylene glycol monoethyl ether (Ethanol, 2-ethoxy-)
Ethyleneimine (Aziridine)
Ethylene oxide (Oxirane)
Ethylenethiourea (2-Imidazoiidinethione)
Ethylidene dichloride (Ethane, 1,1-Dichloro-)
Ethyl methacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
Ethylmethane sulfonate (Methanesulfonic acid, ethyl ester)
Famphur (Phosphorothioic acid, O-[4-[(dimethylamino)sulphonyl]phenyl] O,O-dimethyl ester)
Fluoranthene
Fluorine
Fluoroacetamide (Acetamide, 2-fluoro-)
Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
Formaldehyde (Methylene oxide)
Formic acid (Methanoic acid)
Glycidylaldehyde (Oxiranecarboxyaldehyde)
Halomethane, N.O.S.
Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
Heptachlor epoxide (α, β, and γ isomers) (2,5-Methano-2H-indeno[1,2-b]-oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexa-hydro-,(1aα,1bβ,2α,5α,5aβ,6β,6aα)-)
Hexachlorobenzene (Benzene, hexachloro-)
Hexachlorobutadiene (1,3-Butadiene, 1,1,2,3,4,4-hexachloro-)
Hexachlorocyclopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
Hexachlorodibenzofurans
Heptachlorodibenzo-p-dioxins
Hexachloroethane (Ethane, hexachloro-)
Hexachlorophene (phenol, 2,2'-Methylenebis[3,4,6-trichloro-)
Hexachloropropene (1-Propene, 1,1,2,3,3,3-hexachloro-)
Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
Hydrazine
Hydrocyanic acid
Hydrofluoric acid
Hydrogen sulfide (H_2S)
Indeno(1,2,3-cd)pyrene
Isobutyl alcohol (1-Propanol, 2-methyl-)
Isodrin (1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro, (1α,4α,4aβ,5β,8β,8aβ)-)
Isosafrole (1,3-Benzodioxole, 5-(1-propenyl)-)
Kepone (1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-)
Lasiocarpine (2-Butenoic acid, 2-methyl-,7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-l-yl ester)
Lead and compounds, N.O.S.
Lead acetate (Acetic acid, lead(2+) salt)
Lead phosphate (Phosphoric acid, lead(2+) salt(2:3))
Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
Lindane (Clohexane, 1,2,3,4,5,6-hexachloro-, (1α,2α,3β,4α,5α,6β)-)
Maleic anhydride (2,5-Furandione)
Maleic hydrazide (3,6-Pyridazinedione, 1,2-dihydro-)
Malononitrile (Propanedinitrile)
Melphalan (L-Phenylalanine, 4-[bis(2-chloroethyl)aminol]-)
Mercury and compounds, N.O.S.
Mercury fulminate (Fulminic acid, mercury(2+) salt)
Methacrylonitrile (2-Propenenitrile, 2-methyl-)
Methapyrilene (1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-)
Metholmyl (Ethanimidothioic acid, N-[[(methylamino)carbonyl]oxy]thio-, methyl ester)
Methoxychlor (Benzene, 1,1'-[2,2,2-trichloroethylidene]bis[4-methoxy-)
Methyl bromide (Methane, bromo-)
Methyl chloride (Methane, chloro-)
Methyl chlorocarbonate (Carbonchloridic acid, methyl ester)
Methyl chloroform (Ethane, 1,1,1-trichloro-)
3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis(2-chloro-)
Methylene bromide (Methane, dibromo-)
Methylene chloride (Methane, dichloro-)
Methyl ethyl ketone (MEK) (2-Butanone)
Methyl ethyl ketone peroxide (2-Butanone, peroxide)
Methyl hydrazine (Hydrazine, methyl-)
Methyl iodide (Methane, iodo-)
Methyl isocyanate (Methane, isocyanato-)
2-Methyllactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
Methyl parathion (Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester)
Methylthiouracil (4(1H)Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
Mitomycin C (Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione,6-amino-8-[[(aminocarbonyl) oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methy-, [1aS-(1aα,8β,8aα,8bα)]-)
MNNG (Guanidine, N-methyl-N'-nitro-N-nitroso-)
Mustard gas (Ethane, 1,1'-thiobis[2-chloro-)
Naphthalene
1,4-Naphthoquinone (1,4-Naphthalenedione)
α-Naphthalenamine (1-Naphthylamine)
β-Naphthalenamine (2-Naphthylamine)
α-Naphthylthiourea (Thiourea, 1-naphthalenyl-)
Nickel and compounds, N.O.S.
Nickel carbonyl ($Ni(CO)_4$ (T-4)-)
Nickel cyanide ($Ni(CN)_2$)
Nicotine and salts (Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-)
Nitric oxide (Nitrogen oxide NO)
p-Nitroaniline (Benzenamine, 4-nitro-)
Nitrobenzene (Benzene, nitro-)
Nitrogen dioxide (Nitrogen oxide NO_2)
Nitrogen mustard, and hydrochloride salt (Ethanamine, 2-chloro-N-(2-chloroethyl)-N-methyl-)
Nitrogen mustard N-oxide and hydrochloride salt (Ethanamine, 2chloro-N-(2-chloroethyl)N-methyl-, N-oxide)
Nitroglycerin (1,2,3-Propanetriol, trinitrate)
p-Nitrophenol (Phenol, 4-nitro-)
2-Nitropropane (Propane, 2-nitro-)
Nitrosamines, N.O.S.
N-Nitrosodi-n-butylamine (l-Butanamine, N-butyl-N-nitroso-)
N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
N-Nitrosodiethylamine (Ethanamine, N-ethyl-N-nitroso-1)
N-Nitrosodimethylamine (Methanamine, N-methyl-N-nitroso-)
N-Nitroso-N-ethylurea (Urea, N-ethyl-N-nitroso-)
N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
N-Nitroso-N-methylurea (Urea, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
N-Nitrosomethylvinylamine (Vinylamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, 4-nitroso-)
N-Nitrosonornicotine (Pyridine, 3-(1-nitroso-2-pyrrolidinyl)-, (S)-)
N-Nitrosopiperidine (Piperidine, 1-nitroso-)
Nitrosopyrrolidine (Pyrrolidine, 1-nitroso-)
N-Nitrososarcosine (Glycine, N-methyl-N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramide (Diphosphoramide, octamethyl-)
Osmium tetroxide (Osmium oxide OsO_4, (T-4)-)
Paraldehyde (1,3,5-Trioxane, 2,4,6-tri methyl-)
Parathion (Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester)
Pentachlorobenzene (Benzene, pentachloro-)
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Pentachloroethane (Ethane, pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
Pentachlorophenol (Phenol, pentachloro-)
Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
Phenol
Phenylenediamine (Benzenediamine)
Phenylmercury acetate (Mercury, (acetato-O)phenyl-)

Phenylthiourea (Thiourea, phenyl-)
Phosgene (Carbonic dichloride)
Phosphine
Phorate (Phosphorodithioic acid, O,O-diethyl S-[(ethylthiomethyl] ester)
Phthalic acid esters, N.O.S.
Phthalic anhydride (1,3-isobenzofurandione)
2-Picoline (Pyridine, 2-methyl-)
Polychlorinated biphenyls, N.O.S.
Potassium cyanide (K(CN))
Potassium silver cyanide (Argentate(l-), bis(cyano-C)-, potassium)
Pronamide (Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-)
1,3-Propane sultone (1,2-Oxathiolane, 2,2-dioxide)
n-Propylamine (1-Propanamine)
Propargyl alcohol (2-Propyn-1-ol)
Propylene dichloride (Propane, 1,2-dichloro-)
1,2-Propylenimine (Aziridine, 2-methyl-)
Propylthiouracil (4(1H)-Pyrimidinone, 2,3-dihydro-6-propyl-2-thioxo-)
Pyridine
Reserpinen (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-smethyl ester, (3β,16 β,17α,18β,20α)-)
Resorcinol (1,3-Benzenediol)
Saccharin and salts (1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide)
Safrole (1,3-Benzodioxole, 5-(2-propenyl)-)
Selenium and compounds, N.O.S.
Selenium dioxide (Selenious acid)
Selenium sulfide (SeS_2)
Selenourea
Silver and compounds, N.O.S.
Silver cyanide (Silver cyanide Ag(CN))
Silvex (Propanoic acid, 2-(2,4,5-trichlorophen
oxy)-)
Sodium cyanide (Sodium cyanide Na(CN))
Streptozotocin (D-Glucose, 2-deoxy-2-[[methylnitrosoamino)carbonyl]amino]-)
Strychnine and salts (Strychnidin-10-one)
TCDD (Dibenzo[b,e][1,4]dioxin, 2,3,7,8-tetrachloro-)
1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenxofurans
Tetrachloroethane, N.O.S. (Ethane, tetrachloro-, N.O.S.)
1,1,1,2-Tetrachloroethane (Ethane, 1,1,1,2-tetrachloro-)
1,1,2,2-Tetrachloroethane (Ethane, 1,1,2,2-tetrachloro-)
Tetrachloroethylene (Ethene, tetrachloro-)
2,3,4,6-Tetrachlorophenol (Phenol, 2,3,4,6-tetrachloro-)
Tetraethyldithiopyrophosphate (Thiodiphosphoric acid, tetraethyl ester)
Tetraethyl lead (Plumbane, tetraethyl-)
Tetraethyl pyrophosphate (Diphosphoric acid, tetraethyl ester)
Tetranitromethane (Methane, tetranitro-)
Thallium and compounds, N.O.S.
Thallic oxide (Thallium oxide Tl_2O_3)
Thallium (I) acetate (Acetic acid, thallium (1+) salt)
Thallium (I) carbonate (Carbonic acid, dithallium (1+) salt)
Thallium (I) chloride (Thallium chloride TlCl)
Thallium (I) nitrate (Nitric acid, thallium (1+) salt)
Thallium selenite (Selenius acid, dithallium (1+) salt)
Thallium (I) sulfate (Sulfuric acid, thallium (1+) salt)
Thioacetamide (Ethanethioamide)
3,Thiofanox (2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime)
Thiomethanol (Methanethiol)
Thiophenol (Benzenethiol)
Thiosemicarbazide (Hydrazinecarbothioamide)
Thiourea
Thiram (Thioperoxydicarbonic diamide [$(H_2N)C(S)]2S_2$, tetramethyl-)
Toluene (Benzene, methyl-)
Toluenediamine (Benzenediamine, ar-methyl-)
Toluene-2,4-diamine (1,3-Benzenediamine, 4-methyl-)
Toluene-2,6-diamine (1,3-Benzenediamine, 2-methyl-)
Toluene-3,4-diamine (1,2-Benzenediamine, 4-methyl-)
Toluene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)
o-Toluidine (Benzenamine, 2-methyl-)
o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
p-Toluidine (Benzenamine, 4-methyl-)
Toxaphene
1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
Trichloroethylene (Ethene,trichloro-)
Trichloromethanethiol (Methanethiol, trichloro-)
Trichloromonofluoromethane (Methane, trichlorofluoro-)
2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
2,4,5-T (Acetic acid, 2,4,5- trichloro-phenoxy-)
Trichloropropane, N.O.S.
1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
Trinitrobenzene (Benzene, 1,3,5-trinitro-)
Tris(1-aziridinyl)phosphine sulfide (Aziridine, 1,1',1''phosphinothioylidynetris-))
Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate (3:1))
Trypan blue (2,7-Naphthalendisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
Uracil mustard (2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-)
Vanadium pentoxide (Vanadium oxide V_2O_5)
Vinyl chloride (Ethene, chloro-)
Wayfarin (2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenlybutyl)-)
Zinc cyanide ($Zn(CN)_2$)
Zinc phosphide (Zn_3P_2)

[FR Doc. 95–546 Filed 1–10–95; 8.45 am]
BILLING CODE 6560–50–P

Reader Aids

Federal Register

Vol. 60, No. 7

Wednesday, January 11, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W Suite 700 The Fax-On-Demand telephone number is: 301–713–6905

FEDERAL REGISTER PAGES AND DATES, JANUARY

1–318.....3
319–1706.....4
1707–1988.....5
1989–2320.....6
2321–2492.....9
2493–2670.....10
2671–2872 11

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Presidential Determinations:
No. 95–11 of December 30, 1994 2671
No. 95–12 of December 31, 1994 2673
No. 95–13 of December 31, 1994 2675
Executive Orders:
12826 (Superseded by 12944).....309
12886 (Superseded by 12944).....309
12944.....309
Proclamations:
5759 (See Proc. 6763).....1007
6455 (See Proc. 6763).....1007
6641 (See Proc. 6763).....1007
6726 (See Proc. 6763).....1007
6763.....1007

5 CFR

351.....2677
532.....319
Proposed Rules:
300.....2546
551.....2549

7 CFR

7.....1989
201.....2493
272.....1707
273.....1707
301.....2321
400.....1996
402.....2000
929.....1
966.....2
1005.....319
1032.....320
1434.....321
1421.....1709
1425.....2680
1427.....1709
1755.....1710, 1711
Proposed Rules:
75.....379
273.....2703
274.....2703
1007.....65
1032.....65
1050.....379
1093.....65
1094.....65
1096.....65
1099.....65
1108.....65
1280.....380
1421.....381
1755.....1758, 1759

9 CFR

317.....174
381.....174

10 CFR

32.....322

12 CFR

219.....231
607.....325
612.....325
614.....325, 2683
615.....325
618.....2683
620.....325
630.....2493
Proposed Rules:
614.....2552
615.....2552
618.....2552

14 CFR

25.....325
39...3, 327, 329, 330, 332, 336, 1712, 2323, 2493, 2495
71.....338, 2496
97.....2009
121..... 2497, 2687
129.....2497
135.....2497
Proposed Rules:
39.....66, 382, 384, 386, 388, 389, 393, 2033, 2036, 2041, 2555
61.....395
67.....395
71.....396, 2043, 2044, 2045, 2047
73.....2048
91.....2557

16 CFR

Proposed Rules:
1700.....2716

17 CFR

200.....5

18 CFR

2.....339
141.....1716
154.....2011
157.....2011
270.....2011

271.....2011
272.....2011
273.....2011
274.....2011
275.....2011
284.....1716
347.....356
348.....358
375.....1716
385.....1716

19 CFR

206.....6
207.....18

20 CFR

416.....360

21 CFR

5.....2014
520.....362
522.....362
Proposed Rules:
600.....2351
601.....2351
606.....2351
607.....2351
610.....2351
640.....2351
660.....2351

23 CFR

655.....363

24 CFR

91.....1878
92.....1878
570.....1878, 1922
574.....1878
576.....1878
813.....2658
885.....2658
968.....1878
3500.....2642
Proposed Rules:
Ch. IX.....303

25 CFR

Proposed Rules:
151.....1956

26 CFR

1.....23, 2049, 2497
301.....33
602.....2497
Proposed Rules:
1...397, 406, 2049, 2352, 2557, 2717
53.....82
301.....83

27 CFR

Proposed Rules:
4.....411
5.....411
7.....411

28 CFR

16.....38
540.....240
545.....240

29 CFR

825.....2180, 2282
1425.....2509

30 CFR

936.....2512
944.....2520
Proposed Rules:
56.....1866
57.....1866

31 CFR

103.....220, 234
209.....416

32 CFR

43a.....1720
112.....1720
113.....1720
536.....1735
537.....1735
Proposed Rules:
169a.....417

33 CFR

Proposed Rules:
110.....2364
117.....2562, 2687
156.....1958

34 CFR

74.....365
80.....365
Proposed Rules:
200.....85
201.....85, 2816
203.....85
212.....85

36 CFR

Proposed Rules:
800.....86

37 CFR

Proposed Rules:
201.....2365

38 CFR

3.....2522

40 CFR

35.....366
51.....1735
52...38, 40, 41, 372, 375, 1738, 2014, 2016, 2018, 2022, 2025, 2026, 2066, 2067 2367, 2523, 2524, 2688, 2690
60.....2369
70.....1741, 2527
80.....2693, 2696
81.....41, 2026
180.....378
192.....2854
228.....2699
261.....1744
268.....242
271.....2534, 2699
Proposed Rules:
Ch. I.....418
52.....86, 87, 88, 418, 2066, 2067, 2563, 2565, 2568, 2717, 2718
70.....2569, 2570
81.....88, 2719
156.....2848
170.....2820, 2826, 2830, 2842
180.....89
230.....419
300.....422

41 CFR

60–250.....1986
201–3.....2029
201–9.....2029
201–18.....2029
201–20.....2029
201–21.....2029
201–23.....2029
201–39.....2029
302–11.....2536

42 CFR

400.....2325
405.....2325
410.....46, 2325
414.....46
484.....2325
485.....2325
486.....2325
498.....2325

43 CFR

Public Land Order:
7108.....2030
7109.....2539

45 CFR

1607.....2330

46 CFR

25.....2482
160.....2482

47 CFR

Proposed Rules:
1.....2722
2.....2722
21.....2722
61.....2068
69.....2068
73.....90, 91, 2726
80.....2726
94.....2722
101.....2722

48 CFR

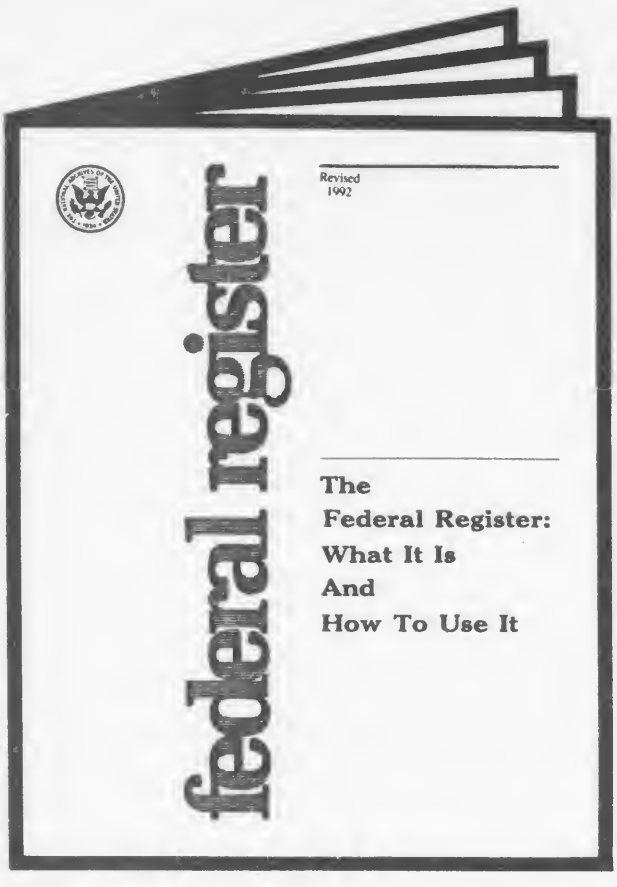
231.....1747, 2330
242.....1747
Proposed Rules:
Ch. I.....2302, 2472
33.....2630
39.....2630
42.....2630
45.....2370
50.....2630
52.....2370, 2630
923.....2727
970.....2727

49 CFR

382.....2030
391.....54
555.....1749
571.....1750, 2539
1002.....2543
1011.....2543
1130.....2543
Proposed Rules:
214.....1761
390.....91
391.....91
392.....91
396.....91
Ch. X.....2069

50 CFR

17.....56
20.....61, 2177
611.....2331
625.....1757
630.....2032
663.....2331
677.....2344
Proposed Rules:
17.....69, 2070, 2638
18.....70
23.....73
17.....425
227.....2070
678.....2071



Announcing the Latest Edition

The Federal Register: What It Is and How to Use It

A Guide for the User of the Federal Register—Code of Federal Regulations System

This handbook is used for the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide guidelines for using the *Federal Register* and related publications, as well as an explanation of how to solve a sample research problem.

Price $7.00

Superintendent of Documents **Publications** Order Form

P3

Order processing code
*6173

☐ **YES**, please send me the following:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202)-512-2250

_____ copies of **The Federal Register-What it is and How To Use it**, at $7.00 per copy. Stock No. 069-000-00044-4

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

_____
(Company or Personal Name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

_____
(Daytime phone including area code)

_____
(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

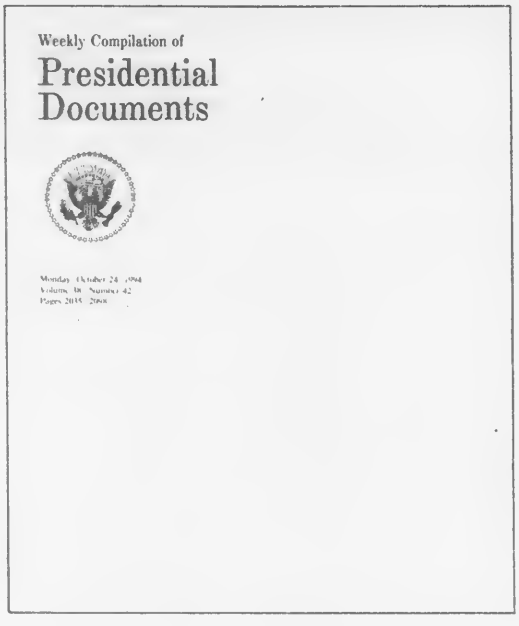
Thank you for your order!

_____
(Authorizing Signature) (Rev 1 93)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents Subscription Order Form

Order Processing Code:
* 5420

Charge your order. It's easy!

To fax your orders (202) 512–2233

☐ **YES,** please enter ____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

❑ $132.00 First Class Mail ❑ $75.00 Regular Mail

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change. International customers please add 25%.

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, Zip code)

(Daytime phone including area code)

(Purchase order no.)

For privacy, check box below:
❑ Do not make my name available to other mailers

Check method of payment:
❑ Check payable to Superintendent of Documents
❑ GPO Deposit Account ☐☐☐☐☐☐ – ☐
❑ VISA ❑ MasterCard ☐☐☐☐ (expiration)

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

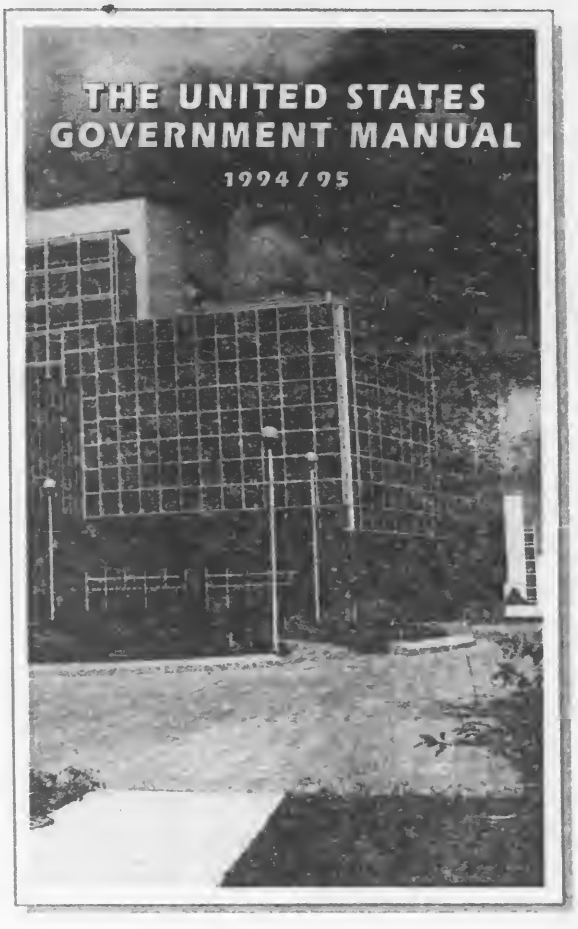
(Authorizing signature) 10/94

Thank you for your order!

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Order Now!

The United States Government Manual 1994/95



As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$30.00 per copy

• Superintendent of Documents **Publications** Order Form

Order Processing Code:
* **6395**

Charge your order. It's easy!

To fax your orders (202) 512–2250

☐ **YES,** please send me _____ copies of the **The United States Government Manual, 1994/95** S/N 069-000-00058-4 at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to change.

_____
(Company or personal name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, Zip code)

_____
(Daytime phone including area code)

_____
(Purchase order no.)

Please choose method of payment:

❑ Check payable to the Superintendent of Documents

❑ GPO Deposit Account ☐☐☐☐☐☐ – ☐

❑ VISA ❑ MasterCard Account

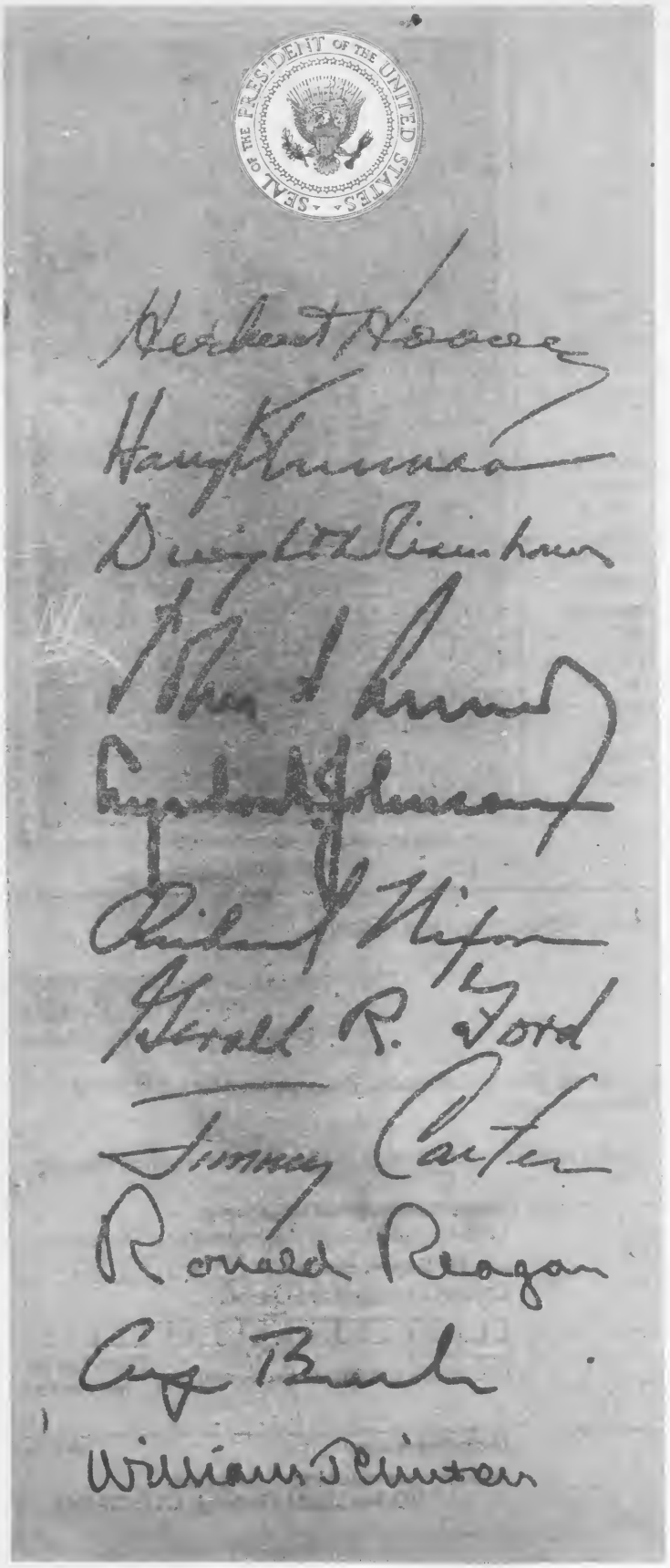
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing signature) (Rev 9/94)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1984
(Book II) $36.00
1985
(Book I) $34.00
1985
(Book II) $30.00
1986
(Book I) $37.00
1986
(Book II) $35.00
1987
(Book I) $33.00
1987
(Book II) $35.00
1988
(Book I) $39.00
1988–89
(Book II) $38.00

George Bush

1989
(Book I) $38.00
1989
(Book II) $40.00
1990
(Book I) $41.00
1990
(Book II) $41.00
1991
(Book I) $41.00
1991
(Book II) $44.00
1992
(Book I) $47.00
1992–93
(Book II) $49.00

William J. Clinton

1993
(Book I) $51.00

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 9-94)

Printed on recycled paper