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Friday
May 3, 1991

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

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: May 21, at 9:00 am
WHERE: 26 Federal Plaza
Room 305 B and C
New York, NY
RESERVATIONS: Federal Information Center
1–800–347–1997

WASHINGTON, DC

WHEN: May 23, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240 (voice); 202–523–5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

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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 Parts 430, 451, and 540

RIN 3206-AE19 and 3206-AE20

Performance Awards; Time Off From Duty as an Incentive Award

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the new provisions for performance awards and time off from duty as an incentive award contained in the Federal Employees Pay Comparability Act of 1990 (FEPCA). These regulations will enable agencies to use these new authorities as soon as their internal programs are amended.

DATES: The amendments made by sections 201 and 207 of FEPCA and the interim regulations set forth below are effective on May 4, 1991; comments must be received by July 2, 1991.

ADDRESSES: Send or deliver written comments to Allan Heuerman, Assistant Director for Employee and Labor Relations, Personnel Systems and Oversight Group, Office of Personnel Management, Room 7412, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: For parts 430 and 540: Barbara W. Colchao, (202) 606-2628 or (FTS) 266-2628; for part 451: Richard Brengel, (202) 606-2828 or (FTS) 266-2828.

SUPPLEMENTARY INFORMATION: The Federal Employees Pay Comparability Act of 1990 (FEPCA), Public Law 101-509, provides Federal agencies new authority to pay cash awards based on performance and to grant employees time off from duty as an incentive award. Following are the key changes made by the interim regulations:

Performance Appraisal

The heading and general information section of 5 CFR part 430, subpart B, are revised to show that there are miscellaneous employees other than those in the General Schedule and prevailing rate systems who are covered by subchapter I of chapter 43 of title 5, United States Code.

A new provision is added to the performance appraisal regulations to require that temporary employees excluded from the statutory performance appraisal provisions under 5 U.S.C. 4301(2), as amended by Public Law 101-510 (November 5, 1990), must sign a written agreement and receive notification of the consequences of not receiving a performance appraisal. (See §§ 430.202 and 430.403.)

The paragraph excluding Schedule C employees from the provisions of 5 CFR part 432 is revised to conform with the list of excluded employees found in part 432. A similar change has been made regarding employees covered by the Performance Management and Recognition System (PMRS). (See §§ 430.204(j) and 430.405(j).)

Performance Awards

While performance-based cash awards have been authorized by regulation and reflect the authorities contained in chapters 43 and 45 of title 5, United States Code, FEPCA now provides a more specific statutory authority for a cash award based on a rating of record. The interim regulations implement the new provision at 5 U.S.C. 4505a that authorizes the payment of cash awards based on an employee's rating of record. These regulations are contained in the section that was formerly reserved for funding and payment of performance awards (§ 430.504). Also, language is added to 5 CFR part 451 that cross-references the regulations governing performance awards.

Time Off as an Incentive Award

The interim regulations also implement the new provision at 5 U.S.C. 4502(e) that authorizes the granting of time off from duty as an incentive award. Such time off, hereafter referred to as a "time off award," may be granted, without loss of pay or charge to leave, in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations.

Under the interim regulations, each agency is authorized to determine the types of employee contributions that may be recognized by means of a time off award. The regulations require that agencies establish specific criteria that define the nature of the high quality achievement required to merit a time off award. Examples of employee achievement that might be considered for such an award include—

- Making a high quality contribution involving a difficult or important project or assignment;
- Displaying special initiative and skill in completing an assignment or project before the deadline;
- Using initiative and creativity in making improvements in a product, activity, program, or service; and
- Ensuring the mission of the unit is accomplished during a difficult period by successfully completing additional work or a project assignment while maintaining the employee's own workload.

A time off award may be granted to any employee who meets the definition at 5 U.S.C. 2105, including PMRS employees (who are otherwise excluded from 5 U.S.C. 4501). An employee may be granted a maximum of 40 hours of time off from duty as an incentive award for any single contribution. Time off granted under this authority must be scheduled and used within 120 days after the award is made, and the total amount of time off an employee may be granted under the authority during any one leave year is 80 hours. A time off award does not convert to cash under any circumstances.

The regulations on time off awards are found in 5 CFR part 451, subpart C, which formerly was reserved for regulations on productivity gainsharing programs. OPM has determined that gainsharing regulations are not needed and has issued Federal Personnel Manual guidance instead. (See FPM Letter 451-6, April 10, 1989.) Also, the reference in 5 CFR 430.103(b)(5) to the gainsharing regulations is deleted. A provision is added to 5 CFR part 451 stating that the existing prohibition on mandatory superior accomplishment awards does not prohibit

implementation of agency productivity gainsharing plans. (See § 451.104(j).)

Performance Management and Recognition System

The definition of "rating of record" at 5 CFR 540.102 is revised to conform with the definition at § 430.404.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists to make these regulations effective in less than 30 days. The notice is being waived and the regulations are being made effective in less than 30 days in order to make these provisions effective within 180 days after the enactment of Public Law 101-509, as required by section 305 of FEPCA.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, because the changes will affect only Federal employees and agencies.

List of Subjects

5 CFR 430

Administrative practice and procedure, reporting requirements, Government employees.

5 CFR 451

Decorations, medals, and awards; Government employees.

5 CFR 450

Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amended title 5, Code of Federal Regulations, as follows:

PART 430—PERFORMANCE MANAGEMENT

1. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. chapters 43, 45, 53, and 54.

2. In § 430.103, paragraph (b) is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) and (b)(7) as paragraphs (b)(5) and (b)(6), respectively.

3. The heading of subpart B is revised to read as follows:

Subpart B—Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees

4. Section 430.201(a) is revised to read as follows:

§ 430.201 General.

(a) *Statutory authority.* Chapter 43 of title 5, United States Code (5 U.S.C. 4301–4305), provides for the establishment of agency performance appraisal systems and for the appraisal of employees. This subpart contains regulations that the Office of Personnel Management (OPM) has prescribed to implement and supplement the provisions for performance appraisal systems for General Schedule, prevailing rate, and certain other employees covered by 5 U.S.C. 4301–4305.

* * * * *

5. In § 430.202, paragraphs (a), (b), and (c) are revised to read as follows:

§ 430.202 Coverage.

(a) *Employees and agencies covered by statute.* (1) Section 4301(1) of title 5, United States Code, defines agencies covered by this subpart.

(2) Section 4301(2) of title 5, United States Code, defines employees covered by statute by this subpart. Besides General Schedule and prevailing rate employees, coverage includes, but is not limited to, senior-level and scientific and professional employees paid under 5 U.S.C. 5376. However, employees covered by the PMRS are not covered by this subpart.

(b) *Statutory exclusions.* (1) This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service, the Postal Rate Commission, or employees covered by the PMRS consistent with 5 U.S.C. 4302a and 5 U.S.C. 5402.

(2) For temporary employees excluded under the authority of 5 U.S.C. 4301(2)(H)—

(i) The agreement to serve without a performance evaluation must be in writing; and

(ii) The employee must be advised of the consequences of such an agreement (i.e., that the employee will not be considered for reappointment or for an increase in pay when either determination is based in whole or in part on a rating or record under part 430 of this title or an equivalent system).

(c) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). The following is excluded: Positions for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12-month period.

* * * * *

6. In § 430.204, the introductory language of paragraph (j) is revised to read as follows:

§ 430.204 Agency performance appraisal systems.

* * * * *

(j) Except with respect to employees listed at § 432.102(f) of this chapter—

* * * * *

7. In § 430.403, paragraphs (b) and (c) are redesignated as (c) and (d), respectively, a new paragraph (b) is added, and redesignated paragraph (c) is revised to read as follows:

§ 430.403 Coverage.

* * * * *

(b) *Statutory exclusions.* (1) This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service, or the Postal Rate Commission.

(2) For temporary employees excluded under the authority of 5 U.S.C. 4301(2)(H)—

(i) The agreement to serve without a performance evaluation must be in writing; and

(ii) The employees must be advised of the consequences of such an agreement (i.e., that the employees will not be considered for reappointment or for an increase in pay when either determination is based in whole or in part on a rating of record under part 430 of this title or an equivalent system).

(c) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). The following is excluded: Positions for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12-month period.

* * * * *

§ 430.405 [Amended]

8. In § 430.405, the introductory language of paragraph (j) is revised to read as follows:

* * * * *

(j) Except with respect to employees listed at § 432.102(f) of this chapter—

* * * * *

9. In § 430.503, paragraph (c) is removed and paragraphs (d) through (f) are redesignated (c) through (e) respectively.

10. The heading of § 430.504 is revised and the text of the section is added to read as follows:

§ 430.504 Performance award payment.

(a) An award paid under this subpart may not exceed 10 percent of the employee's annual rate of basis pay, except that the agency head may determine that exceptional performance by the employee justifies an award exceeding 10 percent and may authorize an award of up to 20 percent of the employee's annual rate of basic pay, subject to the limitations at § 430.506(b)(3) of this part.

(b) Performance awards are paid as a lump sum and are not considered part of an employee's rate of basic pay.

(c) For the purpose of computing the percentage of basic pay under paragraph (a) of this section, the rate of basic pay used shall be determined without taking into account any locality-based comparability payment under 5 U.S.C. 5304 or interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509).

(d) The decision to grant a performance award, including the amount of such award, shall be reviewed and approved by an official of the agency who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in the agency.

(e) The failure to pay an award under this subpart, or the amount of such an award, may not be appealed.

11. In § 430.506, paragraph (b) is amended by removing paragraph (b)(4) and by redesignating paragraph (b)(5) as paragraph (b)(4).

PART 451—INCENTIVE AWARDS

12. The authority citation for part 451 is revised to read as follows:

Authority: 5 U.S.C. 4501-4507 and 5407.

13. Section 451.101 is amended by adding a new paragraph (d) to read as follows:

§ 451.101 Authority and coverage.

* * * * *

(d) For the regulatory requirements for granting performance awards based on an employee's rating of record, refer to—

(1) Part 430, subpart E, of this chapter for General Schedule, prevailing rate, and certain other employees covered by 5 U.S.C. 4301-4305;

(2) Section 540.109 of this chapter for PMRS employees; and

(3) Section 534.403 of this chapter for Senior Executive Service (SES) employees.

14. Section 451.104 is amended by revising paragraph (j) to read as follows:

§ 451.104 Policy.

* * * * *

(j) The decision to grant a superior accomplishment award, including the amount of such award, shall be reviewed and approved by an official of the agency who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in the agency. This restriction does not prohibit implementation of agency productivity gainsharing plans, which are based on predetermined productivity standards, measurement systems, awards formulas, and payout schedules.

15. A new subpart C is added to read as follows:

Subpart C—Time Off as an Incentive Award

Sec.
451.301 Authority and coverage.
451.302 Purpose.
451.303 Definition.
451.304 Policy.
451.305 Granting time off awards.
451.306 Scheduling and use of time off awards.
451.307 Documenting time off awards.

Subpart C—Time Off as an Incentive Award

§ 451.301 Authority and coverage.

(a) Under 5 U.S.C. 4502, agencies may grant employees time off from duty as an incentive award.

(b) This subpart applies to—

(1) Employees as defined in 5 U.S.C. 2105; and

(2) Agencies as defined in 5 U.S.C. 4501.

§ 451.302 Purpose.

Time off awards are intended to increase Federal employees' productivity and creativity by rewarding their contributions to the quality, efficiency, or economy of Government operations.

§ 451.303 Definition.

In this subpart, *time off award* means an excused absence granted to an employee without charge to leave or loss of pay.

§ 451.304 Policy.

(a) An agency shall develop written criteria similar to those used to grant other incentive awards before granting a time off award.

(b) In determining the amount of time off to be granted under this subpart, an agency shall take into consideration the benefits realized by the Government from the employee's contribution.

§ 451.305 Granting time off awards.

(a) An employee may be granted up to 80 hours of time off under this subpart during a leave year (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's biweekly scheduled tour of duty). Time off may be granted in amounts of up to 40 hours for a single contribution (or, in the case of a part-time employee or an employee with an uncommon tour of duty, one-half the maximum amount of time that could be granted during the leave year).

(b) Except as provided in paragraph (c) of this section, each determination to grant a time off award, including the amount of such award, shall be reviewed and approved by an official of the agency who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in the agency.

(c) To encourage the use of a time off award for timely recognition of an employee's contribution, an agency may authorize supervisors to grant such awards without further review or approval for periods not to exceed 1 workday.

(d) A time off award granted under this subpart shall be supported by appropriate written justification, which shall be provided to OPM upon request.

§ 451.306 Scheduling and use of time off awards.

(a) A time off award shall be scheduled and used within 120 days after the date the award is made.

(b) The use of time off granted under this subpart shall be subject to approval by the employee's immediate supervisor.

(c) When physical incapacitation for duty occurs during a period of time off granted under this subpart, an agency may grant sick leave for the period of incapacitation.

(d) A time off award shall not convert to a cash payment under any circumstances.

§ 451.307 Documenting time off awards.

(a) The amount of time off granted under this subpart shall be documented on a Standard Form 50 to be retained in the employee's Official Personnel Folder.

(b) Due weight shall be given to time off awards granted under this subpart when rating and ranking an employee for promotion, as provided in 5 U.S.C. 3362.

PART 540—PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

16. The authority citation for part 540 continues to read as follows:

Authority: 5 U.S.C. chapters 43 and 54.

§ 540.102 [Amended]

17. In § 540.102, the definition of "rating of record" is amended by replacing the comma after "circumstances" with a period and removing the remainder of the sentence.

[FR Doc. 91-10549 Filed 5-2-91; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 530

Pay Rates and Systems (General); Special Salary Rate Schedules for Recruitment and Retention

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement provisions of the Federal Employees Pay Comparability Act of 1990 (FEPCA) related to the Government's special pay authority. Section 5305 of title 5, United States Code, as amended by FEPCA, substantially increases the Government's flexibility to authorize special salary rates, as compared with the statutory authority formerly contained in 5 U.S.C. 5303. These flexibilities became effective on February 3, 1911, under Executive Order 12748 of February 1, 1991. The interim regulations (1) Allow OPM to approve special salary rates when the Government is experiencing, or is likely to experience, recruitment or retention problems caused by higher private sector pay (the only reason permitted under the prior provision of law), as well as by a number of other circumstances; and (2) allow those rates to be established at higher levels than previously permitted.

DATES: The interim regulations set forth below are effective on May 4, 1991. Comments must be received on or before July 2, 1991.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Pay and Performance Management, room 7H28, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: William M. Gualtieri, (202) 606-1413 or (FTS) 266-1413.

SUPPLEMENTARY INFORMATION: The Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509, November 5, 1990) gives the Government permanent authority to establish special salary rates under a wider variety of circumstances than was previously allowed. The following are the significantly expanded flexibilities permitted under FEPCA:

- Special salary rates may be established based on actual or anticipated staffing problems for any civilian position under any pay system established by or under Federal statute within the executive branch.
- Special salary rates may be established when the staffing problem is caused by higher non-Federal pay rates, remote location or area, undesirable working conditions, or any other circumstances. The interim regulations also allow for consideration of higher Federal pay rates established under independent statutory authority.
- The highest rate at which the minimum rate of a special rate schedule may be set has been increased to 30 percent above the maximum rate of a grade. Previously, the limit was the maximum rate of a grade.
- The GS-10, step 1, limitation on the computation of overtime pay now includes all special rates of pay established for that grade. The interim regulations set forth the criteria OPM will use for establishing a GS-10 special salary rate for overtime pay computation and other related purposes when one would otherwise not have been established to alleviate staffing problems.

The criteria OPM considers when establishing or adjusting special salary rates have been expanded to take into account (1) The new pay flexibilities created by FEPCA, including recruitment and relocation bonuses and retention allowances; and (2) long-standing pay flexibilities, such as hazard pay and remote worksite allowances.

In addition, the requirement to change the existing special salary rate regulations to conform with FEPCA has given OPM an opportunity to update other provisions of the existing regulations. The updated provisions are as follows:

- Agency certification levels for approving special salary rate requests have been changed. Individuals designated to act on behalf of the agency head may now approve special salary rate requests covering fewer than 1,000 positions or costing less than $4 million. This change means that involvement of an agency head will be required only in the highest impact special rate requests and should thereby reduce the time needed to process such requests.
- The rules concerning the effect of a statutory pay increase on special salary rate schedules have been changed. The interim regulations require that special salary rate schedules be automatically aligned with the rates on new statutory pay schedules (or with "constructed" rates above the maximum rate of the grade). The previous regulation, which provided that changes in statutory pay schedules would have no automatic effect on special salary rate schedules, was found to be inappropriate by the United States Court of Appeals for the Federal Circuit (*National Treasury Employees Union* v. *Horner*, 869 F.2d 571 (Fed. Cir. 1989)).

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The special salary rate provisions of FEPCA must be made effective no sooner than 90 days and not later than 180 days after enactment. The notice is being waived and the regulation is being made effective immediately to enable OPM to implement the expanded special rate authority established by FEPCA at the earliest practicable date.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 530

Government employees, Wages, Administrative practice and procedure.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

1. The authority citation for 5 CFR part 530 is revised to read as follows:

Authority: 5 U.S.C. 5305; E.O. 12748, 56 FR 4521.

2. Section 530.301 is revised to read as follows:

§ 530.301 Applicability.

This subpart applies to agencies having positions paid under—

(a) A statutory pay system; or

(b) Any other pay system established by or under Federal statute for civilian positions within the executive branch.

3. Section 530.302 is revised to read as follows:

§ 530.302 Authority.

In lieu of the pay schedules identified in § 530.301 of this part, the Office of Personnel Management (OPM) may establish, and agencies shall pay, special salary rates under section 5305 of title 5, United States Code, Executive Order 12748, and this subpart.

4. Section 530.303 is revised to read as follows:

§ 530.303 Establishing and adjusting special salary rate schedules.

(a) OPM may increase the minimum rates otherwise payable under the pay schedules identified in § 530.301 of this part in one or more areas or locations to the extent it considers necessary to overcome existing or likely significant handicaps in the recruitment and retention of well-qualified personnel when these handicaps are due to any of the circumstances described in paragraph (b) of this section. When a minimum rate is increased under this authority, increases may also be made in one or more of the remaining rates of the affected grade or level. In no event may an increased minimum rate exceed the maximum rate prescribed by law for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level V of the Executive Schedule.

(b) The circumstances referred to in paragraph (a) of this section are the following:

(1) Rates of pay offered by non-Federal employers are significantly higher than those payable by the Government within the area, location, occupational group, or other class of positions under the pay system involved;

(2) The remoteness of the area or location involved;

(3) The undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

(4) Any other circumstances OPM considers appropriate.

(c) An agency may propose to OPM tnat special salary rates be established or adjusted. The agency initiating such a request and all other agencies wishing to be included are responsible for submitting complete supporting data, as specified by OPM, including, after consulting with OPM, a survey of prevailing non-Federal pay rates in the relevant labor market.

(d) All requests to establish or adjust special salary rate schedules must be transmitted directly to OPM's central office by the agency's headquarters. Each request must include a certification by the head of the agency that special salary rates are necessary to ensure staffing adequate to the accomplishment of the agency's mission and that funds are available to cover the increased expenditures for salaries and benefits that would result from the approval of the request. If the special salary rate request covers fewer than 1,000 employees or would increase annual salary costs by less than $4 million, this certification may be provided by a headquarters official designated to act on behalf of the head of the agency.

(e) In establishing or adjusting special salary rate schedules, OPM shall consider—

(1) The number of existing or likely vacant positions and the length of time they have been vacant, including evidence to support the likelihood that a recruiting problem will develop if one does not already exist;

(2) The number of employees who have or are likely to quit for comparable positions, including the number quitting for higher paying non-Federal positions and evidence to support the likelihood that employees will quit;

(3) The number of vacancies the agency tried to fill, compared with the number of hires and offers made;

(4) The nature of the existing labor market;

(5) The degree to which the agency has considered and used other pay flexibilities available to the agency to alleviate its staffing problems, including above-minimum entry rates, recruitment and relocation bonuses, and retention allowances;

(6) The degree to which the agency has considered relevant non-pay solutions to the staffing problems, such as conducting an aggressive recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions;

(7) The impact of the staffing problem on the agency's mission; and

(8) The level of non-Federal rates paid for comparable positions. (Data on non-Federal salary rates may be supplemented, if appropriate, by data on Federal salary rates for comparable positions established under independent statutory authority.)

(f) In determining at which level to set special salary rates, OPM shall consider—

(1) The level of rates it believes necessary to recruit or retain an adequate number of well-qualified employees;

(2) The dollar costs that will be incurred if special salary rate schedules are not authorized; and

(3) The level of pay for comparable positions.

(g) No one factor or combination of factors specified in paragraph (e) or (f) of this section requires special salary rate schedules to be established at or adjusted to any given level. Each agency request to establish or adjust special salary rate schedules shall be judged on its own merits based on the extent to which it meets these criteria.

(h) For newly established or existing special salary rate authorizations, OPM may establish GS–10 special salary rates for the purpose of computing overtime pay and annual premium pay for standby duty and for the purpose of applying the provisions of 5 U.S.C. 5543 governing compensatory time off. In determining the minimum special rate for grade GS–10 to be established for these purposes, OPM shall consider the following factors, as appropriate in each situation:

(1) The need to provide for a reasonable progression in basic pay rates from lower grade levels to higher grade levels; and

(2) The need to avoid pay alignment problems that would result from applying the two-step promotion rule in 5 U.S.C. 5334(b).

5. Section 530.304 is revised to read as follows:

§ 530.304 Annual review.

(a) OPM shall review special salary rate schedules annually to determine whether there is a continuing need for them.

(b) In conducting the annual review, OPM shall designate lead agencies for assistance in coordinating the collection of relevant data. All agencies are responsible for submitting complete supporting data upon request to OPM or the lead agency, as appropriate.

(c) When special rates are adjusted as a result of the annual review, an employee's pay shall be fixed in the same manner as provided in § 530.307(b) of this part.

6. In § 530.306, paragraph (c)(2) is amended by removing "§ 531.203(d)(3)" and replacing it with "§ 531.203(d)(2)(vi)," and paragraph (e)

is amended by removing the first occurrence of the word "at" and replacing it with the word "within."

7. A new § 530.307 is added to read as follows:

§ 530.307 Effect of an adjustment in scheduled rates of pay.

(a) At the time of an adjustment in the scheduled rates of pay for one or more grades or levels for which special rates have been authorized under 5 U.S.C. 5305, special rates shall be terminated or adjusted as follows:

(1) If the minimum rate of the special rate range is less than the new minimum scheduled rate of the grade or level concerned, special rates shall be terminated.

(2) If the minimum rate of the special rate range is greater than the new minimum scheduled rate of the grade or level concerned, but less than the new maximum scheduled rate of that grade or level, the minimum rate of the special rate range shall be increased to the lowest scheduled rate of that grade or level that exceeds the former minimum rate of the special rate range, and corresponding increases shall be made in the remaining special rates of that grade or level.

(3) If the minimum rate of the special rate range is greater than the new maximum scheduled rate of the grade or level concerned, the new special rates shall be determined by—

(i) Constructing new step rates above the maximum scheduled rate of the grade or level concerned in relationship to the increment(s) between the scheduled rates of that grade or level;

(ii) Increasing the minimum rate of the special rate range to the lowest constructed rate that exceeds the former minimum rate of the special rate range; and

(iii) Making corresponding increases in the remaining special rates of that grade or level.

(b) Except as provided in paragraphs (c) and (d) of this section, when an employee was receiving a special rate immediately before the effective date of an adjustment in scheduled rates of pay, the employee shall receive on that effective date the rate of basic pay for the numerical rank in the new special rate range established under paragraph (a) of this section for the employee's grade or level that corresponds to the numerical rank of the special rate the employee was receiving immediately before that effective date.

(c) If a special rate range is terminated under paragraph (a) of this section, an employee who was receiving a special rate immediately before the effective date of an adjustment in scheduled rates of pay shall receive on that effective date the numerical rank in the new statutory pay schedule for the employee's grade or level that corresponds to the numerical rank of the special rate the employee was receiving immediately before that effective date.

(d) In the case of an employee in a position under the Performance Management and Recognition System who was receiving a special pay rate immediately before the effective date of an adjustment in scheduled rates of pay, the employee shall receive on that effective date a rate of basic pay determined under § 540.106 of this chapter.

[FR Doc. 91-10550 Filed 5-2-91; 8:45 am]
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5 CFR Parts 531 and 575

RIN 3206-AE35

Pay Under the General Schedule; Supervisory Differentials

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement supervisory differentials under section 211 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). Section 211 of FEPCA also provides for the repeal of 5 U.S.C. 5333(b) upon the effective date of these regulations. These regulations authorize the payment of a supervisory differential to an employee under the General Schedule who has supervisory responsibility for one or more civilian employees not under the General Schedule who, in the absence of such a differential, would be paid more than the supervisory employee.

DATES: The amendments made by section 211 of FEPCA and the interim regulations set forth below are effective on May 4, 1991. Comments must be received on or before July 2, 1991.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Pay and Performance, U.S. Office of Personnel Management, room 7H28, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, (202) 606-2818 or (FTS) 266-2818.

SUPPLEMENTARY INFORMATION: Section 211 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) replaced the previous authority, 5 U.S.C. 5333(b), to adjust the pay of a General Schedule employee who supervises one or more prevailing rate employees with a new authority, 5 U.S.C. 5755, to establish supervisory differentials for certain supervisors paid under the General Schedule. The repeal of 5 U.S.C. 5333(b) is effective on the date the supervisory differential becomes effective. No further adjustments may be made under that authority on or after that date.

The two authorities differ in several respects. First, the former authority permitted the adjustment of a supervisor's rate of basic pay, while the new authority permits the payment of a differential that is not considered part of basic pay. Second, the former authority applied to a General Schedule employee who supervises one or more prevailing rate employees. The new authority applies to a General Schedule employee who supervises one or more civilian employees not covered by the General Schedule. Third, the former authority limited the supervisor's adjusted pay to one of the rates of the supervisor's grade. The new authority does not contain a statutory limit other than that the differential may not cause the supervisor's pay to exceed the pay of the highest paid subordinate by more than 3 percent.

Delegation of authority. The interim regulations delegate authority to agencies to pay a supervisory differential to an employee who meets each of the following criteria: (1) The employee is in a General Schedule position, including a position under the Performance Management and Recognition System; (2) the employee is a supervisor, as defined in 5 U.S.C. 7103(a)(10); and (3) the employee is responsible for providing direct, technical supervision over the work of one or more civilian employees whose positions are not under the General Schedule if one or more of the subordinates would, in the absence of the differential, be paid more than the supervisory employee. However, the interim regulations do not permit the payment of a supervisory differential based on supervising a civilian employee whose rate of basic pay exceeds the maximum rate of basic pay established for grade GS-15 of the General Schedule.

Payment of differential. The interim regulations require that a supervisory differential be paid in the same manner and at the same time as the supervisor's basic pay. That is, the differential is paid at an hourly rate for each hour during which the supervisor receives basic pay. The authority to pay a supervisory differential is discretionary,

and the interim regulations permit an agency to reduce or terminate the differential at any time the agency determines it is appropriate to do so.

Amount of differential. The interim regulations provide that the amount of a supervisory differential may not cause the continuing pay of the supervisor to exceed the continuing pay of the highest paid subordinate by more than 3 percent. Continuing pay is defined in the interim regulations as the aggregate of all continuing payments and annual premium pay received by an employee at any one time. "Continuing payments" consist of basic pay and other forms of pay that are paid in the same manner and at the same time as basic pay—i.e., for periods during which an employee receives basic pay. Examples of "continuing payments" include, but are not limited to, cost-of-living allowances, post differentials, remote worksite allowances, physicians comparability allowances, and retention allowances.

The methods for determining the amount of continuing pay for both the supervisor and subordinate are described in the interim regulations. Because it is not considered part of basic pay, the amount of a supervisory differential, when combined with the supervisor's rate of basic pay, may cause the total to exceed the maximum rate of basic pay of the supervisor's grade.

The interim regulations require that a supervisory differential be terminated whenever the continuing pay of a supervisor (not including the supervisory differential) exceeds that of the highest paid subordinate. In addition, the interim regulations require that a supervisory differential be reduced or terminated, as appropriate, whenever the continuing pay of a supervisor (including the supervisory differential) exceeds that of the highest paid subordinate by more than 3 percent. This may occur, for example, when the supervisor receives an increase in his or her rate of basic pay, such as an annual pay adjustment, a merit increase, a within-grade increase, or a quality step increase. Reduction or termination of a supervisory differential also may be required when a subordinate employee leaves his or her position or is reduced in pay. The interim regulations provide that the effective date of such a reduction or termination in a supervisory differential shall be not later than 30 days after the date on which the continuing pay of the supervisor exceeds the continuing pay of the highest paid subordinate by more than 3 percent. Effecting such changes at the beginning of a pay period would simplify administration by personnel and payroll staffs.

Because of the potential for frequent changes in a supervisor's eligibility for a supervisory differential (based on annual pay adjustments and other predictable changes in basic pay rates for both supervisors and subordinates at different times of the year), agencies are encouraged to authorize supervisory differentials only when there is a significant pay disparity. In addition, the amount of a supervisory differential (computed as a percentage of the supervisor's rate of basic pay or as a dollar amount) should be set so as to minimize the necessity for frequent adjustments because pf predictable changes in basic pay rates.

Basis for comparing continuing pay of supervisors and subordinates. The interim regulations list the components of continuing pay for both supervisors and subordinates that must be included in making a comparison. For supervisors, continuing pay includes basic pay (including retained rates of pay), locality-based comparability payments or interim geographic adjustments, staffing differentials (when authorized by OPM), retention allowances, other "continuing payments" (except night, Sunday, or holiday premium pay and hazardous duty differentials), and premium pay paid on an annual basis. For subordinates, continuing pay includes basic pay (except retained rates of pay and night or environmental differentials), locality-based payments, other "continuing payments" (except Sunday or holiday pay and retention allowances), and premium pay paid on an annual basis. A retained rate of pay is excluded because it is not related to the subordinate's current position. A retention allowance is excluded to remove any incentive for the supervisor to benefit by virtue of obtaining approval of such an allowance for a subordinate.

Documentation requirements. The interim regulations require that each determination to establish or adjust a supervisory differential be made in writing, include the basis for determining the amount of the differential, and contain sufficient information to allow reconstruction of the action.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. The supervisory differential authority must be made effective no sooner than 90 days and no later than 180 days after enactment.

The notice is being waived and the regulation is being made effective in less than 30 days to make this new authority effective on the earliest practicable date.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Parts 531 and 575

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending title 5, Code of Federal Regulations, as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

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

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

§§ 531.301 through 531.305 [Removed and Reserved]

2. Subpart C (§§ 531.301–531.305) is removed and reserved.

3. In Subpart D, § 531.407 is amended by revising paragraph (c)(3) to read as follows:

Subpart D—Within-Grade Increases

* * * * *

§ 531.407 Equivalent increase determinations

* * * * *

(c) * * *

(3) The establishment of higher minimum rates under section 5305 of title 5, United States Code, or an increase in such rates;

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PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

4. The authority citation for part 575 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, 5755; E.O. 12748.

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

Subpart D—Supervisory Differentials

Sec.
575.401 Purpose.
575.402 Delegation of authority.
575.403 Definitions.
575.404 Use of authority.
575.405 Calculation and payment of supervisory differential.
575.406 Adjustment or termination of supervisory differential.
575.407 Records.

Subpart D—Supervisory Differentials

§ 575.401 Purpose.

This subpart provides regulations to implement 5 U.S.C. 5755, which authorizes payment of a supervisory differential to an employee under the General Schedule who has supervisory responsibility for one or more civilian employees not under the General Schedule if one or more of the subordinate civilian employees would, in the absence of such a differential, be paid more than the supervisory employee.

§ 575.402 Delegation of authority.

(a) The head of an agency may pay a supervisory differential to a supervisor who is—

(1) In a General Schedule position paid under 5 U.S.C. 5332, including a position under the Performance Management and Recognition System established under chapter 54 of title 5, United States Code; and

(2) Responsible for providing direct, technical supervision over the work of one or more civilian employees whose positions are not under the General Schedule if one or more of the subordinates would, in the absence of such a differential, be paid more than the supervisor.

(b) A supervisory differential may not be paid on the basis of supervising a civilian employee whose rate of basic pay exceeds the maximum rate of basic pay established for grade GS-15 of the General Schedule (including any applicable locality-based comparability payment under 5 U.S.C. 5304 or interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) and any applicable special rate of pay under 5 U.S.C. 5305 or similar authority).

§ 575.403 Definitions

In this subpart:

Agency has the meaning given that term in 5 U.S.C. 5102.

Continuing pay means the aggregate of all continuing payments and annual premium pay received by an employee at any one time.

Continuing payment means basic pay and any other form of pay that is paid in the same manner and at the same time as basic pay—i.e., for periods during which an employee receives basic pay.

Employee has the meaning given that term in 5 U.S.C. 5102.

Head of agency means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or interim geographic adjustments under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509).

Supervisor has the meaning given that term in 5 U.S.C. 7103(a)(10).

§ 575.404 Use of authority.

(a) Each determination to pay a supervisory differential shall be made in writing under procedures established by each agency.

(b) The procedures established by each agency under paragraph (a) of this section shall provide that—

(1) Each determination to pay a supervisory differential, including the amount of such differential, shall be reviewed and approved by an official of the agency who is at higher level than the official who made the initial decision, unless there is no official at a higher level in the agency; and

(2) In determining whether to use the authority under 5 U.S.C. 5755 and this subpart and in determining the amount of such differential, the relationship in pay among supervisors under the General Schedule in the same organizational component of the agency shall be considered, as well as the relationship in pay between the supervisor and his or her subordinate(s).

(3) Each determination to pay a supervisory differential shall be documented.

§ 575.405 Calculation and payment of supervisory differential.

(a) A supervisory differential shall be calculated as a percentage of the supervisor's rate of basic pay or as a dollar amount and shall be paid in the same manner and at the same time as the supervisor's basic pay—i.e., the differential shall be paid at an hourly rate for each hour during which the supervisor receives basic pay.

(b) The amount of a supervisory differential shall not cause the supervisor's continuing pay, as determined under paragraph (c) of this section, to exceed the continuing pay of the highest paid subordinate not under the General Schedule, as determined under paragraph (d) of this section, by more than 3 percent.

(c) For purposes of comparing the continuing pay of a supervisor whose position is under the General Schedule with the continuing pay of a subordinate whose position is not under the General Schedule, the following payments shall be included in determining the amount of continuing pay received by the supervisor:

(1) Basic pay, including a retained rate of pay under 5 U.S.C. 5363 and part 536 of this chapter or other similar authority:

(2) A locality-based comparability payment under 5 U.S.C. 5304 or interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509);

(3) A staffing differential under section 209 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509);

(4) A retention allowance under 5 U.S.C. 5754;

(5) Any other continuing payment, except night, Sunday, or holiday premium pay or a hazardous duty differential under chapter 55 of title 5, United States Code; and

(6) Premium pay paid on an annual basis under 5 U.S.C. 5545(c).

(d) For purposes of comparing the continuing pay of a supervisor whose position is under the General Schedule with the continuing pay of a subordinate whose position is not under the General Schedule, the following payments shall be included in determining the amount of continuing pay received by the subordinate:

(1) Basic pay, excluding a night or environmental differential under 5 U.S.C. 5343(f) or part 532 of this chapter, respectively, or other similar authority and a retained rate of pay under 5 U.S.C. 5363 and part 536 of this chapter or other similar authority;

(2) A locality-based comparability payment under 5 U.S.C. 5304, an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), or another locality-based payment under similar authority;

(3) Any other continuing payment, except Sunday or holiday pay or another similar payment under title 5, United States Code, or other similar authority and a retention allowance under 5 U.S.C. 5754 or other similar authority; and

(4) Premium pay paid on an annual basis under an authority similar to 5 U.S.C. 5545(c).

(e) Payment of a supervisory differential is subject to the aggregate limitation on pay under 5 U.S.C. 5307 and subpart B of part 530 of this chapter.

(f) A supervisory differential shall not be considered part of the supervisor's rate of basic pay for any purpose.

§ 575.406 Adjustment or termination of supervisory differential.

(a) An agency may establish procedures that allow for adjusting or terminating a supervisory differential at any time the agency determines it is appropriate to do so.

(b) A supervisory differential shall be terminated when the continuing pay of the supervisor (not including the supervisory differential) exceeds the continuing pay of the highest paid subordinate whose position is not under the General Schedule.

(c) A supervisory differential shall be reduced or terminated, as appropriate, when the continuing pay of the supervisor (including the supervisory differential) exceeds the continuing pay of the highest paid subordinate whose position is not under the General Schedule by more than 3 percent.

(d) The effective date of a reduction or termination of a supervisory differential under paragraph (b) or (c) of this section shall be not later than 30 calendar days after the date on which the event that necessitates the reduction or termination occurs.

(e) Each determination to adjust a supervisory differential shall be made in writing under procedures established by each agency similar to those established under § 575.404 of this part.

(f) The reduction of termination of a supervisory differential may not be appealed. However, the preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 of title 5, United States Code, or under any of the laws referred to in 5 U.S.C. 2302(d).

§ 575.407 Records.

(a) Each agency shall keep a record of each determination required by §§ 575.404(a) and 575.406(e) of this part. Each record shall contain sufficient information to allow reconstruction of the action, including the basis for determining the amount of the differential and the comparison of continuing pay required by § 575.405(b) of this part.

(b) Each agency shall promptly submit a report of each determination made to establish, adjust, or terminate a supervisory differential as a part of its regular submission to OPM's Central Personnel Data File.

[FR Doc. 91-10551 Filed 5-2-91; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Parts 532, 550, and 551

RIN 3026-AE29

Pay Administration Under the Fair Labor Standards Act; Overtime Pay Provisions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement section 210 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). The amendments made by section 210 eliminate the requirement to perform overtime computations for employees who are covered by the Fair Labor Standards Act of 1938 (FLSA) under both title 5, United States Code, and the FLSA and provide that, for the purpose of calculating overtime pay under the FLSA, hours in a paid nonwork status shall be deemed to be hours of work. Henceforth, overtime pay for nonexempt employees will be computed and paid only under the FLSA.

DATES: The amendments made by section 210 of FEPCA and the interim regulations set forth below are effective on May 4, 1991. Comments must be received on or before July 2, 1991.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Pay and Performance, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, room 7H28, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James R. Weddel, (202) 606-2858 or (FTS) 266-2858.

SUPPLEMENTARY INFORMATION: Section 210 of the Federal Employees Pay Comparability Act of 1990 eliminates the need to calculate and compare an FLSA nonexempt employee's overtime pay entitlement under two laws in order to pay the greater overtime benefit. Instead, employees who are nonexempt under the Fair Labor Standards Act of 1938, as amended, will always receive overtime pay under the FLSA, as provided in part 551 of title 5, Code of Federal Regulations.

Federal employees who are exempt from the FLSA, but covered by the overtime pay provisions of title 5, United States Code, will continue to have their overtime pay benefit calculated and paid under the title 5 provisions, as provided in part 532 (for prevailing rate employees) or part 550 of title 5, Code of Federal Regulations.

The rules for determining hours of work for the purpose of calculating overtime pay will depend upon whether the legal authority for the hours of work determination is found in title 5, United States Code, or in the Fair Labor Standards Act. Specifically, hours of work for FLSA exempt employees will continue to be determined under part 532 or part 550, with no consideration given to the rules for determining hours of work under part 551. The same will be true for determining hours of work in excess of 8 hours in a day for nonexempt employees, even though overtime pay for work in excess of 8 hours in a day will be calculated and paid under part 551. This is true because FEPCA amended sections 5542 and 5544 of title 5, United States Code, not the FLSA. On the other hand, agencies will apply the rules on hours of work under part 532 or 550, as applicable, and part 551 for the purpose of determining the overtime entitlement for work in excess of 40 hours in a week for nonexempt employees. In summary, to determine hours of work for overtime pay entitlement purposes, agencies must apply 5 CFR 410.602, 5 CFR part 532 and 5 U.S.C. 5544, and/or 5 CFR part 500, as appropriate, for each employee; for nonexempt employees only, agencies must also identify any additional hours of work under 5 CFR part 551, but only for the purpose of determining the overtime pay entitlement for hours of work in excess of 40 hours in a week.

The regulations governing pay under prevailing rate systems have been revised to provide that overtime pay for prevailing rate (wage) employees will be paid under either 5 U.S.C. 5544 and part 532 (for FLSA exempt employees) or part 551 (for nonexempt employees). The requirement to provide the greater overtime benefit under title 5, United

States Code, or the FLSA has been deleted. (See § 532.503(a)(1).)

The regulations on coverage under part 550 have been revised to indicate that, except for determining hours of work, part 550 regulations on overtime pay do not apply to an employee who is subject to the overtime pay provisions of the FLSA, as described by subpart E of part 551 of title 5, Code of Federal Regulations. (See § 550.101.)

A paragraph in part 550 explaining when time in a travel status is considered to be hours of work has been amended to reflect language in 5 U.S.C. 5542, which includes both travel to and from an event that cannot be scheduled or controlled administratively. This change in law occurred prior to FEPCA. (See § 550.112(g)(2).)

A paragraph has been added to both parts 550 and 551 to clarify that, for prevailing rate employees who are confined to their post of duty, hours in a standby or on-call status or while sleeping or eating are not creditable for the purpose of determining hours of work in excess of 8 hours in a day. (See §§ 550.112(i) and 551.501(a)(3).) Note that for the purpose of determining overtime pay under the FLSA for hours of work in excess of 40 hours in a week, the existing rules under part 551 concerning standby duty, on-call status, and sleep time have not been altered.

Regulations on compensatory time off under part 550 have been revised to reflect the authority at 5 U.S.C. 6123 to grant compensatory time off to employees under flexible work schedules under 5 U.S.C. 6122 in lieu of payment for overtime hours, whether or not irregular or occasional in nature. This is a clarifying change and not directly related to the changes made by FEPCA. (See § 550.114.)

Certain provisions of part 550 that should also apply for the purpose of determining overtime pay under the FLSA have been added to part 551 after conforming revisions were made. The sections involved are (1) § 550.111(a)(2) on computing hours of work for overtime pay, which has been added at § 551.401(g); (2) § 550.112(d) on leave without pay, which has been added at § 551.401(c); and (3) § 550.112(h) on call-back overtime work, which has been added at § 551.401(e).

The overtime pay provisions of parts 550 and 551 will each be independent and complete (except for determining hours of work, as discussed above). However, employees covered by the FLSA will continue to be covered by other applicable provisions of 5 U.S.C. 5544 and part 532 or 550 on night pay, pay for holiday work, pay for Sunday work, annual premium pay for standby duty or administratively uncontrollable overtime work, and other provisions.

Language has also been added to both parts 550 and 551 to clarify that if an employee is compensated by payment of annual premium pay for regularly scheduled standby duty or administratively uncontrollable overtime work under 5 U.S.C. 5545, the same hours of work will not also be compensated by overtime pay under part 551 for hours of work in excess of 8 hours in a day. This language has been added so that nonexempt employees will neither lose nor gain overtime pay entitlement to the extent feasible consistent with the goal of simplifying overtime pay administration. (See §§ 550.112(j) and 551.501(a)(1).)

In addition, subpart D of part 551 has been amended to provide that hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences) are "hours of work" under part 551 for purposes of determining overtime pay. This parallels parts 532 and 550 overtime provisions, under which hours in a paid nonwork status are included as hours of work for the purpose of determining whether an employee has worked in excess of 8 hours in a day or 40 hours in an administrative workweek. In the past, this has also been true under part 551 for determining whether an employee worked in excess of 40 hours in a workweek, except for determining hours of work for an employee who may be entitled to overtime pay based solely on occasional or irregular overtime work. FEPCA eliminates this difference between the overtime pay provisions. (See § 551.401(b).)

The regulations in subpart E of part 551 also have been amended to provide that, for employees covered by the overtime pay provisions of the FLSA, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours. Thus, title 5 and FLSA overtime pay will be earned on the same basis—i.e., for hours of work in excess of 8 in a day or 40 in a week. A list of exceptions to this rule has also been added. For example, an exception to this requirement is made for employees whose work in excess of 8 hours in a day or 40 hours in a week is not "overtime hours," as defined in 5 U.S.C. 6121 (flexible and compressed work schedules). Another exception is made for the special weekly overtime standards established under section 7(k) of the FLSA for employees engaged in fire protection or law enforcement activities. (See § 551.501(a).)

Also, a paragraph has been deleted from subpart E (§ 551.511(b)(2)) so that the "total remuneration" used in determining a nonexempt employee's "hourly regular rate" will always include pay while in a paid nonwork status, consistent with the change made in subpart D to reflect the fact that hours in a paid nonwork status are deemed to be "hours of work" under part 551.

Another paragraph in subpart E has been amended by deleting language that necessitates dual computations of overtime pay under title 5 and the FLSA It should be noted that elimination of the requirement to perform an overtime pay comparison for nonexempt employees does not affect their entitlement to premium pay under title 5, United States Code, including premium pay for Sunday, holiday, and night work and premium pay paid on an annual basis. Premium pay paid on an annual basis continues to be computed under 5 CFR 550.141 through 550.164. (See § 551.513.)

Part 551 has also been revised to reflect the new FEPCA provision that amends section 5543(a)(1) of title 5, United States Code, to provide that on request of an employee, the head of an agency may grant an employee compensatory time off from the employee's scheduled tour of duty instead of payment under title 5 or the FLSA for an equal amount of time spent in irregular or occasional overtime work. This provision does not apply to prevailing rate employees, who are not covered by the definition of "employee" at 5 U.S.C. 5541. The legal authority for compensatory time off previously did not extend to nonexempt employees. Consequently, compensatory time off for nonexempt employees has been permitted only under very limited circumstances. The interim regulations delete language that required that compensatory time off be taken during the same workweek when it is earned and, for a subsequent workweek, when the overtime pay entitlement under title 5 is equal to or greater than under the FLSA. (See § 551.531.)

The rules governing compensatory time off requested by an employee are not the same under both parts 550 and 551. Part 551 now reflects the new authority to grant compensatory time off under FEPCA. Both parts 550 and 551 now reflect the existing authority to grant compensatory time off to employees under flexible work schedules established under 5 U.S.C. 6122. However, there is no legal authority for an agency to require that a nonexempt employee take compensatory time off in lieu of overtime pay under the FLSA. (Such an authority is provided under title 5 when applied to employees whose rate of basic pay is in excess of the maximum

rate for GS–10.) The interim regulations provide that an agency may not require that a nonexempt employee be paid for overtime work earned under the FLSA and part 551 with an equivalent amount of compensatory time off.

Language also has been added to the overtime pay, compensatory time off, and standby premium pay provisions of §§ 550.111, 550.113, 550.114, 550.141, and 550.144 to reflect an amendment made by section 101(b)(3)(E) of FEPCA. Under this provision of law, which became effective on the first day of the first pay period beginning on or after February 14, 1991, references to "GS–10" in 5 U.S.C. 5542(a), 5543, and 5545(c)(1) now include "any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law." The practical effect of this amendment was explained in a notice of effective dates published in the **Federal Register** on February 14, 1991 (56 FR 6212).

In addition, language has been added to the overtime pay computation provisions of § 550.113(b) to reflect an amendment made by section 410(a) of FEPCA. Under this provision of law, which became effective on November 5, 1990, the rate of overtime pay for law enforcement officers whose rate of basic pay exceeds the rate for GS–10, step 1, is limited to one and one-half times the rate of basic pay for GS–10, step 1 (including any interim geographic adjustment or locality-based comparability payment that may be payable after January 1, 1991, and any special salary rate), or the employee's rate of basic pay (including any interim geographic adjustment or locality-based comparability payment and any special salary rate), whichever is greater.

Finally, language has been added to the definitions of "rate of basic pay" in §§ 550.103(j) and 550.703 for premium pay and severance pay purposes, respectively, to include any applicable interim geographic adjustment under section 302 of FEPCA or locality-based comparability payment under 5 U.S.C. 5304. As indicated in the **Federal Register** notice of January 9, 1991 (56 FR 771), the effective date of the interim regulations on interim geographic adjustments was the first day of the first pay period beginning on or after January 1, 1991.

OPM will issue additional guidance to agencies on FLSA pay administration through the Federal Personnel Manual in the near future.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. The premium pay amendments of section 210 of FEPCA must be made effective no sooner than 90 days and no later than 180 days after enactment. The notice is being waived and the regulation is being made effective in less than 30 days to enable all agencies to implement the premium pay amendments by May 4, 1991.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

List of Subjects

5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

5 CFR Part 550

Administrative practice and procedure, Civil defense, Government employees, Wages.

5 CFR Part 551

Administrative practice and procedure, Fair Labor Standards Act, Government employees, Manpower training programs, Travel, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending parts 532, 550, and 551 of title 5 of the Code of Federal Regulations as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

2. In § 532.503, paragraph (a)(1) is revised to read as follows:

§ 532.503 Overtime pay.

(a)(1) Employees who are exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended, shall be paid overtime pay in accordance with 5 U.S.C. 5544 and this section. Employees who are nonexempt shall be paid overtime pay in accordance with part 551 of this chapter.

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

3. The authority citation for subpart A of part 550 continues to read as follows:

Authority: 5 U.S.C. 5548 and 6101(c).

4. In § 550.101, paragraph (a)(1) is revised, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 550.101 Coverage and exemptions.

(a) *Employees to whom this subpart applies.* (1) This subpart applies to each employee in or under an Executive agency, as defined in 5 U.S.C. 105, except those named in paragraphs (b) and (c) of this section.

* * * * *

(c) *Employees to whom §§ 550.111, 550.113, and 550.114 of this subpart do not apply.* Except for the purpose of determining hours of work in excess of 8 hours in a day, §§ 550.111, 550.113, and 550.114 of this subpart do not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938 and part 551 of this chapter.

* * * * *

5. In § 550.103, paragraph (j) is revised to read as follows:

§ 550.103 Definitions.

* * * * *

(j) *Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee, including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304, before any deductions and exclusive of additional pay of any other kind.

* * * * *

6. In § 550.111, paragraph (d)(2) is revised to read as follows:

§ 550.111 Authorization of overtime pay.

* * * * *

(d) * * *

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS–10 (including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-

based comparability payment under 5 U.S.C. 5304 and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical engineering or scientific activities. For purposes of this section and section 5542(a) of title 5, United States Code, an employee is engaged in professional or technical engineering or scientific activities when he or she is assigned to perform the duties of a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture.

* * * * *

7. In § 550.112, paragraph (g)(2) is revised, and paragraphs (i) and (j) are added to read as follows:

§ 550.112 Computation of overtime work.

* * * * *

(g) * * *

(2) The travel—

(i) Involves the performance of actual work while traveling;

(ii) Is incident to travel that involves the performance of work while traveling;

(iii) Is carried out under such arduous and unusual conditions that the travel is inseparable from work; or

(iv) Results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of the employee to his or her official-duty station.

* * * * *

(i) For an employee covered by 5 U.S.C. 5544, hours in a standby or on-call status or while sleeping or eating shall not be credited for the purpose of determining hours of work in excess of 8 hours in a day.

(j) Periods of duty that are compensated by annual premium pay under 5 U.S.C. 5545(c) (1) or (2) shall not be credited for the purpose of determining hours of work in excess of 8 hours in a day.

8. In § 550.113, paragraphs (a) and (b) are revised to read as follows:

§ 550.113 Computation of overtime pay.

(a) For each employee whose rate of basic pay does not exceed the minimum rate for GS–10 (including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304 and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law), the overtime hourly rate is 1½ times his or her hourly rate of basic pay.

(b) For each employee whose rate of basic pay exceeds the minimum rate for GS–10 (as determined under paragraph (a) of this section), the overtime hourly rate is 1½ times the hourly rate of basic pay at the minimum rate for GS–10 (as determined under paragraph (a) of this section), except as provided in 5 U.S.C. 5542(a) (3) and (4).

* * * * *

9. In § 550.114, the heading and paragraph (a) are revised; paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively; a new paragraph (b) is added; and the newly redesignated paragraph (c) is revised to read as follows:

§ 550.114 Compensatory time off.

(a) At the request of an employee, as defined in 5 U.S.C. 5541(2), the head of an agency may grant compensatory time off from an employee's tour of duty instead of payment under § 550.113 of this part for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, as defined in 5 U.S.C. 2105, the head of an agency may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 550.113 of this part for an equal amount of overtime work, whether or not irregular or occasional in nature.

(c) The head of an agency may provide that an employee whose rate of basic pay exceeds the maximum rate for GS–10 (including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304 and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off from the employee's tour of duty instead of payment under § 550.113 of this part.

* * * * *

10. § 550.141 is revised to read as follows:

§ 550.141 Authorization of premium pay on an annual basis.

An agency may pay premium pay on an annual basis, instead of the premium pay prescribed in this subpart for regularly scheduled overtime, night, holiday, and Sunday work, to an employee in a position requiring him or her regularly to remain at, or within the confines of, his or her station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work. Premium pay under this section is determined as an appropriate percentage, not in excess of 25 percent, of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304 and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law).

11. In § 550.144, the introductory text to paragraph (a) is revised to read as follows:

§ 550.144 Rates of premium pay payable under § 550.141.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.141 to an employee who meets the requirements of that section, at one of the following percentages of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304 and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law):

12. The authority of subpart G of part 550 continues to read:

Authority: 5 U.S.C. 5595; E.O. 11257.

* * * * *

12a. In § 550.703, the definition of "rate of basic pay" is revised to read as follows:

§ 550.703 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay for standby duty under 5 U.S.C. 5545(c)(1), night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

* * * * *

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

13. The authority citation for part 551 is revised to read as follows:

Authority: Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93-259, 88 Stat. 55 (29 U.S.C. 204f); Sec. 210 of the Federal Employees Pay Comparability Act of 1990, Pub. L. 101-509, 104 Stat. 1460.

14. In § 551.401, paragraphs (b) and (c) are revised, and paragraphs (e) through (h) are added to read as follows:

§ 551.401 Basic principles.

* * * * *

(b) Hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences) are "hours of work" under this part.

(c) Hours in an unpaid nonwork status (e.g., leave without pay, furlough, absence without leave) are not "hours of work" under this part.

* * * * *

(e) Irregular or occasional overtime work performed by an employee on a day on which work was not scheduled for that employee or for which the employee is required to return to his or her place of employment is deemed at least 2 hours in duration for the purpose of determining whether the employee may be entitled to overtime pay under this part, either in money or compensatory time off.

(f) For the purpose of determining hours of work in excess of 8 hours in a day under this part, agencies shall credit hours of work under § 410.602 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable.

(g) For the purpose of determining hours of work in excess of 40 hours in a week or in excess of another applicable overtime work standard under section 7(k) of the Fair Labor Standards Act, agencies shall credit hours of work under § 410.602 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable, that will not be compensated as hours of work in excess of 8 hours in a day, as well as any additional hours of work under this part.

(h) For the purpose of determining overtime pay for work in excess of 40 hours in a workweek under this part, time spent in a travel status is hours of work as provided in § 551.422 of this part and § 550.112(g) of this chapter or 5 U.S.C. 5544, as applicable.

15. In § 551.501, paragraph (a) is revised, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 551.501 Overtime pay.

(a) An agency shall compensate an employee who is not exempt under subpart B of this part for all hours of work in excess of 8 in a day or 40 in a workweek at a rate equal to one and one-half times the employee's hourly regular rate of pay, except that an employee shall not receive overtime compensation under this part—

(1) On the basis of periods of duty in excess of 8 hours in a day when the employee receives compensation for that duty under 5 U.S.C. 5545(c) (1) or (2);

(2) On the basis of hours of work in excess of 8 hours in a day that are not overtime hours of work under § 410.602 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, or part 550 of this chapter;

(3) On the basis of hours of work in excess of 8 hours in a day for an employee covered by 5 U.S.C. 5544 for any hours in a standby or on-call status or while sleeping or eating;

(4) On the basis of hours of work in excess of 40 hours in a workweek for an employee engaged in fire protection or law enforcement activities;

(5) For hours of work that are not "overtime hours," as defined in 5 U.S.C. 6121, for employees under flexible or compressed work schedules;

(6) For hours of work compensated by compensatory time off under § 551.531 of this part; and

(7) For fractional hours of work, except as provided in § 551.521 of this part.

* * * * *

(c) In this subpart, "irregular or occasional overtime work" is overtime work that is not scheduled in advance of the employee's workweek.

* * * * *

§ 551.511 [Amended]

16. In section 551.511, paragraph (b)(2) is removed, and paragraphs (b)(3) through (b)(8) are redesignated as paragraphs (b)(2) through (b)(7), respectively.

17. Section 551.513 is revised to read as follows:

§ 551.513 Entitlement to other forms of pay.

Overtime pay under this part shall be paid in addition to all pay to which the employee is entitled under title 5, United States Code, or any other authority.

18. Section 551.531 is revised to read as follows:

§ 551.531 Compensatory time off.

(a) At the request of an employee, as defined in 5 U.S.C. 5541(2), the head of an agency may grant compensatory time off from an employee's tour of duty instead of payment under § 551.501 of this part for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, as defined in 5 U.S.C. 2105, the head of an agency may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 551.501 of this part for an equal amount of overtime work, whether or not irregular or occasional in nature.

(c) An agency may not require that an employee be compensated for overtime work under this subpart with an equivalent amount of compensatory time off from the employee's tour of duty.

(d) The head of an agency may fix time limits for an employee to request and take compensatory time off under this section. If compensatory time off is not requested or taken within the established time limits, the employee must be paid for overtime work at the overtime rate in effect for the work period in which it was earned under this subpart.

[FR Doc. 91-10552 Filed 5-2-91; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 550

RIN 3206-AE31

Pay Administration (General); Hazard Pay Differentials

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations on the hazard pay differential program that is modified by section 203 of the Federal Employees Pay Comparability Act of 1990 (FEPCA). The interim regulations delete the restriction that hazardous duty must be "irregular or intermittent" for entitlement to a hazard pay differential. In addition, provisions are established for requesting a waiver of the rule that prohibits payment of a hazard pay differential to employees whose hazardous duty has been taken into account in the classification of their position.

DATES: The amendments made by section 203 of FEPCA and the interim regulations set forth below are effective on May 4, 1991. Comments must be received by July 2, 1991.

ADDRESSES: Send or deliver written comments to Barbara L. Fiss, Assistant Director for Pay and Performance, Personnel Systems and Oversight Group, U.S. Office of Personnel

Management, room 7H28, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Phyllis Foley (202) 606-2848 or (FTS) 266-2848.

SUPPLEMENTARY INFORMATION: Section 203 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509, November 5, 1990) modified section 5545(d) of title 5, United States Code, which contains the legal basis for the payment of a differential for duty involving unusual physical hardship or hazard. FEPCA changed the law in two ways:

(1) The restriction that hazardous duty must be "irregular or intermittent" for entitlement to a hazard pay differential is deleted.

(2) The Office of Personnel Management is given authority to establish regulations that would allow a waiver of the rule prohibiting payment of a hazard pay differential to employees whose hazardous duty has been taken into account in the classification of their position.

The interim regulations delete all references to "irregular or intermittent" duty as a requirement for entitlement to a hazard pay differential. In addition, rules are established governing requests for a waiver of the provision that prohibits payment of a hazard pay differential to employees whose hazardous duty has been taken into account in the classification of their position. Since cost estimate information must be provided for waiver requests, a similar provision is added to the existing documentation requirements for amendments to appendix A. This change will provide OPM with additional information that will be useful in evaluating such requests.

Deletion of the "irregular or intermittent" duty requirement brings OPM regulations into conformance with the law. However, it is important to note that the law still prohibits payment of the hazard pay differential when the hazardous duty has been taken into consideration in the classification of the position, unless a waiver is granted. The interim regulations further clarify this prohibition by providing that hazard pay differential is not payable in such a situation whether or not the hazardous duty is grade controlling. The waiver authority is designed to address unusual circumstances and atypical situations in which major inequities are identified and cannot be addressed using other authorities.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Cade, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days to make these changes effective within 180 days after the enactment of Public Law 101-509, as required by section 305 of FEPCA.

Waiver of Notice of Proposed Rulemaking

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they would affect only Federal employees and Federal agencies.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending 5 CFR part 550 as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart I—Pay for Duty Involving Physical Hardship or Hazard

1. The authority citation for subpart I of part 550 continues to read as follows:

Authority: 5 U.S.C. 5545(d) and 5548(b).

2. In subpart I, §§ 550.901 through 550.907 are revised to read as follows:

§ 550.901 Purpose.

This subpart prescribes the regulations required by sections 5545(d) and 5548(b) of title 5, United States Code, for the payment of differentials for duty involving unusual physical hardship or hazard to employees.

§ 550.902 Definitions.

In this subpart: *Agency* has the meaning given that term in 5 U.S.C. 5102(a)(1).

Duty involving physical hardship means duty that may not in itself be hazardous, but causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices, such as duty involving exposure to extreme temperatures for a long period of time, arduous physical exertion, or exposure to fumes, dust, or noise that causes nausea, skin, eye, ear, or nose irritation.

Employee has the meaning given that term in 5 U.S.C. 5102(a)(2).

Hazardous duty means duty performed under circumstances in which an accident could result in serious injury or death, such as duty performed on a high structure where protective facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain, or high wind velocity exist.

Hazard pay differential means additional pay for the performance of hazardous duty or duty involving physical hardship.

§ 550.903 Establishment of hazard pay differentials.

(a) A schedule of hazard pay differentials, the hazardous duties or duties involving physical hardship for which they are payable, and the period during which they are payable is set out as appendix A to this subpart and incorporated in and made a part of this section.

(b) Amendments to appendix A of this subpart may be made by OPM on its own motion or at the request of an agency. An agency may recommend the rate of hazard pay differential to be established and shall submit with its request for an amendment of the appendix information about the hazardous duty or duty involving physical hardship showing—

(1) The nature of the duty;

(2) The degree to which the employee is exposed to hazard or physical hardship;

(3) The length of time during which the duty will continue to exist;

(4) The degree to which control may be exercised over the physical hardship or hazard; and

(5) The estimated annual cost to the agency if the request is approved.

§ 550.904 Authorization of hazard pay differential.

(a) An agency shall pay the hazard pay differential listed in appendix A of this subpart to an employee who is assigned to and performs any duty specified in the appendix. However, a hazard pay differential may not be paid to an employee when the hazardous duty or physical hardship has been taken into account in the classification of his or her position, without regard to whether the hazardous duty or physical

hardship is grade controlling, unless a waiver has been approved by OPM.

(b) A waiver may be approved by OPM at the request of an agency. An agency shall submit with its request information showing—

(1) The specific hazardous duty or duty involving physical hardship involved;

(2) The organizational component, position (title, series, and grade), and number of employees to be covered;

(3) The impact of the hazardous duty or physical hardship on the classification of the position;

(4) The justification for the waiver; and

(5) The estimated annual cost to the agency if the waiver is approved.

(c) For the purpose of this section, the phrase "has been taken into account in the classification of his or her position" means that the duty constitutes an element used in establishing the grade of the position.

§ 550.905 Payment of hazard pay differential.

When an employee performs duty for which hazard pay differential is authorized, the agency shall pay the hazard pay differential for the hours in a pay status on the day (a calendar day or a 24-hour period, when designated by the agency) on which the duty is performed. Hours in a pay status for work performed during a continuous period extending over 2 days shall be considered to have been performed on the day on which the work began, and the allowable differential shall be charged to that day.

§ 550.906 Termination of hazard pay differential.

An agency shall discontinue payment of hazard pay differential to an employee when—

(a) One or more of the conditions requisite for such payment ceases to exist;

(b) Adequate safety precautions have reduced the element of hazard to a negligible level; or

(c) Protective or mechanical devices have adequately alleviated physical discomfort or distress.

§ 550.907 Relationship to additional pay payable under other statutes.

Hazard pay differential is in addition to any additional pay or allowances payable under other statutes. It shall not be considered part of the employee's rate of basic pay in computing additional pay or allowances payable under other statutes.

3. The heading for appendix A to subpart I is revised to read as follows:

Appendix A—Schedule of Pay Differentials Authorized for Hazardous Duty Under Subpart I

4. In the table titled "Hazard Pay Differential, of Part 550 Pay Administration (General)" under Appendix A to subpart I, the heading to column 1 that reads "Irregular or intermittent duty" is revised to read "Duty".

[FR Doc. 91-10553 Filed 5-2-91; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

Recognition of Agreement State Licenses; Well-Logging, Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Correction.

SUMMARY: This document makes a minor correction to the NRC's regulations concerning the recognition of Agreement State licensees. This action is necessary to reinstate a cross reference that was inadvertently omitted, and to remove a cross reference that was inadvertently retained in a subsequent amendment to this regulation.

EFFECTIVE DATE: July 14, 1987.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301-492-7758.

SUPPLEMENTARY INFORMATION: On March 17, 1987, the Nuclear Regulatory Commission published in the **Federal Register** (52 FR 8241) a final rule which established 10 CFR part 39—Licenses and Radiation Safety Requirements for Well-Logging. This final rule contained a listing of conforming amendments to 10 CFR chapter I including an amendment to § 150.20(b). The amendment to § 150.20(b) in the March 17, 1987 final rule removed an obsolete cross reference to §§ 70.60 and included cross references to part 39. This final rule also made conforming amendments to § 150.20(b). In the December 31, 1987 amendments to § 150.20(b), the conforming amendments made on March 17, 1987, were inadvertently omitted. This document is necessary to restore the appropriate cross references to part 39.

List of Subjects for Part 150

Criminal penalties, Hazardous materials, Transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

Therefore, 10 CFR 150.20 is amended as follows:

1. The authority citation for part 150 continues to read in part as follows:

Authority: Sec. 161, 58 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 150.20 [Amended]

2. In § 150.20, paragraph (b) introductory text is amended by removing, "§§ 70.60 to 70.62, inclusive" and adding "70.61, 70.62," after 70.51 to 70.56, inclusive; and by adding "§§ 39.15 and 39.31 through 39.77 inclusive of part 39" after "and subpart B of part 34" and before "of this chapter."

Dated at Bethesda, Maryland, this 30th day of April, 1991.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publication Services, Office of Administration.

[FR Doc. 91-10935 Filed 5-2-91; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Maximum Lawful Price and Inflation Adjustments Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule; order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under title I of the Natural Gas Policy Act (NGPA) for the months of May, June, July, 1991. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: May 1, 1991.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix, (202) 208-0622.

Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

Issued April 29, 1991.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of May, June, July, 1991, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to May, 1991, are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

1. The authority citation for part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.

§ 271.10 [Amended]

2. Section 271.101(a) is amended by adding the maximum lawful prices for May, June, July 199, in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA Sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in		
			May 1991	June 1991	July 1991
B	102	New Natural Gas, Certain OCS Gas [1]	$6.171	$6.219	$6.267
C	103(b)(1)	New Onshore Production Wells [2]	3.717	3.734	3.751
E	105(b)(3)	Intrastate Existing Contracts	5.819	5.860	5.901
F	106(b)1(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [3]	2.126	2.136	2.146
G	107(c)(5)	Gas Produced from Tight Formations [4]	7.434	7.468	7.502
H	108	Stripper Gas	6.610	6.661	6.713
I	109	Not Otherwise Covered	3.076	3.090	3.104

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new onshore production well under section 103 was deregulated. (see part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in subpart C of part 271. The incentive ceiling price does not apply to certain gas after May 12, 1990, as a result of Commission order No. 519-A. (See § 271.703 of the Commission's regulations.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries in		
	May 1991	June 1991	July 1991
Post-1974 gas: [2] All producers	$3.076	$3.090	$3.104
1973-1974 Biennium gas:			
Small producer	2.593	2.605	2.617
Large producer	1.990	1.999	2.008
Interstate rollover gas: All producers	1.140	1.145	1.150
Replacement contract gas or recompletion gas:			
Small producer	1.462	1.469	1.476
Large producer	1.116	1.121	1.126
Flowing gas:			
Small producer	.737	.740	.743
Large producer	.622	.625	.628
Certain Permian Basin gas:			
Small producer	.870	.874	.878
Large producer	.770	.774	778
Certain Rocky Mountain gas:			
Small producer	.870	.874	878
Large producer	.737	.740	.743
Certain Appalachian Basin gas:			
North subarea contracts dated after 10-7-89	.703	.706	.709
Other contracts	.651	.654	.657
Minimum rate gas: [1] All producers	.381	.383	.385

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

§ 271.102 [Amended]

3. Section 271.102(c) is amended by adding the inflation adjustment for the months of May, June, July, 1991 in Table III.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied.
1991:	
May	1.00463
June	1.00463
July	1.00463

[FR Doc. 91-10461 Filed 5-2-91; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1387]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Numerical Controls and Priority Dates

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This final rule implements section 155 of (Pub. L. 101-649) which provides that certain Lebanese preference applicants for whom visa numbers would be available within fiscal years 1991 and 1992 shall have such numbers made available as early as possible in the respective fiscal year. A notice of proposed rulemaking was published on this subject on January 30, 1991. One comment was received and the proposed rule will be adopted without change.

EFFECTIVE DATE: June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522-0113, (202) 663-1184.

SUPPLEMENTARY INFORMATION: During the comment period, which ended on March 1, 1991, the Department received only one comment. The commenter supported the proposed rule and also urged the Department to take other administrative steps, not requiring the promulgation of regulations, to expedite the processing of the visa applications of qualifying aliens. The Department wishes to assure the commenter, and the public generally, that consular officers are making every effort, within the limits of existing staffing constraints and general workload demands, to expedite such applications. The Department does not believe that it is possible to give the kind of pre-emptive attention to those applications which the commenter apparently had in mind.

The commenter, and the public generally, may find it of interest that, as a part of the effort to expedite the processing of applications by qualifying aliens, applications by such aliens physically present in the United States are being accepted for processing by the United States Consulate General at Ciudad Juarez, Mexico. Applications by qualifying aliens outside the United States are being accepted for processing by visa issuing offices upon the request of the alien concerned.

Accordingly, except for the authority citation, the Notice of Proposed Rule No. 1328, at 56 FR 3427, is adopted as proposed.

This rule is not considered to be a major rule for purposes of Executive Order 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 42

Immigrants, Lebanese applicants, Visas.

PART 42—[AMENDED]

1. The authority citation for part 42 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847; Sec. 155, 104 Stat. 5007, 8 U.S.C. 1153 note.

2. Section 42.54 is revised to read as follows:

§ 42.54 Order of consideration.

(a) *General.* Consular officers shall request applicants to take the steps necessary to meet the requirements of INA 222(b) in order to apply formally for a visa as follows:

(1) In the chronological order of the priority dates of all applicants within each of the immigrant classifications specified in INA 203(a);

(2) In the order specified in INA 203(b) with regard to all applicants chargeable to the same foreign state or dependent area as specified in INA 202(a) and 202(c); and

(3) In the chronological order of the priority dates of all applicants within the special immigrant classifications specified in INA 101(a)(27)(E), (F), or (G).

(b) *Beneficiaries of section 155 of Public Law 101-649.* Notwithstanding (a) above, for fiscal years 1991 and 1992:

(1) The Department shall notify consular officers of the latest priority date, based on a reasonable estimate, for which visa numbers will probably be available worldwide under INA 203(a)(2) and (5) (in FY-91) and INA 203(a)(2) and (4) (in FY-92);

(2) Immediately after receipt of the Department's projected fiscal year ultimate priority date, if they have not previously done so, consular officers shall ensure that all natives of Lebanon who are beneficiaries of petitions conferring such status, approved no later than November 29, 1990, are notified promptly of the requirements the applicants must meet under INA 222(b) to apply formally for a visa. Such notifications sent to applicants not physically present in Lebanon may require, if necessary, additional information to enable the consular officer to determine whether or not the applicant is firmly resettled (as defined in 8 CFR 207.1(b)) in a country other than Lebanon;

(3) Upon a determination that the applicant is not firmly resettled in a country outside Lebanon, and that the applicant is documentarily qualified as provided in § 42.55(b), the consular officer shall so report any such preference Lebanese applicant and the Department shall promptly allocate a visa number for the use of such applicant.

Dated: April 17, 1991

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91-10477 Filed 5-2-91; 8:45 am]

BILLING CODE 4710-06-M

22 CFR Part 43

[Public Notice 1388]

Visas: Documentation of Immigrants

ACTION: Final rule.

SUMMARY: This rule promulgates in final regulations which were published in the **Federal Register** as a Notice of Proposed Rulemaking on January 30, 1991. The rule implements the provisions of section 133 of Public Law 101-649, which authorizes the issuance during fiscal year 1991 of immigrant visas, without numerical limitation, to certain aliens who had been notified of their selection in the NP-5 program established under section 314 of Public Law 99-603. After analysis of the comments received, the Department is publishing the final

regulations with certain changes described in detail below.

EFFECTIVE DATE: June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations and Advisory Assistance, Visa Office, Department of State, Washington, DC 20522-0113; (202) 663-1184.

SUPPLEMENTARY INFORMATION: On January 30, 1991 a notice of proposed rulemaking was published in the **Federal Register** at 56 FR 3429. During the comment period the Department received six comments. All six commenters challenged the proposed regulations as narrowing in an unwarranted manner the intended scope of section 133.

Discussion of Comments

Section 43.6(a)(1)

Particular emphasis was given to proposed § 43.6(a)(1). That section was derived from, and an attempt to interpret, section 133(2)(A) which reads "are qualified for the issuance of such visa but for (A) the numerical and fiscal year limitations on the issuance of such visas,". In formulating the challenged interpretation, the Department considered a number of factors.

First, roughly 135,000 aliens were notified of their selection under the NP-5 program prior to May 1, 1990 of whom 40,000 were issued visas by the end of the program on September 30, 1990, leaving 95,000 potential beneficiaries of section 133. Second, on October 2, 1990, during debate on the floor of the House of Representatives on the amendment which became section 133, its proponent engaged in considerable debate with two colleagues over the question of how many aliens would benefit from this provision. The proponent asserted repeatedly that the number would be around 1,000, but in any event not more than roughly 1,200 to 1,300. Finally, the quoted language necessarily must have some meaning and must have been intended to limit the beneficiary class in some way.

The Department considered whether there was an interpretation of the quoted language which would limit the beneficiary class to roughly the size asserted by its proponent. There did not appear to be any interpretation justified either by the rules of statutory construction or by the rules of English grammar and usage which would produce that result.

The Department then considered whether there was an interpretation which would limit the beneficiary class to fewer than the 95,000 potential total. The interpretation proposed in the challenged section would limit the total to about 15,000 aliens, a number substantially in excess of that cited by the section's proponent, but at least closer to 1,000 than 95,000. The Department proposed it for that reason and because it gave some meaning to the portion of section 132 quoted above, rather than none whatsoever.

Several commenters asserted that the intent was to include in the beneficiary class aliens who received notifications in the later stages of the program and were deterred from completing the necessary administrative processing by information from the Visa Office concerning visa availability during the last five to six months of the program. That may indeed be the case. Some of the statements made by the section's proponent during floor debate on October 2 suggest that it is. The difficulty is that there is no way of defining that class in a manner which is susceptible of rational or equitable implementation.

An alien to whom such a notification was sent in 1987, 1988, or 1989 can also claim that by the summer of 1990 he or she had decided to complete the process but was deterred by the information about visa availability. That claim is just as plausible or implausible as a similar claim made by an alien to whom the notification was sent in early 1990.

Notwithstanding the above considerations, the Department has concluded that the commenters are correct in asserting that the language of section 133 will not, on its face, support the interpretation which was proposed.

Applicability of section 212(a)(19)

Two commenters also commented upon the provisions relating to a waiver of ineligibility under section 212(a)(19). One commenter stated merely that the Department's provisions and explanatory discussion presumed that INS would apply normally-applicable standards to the adjudication of such waiver applications, but that the statute contemplated a very liberal standard for this purpose here. The commenter recognized, however, that this is an issue for the Immigration and Naturalization Service, not the Department of State. The Department agrees with this commenter that the issue is one for the Immigration and Naturalization Service. The Department wishes, however, to make clear that it was presuming nothing with respect to how the Immigration and Naturalization Service may adjudicate such applications.

The other commenter who commented upon the waiver provision expressed concern about the time limit in section 133, as it might affect beneficiaries who require individual waivers of section 212(a)(19). His concern results from the time required to process waiver applications and the possibility that the fiscal year might end before some such applications had been adjudicated by the Immigration and Naturalization Service. He urged that the Department publicize widely the fact that section 212(a)(19) may be waived for beneficiary aliens, that visa appointments be scheduled as early as possible to permit processing of waivers when necessary, and that the proposed regulations be amended to provide for visa issuance after September 30, 1991, to beneficiary aliens who waiver applications were pending on that date but were thereafter approved.

The Department has already brought to the attention of the Immigration and Naturalization Service the need for expeditious processing of waiver applications for beneficiary aliens because of the time limit. Consular officers are also aware of the time considerations involved. The Department believes it has done what it can do, within the limits of its existing resources, to inform interested parties of the availability of waivers of ineligibility. The Department does not, however, believe that it has authority to extend by regulation the operation of the program beyond the September 30, 1991 deadline provided for in section 133 itself. While the Department can understand the concern that motivated the commenter's request, it considers such a step to be ultra vires. Accordingly, the Department will not include such a provision in the final regulation.

Change to Notice of Proposed Rule

After careful review and consideration of the comments received the Department is adopting the rule as proposed except for one change. In response to comments received the Department has revised the proposed rule to eliminate the requirement that an alien have become documentarily qualified prior to October 1, 1990, in order to benefit from section 133. Because the Department finds it impossible to make any other implementable distinction among members of the larger class the final regulation will extend the benefit to all aliens notified of selection before May 1, 1990. The Department cannot predict or forecast how many of the 95,000 class members will seek to avail themselves of the benefit, but believes that the total will be closer to the 15,000 who would

have benefitted under the challenged interpretation than to the 95,000.

This rule is not considered to be a major rule for the purposes of Executive Order 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 43

Aliens, Nonpreference immigrants, Visas.

PART 43—[AMENDED]

1. The authority citation for part 43 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847; Sec. 314, 100 Stat. 3359, 8 U.S.C. 1153 note; Sec. 2, 102 Stat. 3359; Sec. 133, 104 Stat. 5000, 8 U.S.C. 1153 note.

2. Part 43 is amended by adding § 43.6 to read as follows:

§ 43.6 Processing and adjudication during Fiscal Year 1991.

(a) *General.* During fiscal year 1991 immigrant visa numbers shall be made available, without numerical limitation, to aliens who were registered pursuant to § 43.3 of this part and who were notified of their selection prior to May 1, 1990. Aliens to whom immigrant visa numbers shall be made available pursuant to this section shall include, but shall not be limited to—

(1) Aliens who were refused an immigrant visa under section 212(e) or 212(a)(19) of the INA prior to October 1, 1990;

(2) Aliens who were informed by a consular officer prior to October 1, 1990, that section 212(e) of the INA would preclude issuance of a visa to them, unless waived, and who thereafter abandoned pursuit of their applications; and

(3) Aliens who were, prior to October 1, 1990, determined to be nationals, but not natives, of an adversely affected country.

(b) *Eligibility to receive a visa.* The provisions of § 43.5 of this part shall apply to determinations of eligibility to receive a visa during fiscal year 1991. In addition, the provisions of section 212(e) of the Immigration and Nationality Act, as amended, shall not apply in making such determinations. An alien determined to be ineligible to receive a visa under section 212(a)(19) of such Act may not be issued a visa during fiscal year 1991 unless the Attorney General shall have waived such ineligibility.

Dated: April 17, 1991.

James Ward,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91-10478 Filed 5-2-91; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule, amendments.

SUMMARY: This rule amends the Foreign Assets Control Regulations, 31 CFR part 500 (the "Regulations"), to authorize persons subject to U.S. jurisdiction to make certain remittances of funds to close relatives in Cambodia, and provides for case-by-case licensing of U.S. financial institutions to transfer such remittances directly to Cambodia through correspondent banking arrangements with Cambodian banks.

EFFECTIVE DATE: May 3, 1991.

FOR FURTHER INFORMATION CONTACT: William B. Hoffman, Chief Counsel (tel.: 202/535-6020), or Steven I. Pinter, Chief of Licensing (tel.: 202/535-9449), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Present § 500.565 of the Foreign Assets Control Regulations, 31 CFR part 500 (the "Regulations"), permits, in pertinent part, the remittance of funds to close relatives of the remitter who are Vietnamese or Cambodian nationals and who reside in Vietnam or any of a number of non-embargoed countries ("family remittances"). Family remittances may be made in an amount not exceeding $300 to any one recipient or household in any consecutive three-month period, or on a one-time basis in an amount not exceeding $750 to enable the recipient to emigrate. This final rule amends § 500.565 to permit remittance of authorized funds to Vietnamese or Cambodian nationals residing in Vietnam, Cambodia or other authorized countries. The rule also amends the Regulations to provide for specific licensing of correspondent banking relationships between U.S. financial institutions and Cambodian banks for the sole purpose of facilitating direct family remittances from the United States to Cambodia. The Regulations were amended recently to permit specific licensing of correspondent banking relationships with Vietnamese banks for this limited purpose.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 500

Banking, Cambodia, Currency, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; E.O. 9193, 7 FR 5205, 3 CFR 1938-1943 Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 FR 1943-1948 Comp., p. 478.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 500.565 is revised as follows:

§ 500.565 Family remittances to nationals of Vietnam and Cambodia.

(a) The remittances specified in this section are authorized to be made to any close relative of the remitter or of the remitter's spouse, provided that the relative is a national of Vietnam or Cambodia, is a resident of Vietnam, Cambodia, or a country to which private remittances to nationals are not generally prohibited pursuant to this chapter, and is not a specially designated national.

(b) Remittances made pursuant to this section may be made only as follows:

(1) For the support of the payee, or for the support of the payee and members of his household, in amounts not exceeding $300 in any consecutive 3-month period to any one payee or to any household; and

(2) For the purpose of enabling the payee to emigrate from Vietnam or Cambodia, in an amount not exceeding $750, to be made only once to any one payee, provided that the payee is a resident of and within Vietnam or Cambodia.

(c) The term "close relative" used with respect to any person means spouse, child, grandchild, parent,

grandparent, uncle, aunt, brother, sister, nephew, niece or spouse, widow, or widower of any of the foregoing.

(d) The term "member of a household" used with respect to any person means a close relative sharing a common dwelling with such person.

(e) This section does not authorize remittances from blocked accounts.

(f) Specific licenses may be issued authorizing a U.S. financial institution to establish direct correspondent banking relations with a Vietnamese or Cambodian bank or banks for the sole purpose of facilitating the remittance of funds authorized by this section.

Dated: April 17, 1991.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 22, 1991.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 91-10440 Filed 4-29-91; 3:53 pm]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-91-014]

Drawbridge Operation Regulations; Kent Island Narrows, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation from the regulations with request for comments.

SUMMARY: The Coast Guard has been petitioned by the Maryland Department of Transportation to permanently amend the regulations governing operation of the old Kent Island Narrows drawbridge, now carrying local traffic on Rt. 18 across Kent Narrows, mile 1.0, near Grasonville, Maryland. The proposed change would greatly relax current opening restrictions while still providing for regularly scheduled openings to accommodate the needs of local and emergency vehicle traffic. In response to this request, the Coast Guard is issuing a 60-day temporary deviation from the regulations to evaluate the impact on both marine and highway traffic during the period.

DATES: This temporary deviation is effective from May 1, 1991, through June 30, 1991. Comments must be received on or before June 15, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary deviation. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered if final action is taken to change the rules. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and LT Monica L. Lombardi, Project Attorney.

Discussion of Temporary Deviation

This temporary deviation is being issued to evaluate a proposal by the Maryland Department of Transportation to change the existing published regulations for the Kent Narrows drawbridge contained in 33 CFR 117.561, by increasing the number of openings available for boats wishing to transit the bridge. The current regulations have a very restrictive opening schedule from May 1 through October 31. With the opening to traffic of the new adjacent high-level fixed bridge on Route 50/301, the State feels that local highway traffic and emergency vehicle needs as well as those of boaters will best be served by a greatly relaxed but scheduled opening policy for the Route 18 bridge. Their proposal is to have the drawbridge open on the hour from 7 a.m. to 7 p.m. from May 1 through October 31, 7 days a week. The Coast Guard feels that since this is the height of the boating season, and daylight hours are available during most of this period up to 9 p.m., that the hourly openings should be extended up to 9 p.m., that the hourly openings should be extended up to 9 p.m. daily. We feel this should have no significant adverse impact on highway traffic. All public vessels of the United States, State or local vessels on public safety missions, and vessels in distress shall be passed at any time.

The State also proposed scheduled hourly openings from November 1 through April 30, but the Coast Guard feels these restrictions are unnecessary since they do not exist under the current published regulations, nor do the numbers of vessels transiting Kent Narrows during these months warrant such restrictions.

It is emphasized that these temporary deviations from the regulations are for evaluation purpose only. The impact of this proposal on highway and marine traffic during this period will be evaluated to determine if it will result in substantial improvements in vehicular traffic flow without unreasonably restricting marine traffic. The Maryland Department of Transportation will compile data on vehicle counts, boat counts, times of actual drawbridge openings, duration of openings, length of vehicle backups, and the reasons for the backups on Rt. 18. This data will be used to determine if permanent adoption of this proposal is warranted, or if a different opening schedule should be considered. Since this temporary deviation serves the immediate interests of both highway and marine traffic, and the information compiled will provide meaningful input, I find that good cause exists for publishing this temporary deviation without publication of a notice of proposed rulemaking and for making it effective in less than 30 days.

Federalism Assessment

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

Regulatory Evaluation

This temporary deviation is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations are not expected to have any substantial affect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations. The Coast Guard will accept comments.

on this impact, and will consider them when issuing new drawbridge regulations after the Maryland Department of Transportation study is completed.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632) This temporary deviation is being implemented specifically to discover the impact of a more relaxed opening schedule, and it is anticipated that this impact will be beneficial to the fishing and charter boats in the area. The Coast Guard will accept comments on the economic impact on small entities, and will consider them when developing new drawbridge regulations, should that prove necessary.

Environmental Impact

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is temporarily amended 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); 33 CFR 117.43.

2. Section 117.561 is temporarily revised to read as follows:

§ 117.561 Kent Island Narrows.

(a) From November 1 through April 30 the drawbridge shall open on signal.

(b) From May 1 through October 31 the drawbridge shall open on the hour for the passage of any waiting vessels from 7 a.m. to 9 p.m., and shall remain open for a period sufficient to allow passage of all waiting vessels. From 9 p.m. to 7 a.m., the drawbridge shall open on signal.

(c) Shall open at any time for the passage of public vessels of the United States, State or local vessels on public safety missions, or vessels in distress.

(d) In the event that the new bridge is closed due to an incident, the draw-span shall be closed until the roadway has been cleared and traffic flow resumes on the bridge. In the event that the duration of the incident exceeds (2) hours, the bridge shall open every two hours to permit the passage of waiting vessels.

(e) This temporary deviation is effective from May 1, 1991, through June 30, 1991.

Dated: April 29, 1991.

P.A. Welling,

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

[FR Doc. 91-10513 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AD16

Grants to States for Construction or Acquisition of State Home Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical care regulations, Grants to States for Construction or Acquisition of State Home Facilities (38 CFR part 17), to implement section 206 of the Veterans' Benefits and Services Act of 1988 enacted on May 20, 1988. This section changes from July 1 to August 15, the date on which VA will determine the priority of applications for construction or acquisition grants for State Extended Care Facilities for purposes of the priority list. Section 206 also provides the Secretary authority to conditionally approve an application and obligate funds for a grant is the Secretary determines that the State can meet all remaining Federal requirements within 90 days. At the same time, VA is updating the States home grant standards and veteran population of the various States set forth in these regulations. These revisions will assist the States in meeting deadlines for the priority list and subsequent grant awards.

DATES: These regulations are effective June 3, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. F. Brent Baker, Chief, State Home Construction Grant Program (182C), Office of Geriatrics and Extended Care, Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3679.

SUPPLEMENTARY INFORMATION: On pages 19753 through 19762 in the **Federal Register** dated May 11, 1990 (55 FR 19753-19762), VA published proposed regulations to amend its medical care regulations, Grants to States for Construction or Acquisition of State Home Facilities (38 CFR part 17), to implement section 206 of the Veterans' Benefits and Services Act of 1988 enacted on May 20, 1988, and update standards for construction as well as the veteran population for various States.

A total of three commenters provided written comments in response to the proposed regulations. Comments were received from one National association, one State, and one office within the Department of Veterans Affairs which had previously concurred with the proposed regulatory changes. All of the commenters are involved with the VA State Home Construction Grant Program.

One commenter indicated that he was pleased to see formal regulations proposed to change the date of the priority list from July 1 to August 15. This date was changed by Public Law 100-322. The regulation merely implements the change. The same commenter stated that in § 17.173, paragraph (e) is redesignated as paragraph (f) but with no apparent revision to its content. Paragraph (e) was inserted to provide the Secretary authority to conditionally approve a grant, and paragraphs (e), (f), (g) and (h) are redesignated as paragraphs (f), (g), (h) and (i), respectively, with no changes. The commenter stated that the current wording of § 17.173(e)(1) sets July 1 as the deadline for states to demonstrate adequate financial support of proposed projects. The commenter suggested that to be consistent with the major purpose of the proposed amendments, this date should be changed to August 15. Section 17.173, paragraph (e)(1) implements section 5035(b)(5)(A) of title 38, United States Code, which requires the Secretary to defer approval of an application that

otherwise meets the requirements for a grant if the State submitting the application does not, by the July 1 deadline (as defined in paragraph 5035(b)(5)(D) of title 38, United States Code), demonstrate to the satisfaction of the Secretary that the State has provided adequate financial support for construction of the project. To change the July 1 deadline for the deferral of an application in VA regulations would thus require a legislative change. Moreover, this is a provision which has never been used or needed. It has no affect on the States's assurance of matching State fund by August 15 which is required for an application to be considered for group 1 of the priority list.

One commenter had several concerns. Regarding the regulation in § 17.172(b) for handling grant requests that exceed 50 percent of the annual appropriation, the commenter hoped there would be a built-in mechanism on an annual basis, to give the States in this situation enough advance notice in the subsequent years of the status of VA funds available, so that they can apply for partial funding. The regulation indicates that an application in excess of 50 percent of the next fiscal year's estimated appropriation for State home grants, will be placed at the bottom of the priority group in which it is ranked. We shall attempt to apprise States in this situation of our estimates of the funding which Congress will designate for State home grants in subsequent years as soon as possible. When VA's budget has been approved by Congress and the President, VA will of course notify interested States of that fiscal year's appropriation.

The same commenter asked what VA would do if two State applications which exceed 50 percent of the annual appropriation fall in the same priority group. We believe that the same criteria would apply to these applications as to any application for determining its priority. If applications are equal in all aspects, the date of the receipt of the completed preapplication becomes the determining factor in establishing the priority of these applications. This is explained in § 17.173(c)(3).

The commenter questioned whether § 17.173(a)(5) should be revised to state that an environmental assessment is not required if outside construction involving more than 75,000 net square feet is for an addition to an existing building. We believe that such a revision would not be possible because an environmental assessment is required for both new construction and additions to existing facilities. We also noticed a technical error in § 17.173(a)(5). To agree with 38 CFR 26.6, the 75,000 net square feet cited in § 17.173(a)(5) should be changed to 75,000 gross square feet. Therefore, this final regulation is amended to read 75,000 gross square feet.

The commenter was concerned by § 17.178(d)'s requirement that at least 80 percent of the total beds should be in single and/or double rooms. The commenter stated that this would create an added cost and make it more difficult for States to obtain matching State funds. This requirement was not changed in the revised regulations. The existing regulation is found in 38 CFR 17.177(x)(2)(2)(ii) and states that: "Not less than 80 percent of the total beds should be provided in either single or double-bedded rooms or a combination of both." The revised regulation would thus have no additional impact on State homes such as increasing the costs or making it more difficult to obtain State matching funds than the existing regulation.

The commenter further indicated that the reference in § 17.178(e) to 85 percent of patients requiring accessibility was confusing and misleading when compared to the 50 percent UFAS requirements. We agree that this could be confusing and have removed the historical reference to the 85 percent accessibility. We prefer not to specify the 50 percent UFAS requirement. If the State complies with UFAS, it will meet the 50 percent requirement. There are other requirements in UFAS besides the 50 percent accessibility requirement and to specify that States have to meet the 50 percent accessibility requirement might be erroneously interpreted as the only UFAS requirement States must meet.

The last commenter suggested numerous technical and editorial changes. In § 17.183(c)(4), it was suggested that the word "Exits" in the heading be replaced with "Fire Protection", and that, in the first sentence of this section, the word "Exit" should be deleted. We agree, and the changes have been made.

In § 17.183(c)(4), the commenter suggested adding a statement requiring the installation of single station smoke detectors for all patient sleeping rooms for domiciliaries which shall be powered by 120 VAC. The commenter further stated that although these detectors are not required by the Life Safety Code for health care occupancies, they are required for all other occupancies. State home domiciliaries have always been considered health care occupancies for purposes of reviews. We have thus revised the regulations to so state and have added a smoke detector requirement to § 17.183(a) of the regulations.

Again in § 17.183(c)(4), it was suggested that a requirement be added that all space be protected with a sprinkler system and that quick response sprinklers be provided for all smoke compartments containing patient sleeping rooms. We agree and have added this requirement to § 17.183(a).

It was suggested that the 1991 edition of the Life Safety Code be referenced instead of the 1988 edition. The same would apply to the NFPA 101M except that this document will now be published in 1992 and is not on the same cycle as NFPA 101, Life Safety Code. The 1991 edition would be preferred but it has not yet been published. We cannot wait until 1992 to include NFPA 101M. We have let the cross reference to the 1988 edition of the Life Safety Code remain in the regulations.

In § 17.181(b)(4), it is recommended that an additional set of prints be required to permit a copy to be reviewed by the respective VA Regional Safety and Fire Protection Engineer. The requirement for one set of sepias and 8 sets of prints includes one set for the VA Regional Safety and Fire Protection Engineer, and this has not been changed.

It is recommended that an additional reference be made in § 17.183(c)(4) to require compliance with one of the nationally recognized model building codes. This is necessary since the Life Safety Code is not a building code and does not include all necessary fire protection requirements. The reference recommended is already found in § 17.183(a) which states that State homes shall comply with applicable National, State, and local codes, and that such codes include building codes, fire and life safety codes, plumbing codes, and others. This appropriately addresses the requirement for State homes to comply with building codes. We have thus not changed the regulations as recommended.

We have also revised the space chart in § 17.183 by adding "each" to the conference room and the in-service training room allowing two separate spaces, by clarifying the square footage for medical support areas (staff offices, treatment room), and by adding employee toilets under section I.

Although not included in the proposed regulations, upon further review, we decided to recommend a deadline for submitting preapplications. We have thus added April 15 as the deadline for receipt of preapplications for which

States plan to submit formal applications by August 15. This will permit the Department to more accurately project the budgetary needs for the State Home Construction Grant Program and to provide sufficient time to review the preapplication to determine the feasibility of the project for VA participation before the State incurs significant expense.

These regulatory amendments to VA regulations are considered nonmajor under the criteria of Executive Order 12291, Federal Regulation, on the basis that they will not have an annual effect on the economy of $100 million or more, they will not result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612. Pursuant to 5 U.S.C. 605(b), these regulatory amendments are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 through 604. The reason for this certification is that these amendments will affect only construction or acquisition grants for State Veterans Homes. They will, therefore, have no significant impacts on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions).

The information collection requirement contained in §§ 17.173, 17.179, 17.180, 17.181, and 17.182 of this regulation have been approved by the Office of Management and Budget (OMB) under OMB control number 2900-0520.

(The catalog of Federal Domestic Assistance number is 64.005.)

These regulations are issued under authority granted the Secretary by sections 210(c) and 5034 of title 38, United States Code.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Incorporation by reference, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: February 26, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 17, Medical, is amended as follows:

PART 17—[AMENDED]

0. The authority citation for part 17 continues to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 210, unless otherwise noted.

1. In § 17.170, paragraph (b) is revised to read as follows:

§ 17.170 Definitions.

* * * * *

(b) The term *State* means each of the several States, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico.

(Authority: U.S.C. 5031(b))

* * * * *

2. Appendix A of § 17.171, appearing after § 17.177, is amended by revising the heading of the appendix and the table and by transferring the appendix to the end of § 17.171 to read as follows:

Appendix A to § 17.171—State Home Facilities for Furnishing Nursing Home Care

* * * * *

State	Veteran population in thousands	No. of beds: NHC 2.5/1000	No. of beds: NHC 4/1000	No. of beds: Dom 2/1000
Alabama	405	1,013	1,620	810
Alaska	63	158	252	126
Arizona	420	1,050	1,680	840
Arkansas	252	630	1,008	504
California	2,829	7,073	11,316	5,658
Colorado	395	988	1,580	790
Connecticut	386	965	1,544	772
Delaware	80	200	320	160
District of Columbia	57	143	228	114
Florida	1,524	3,810	6,096	3,048
Georgia	666	1,665	2,664	1,332
Hawaii	100	250	400	200
Idaho	109	273	436	218
Illinois	1,227	3,068	4,908	2,454
Indiana	640	1,600	2,560	1,280
Iowa	325	813	1,300	650
Kansas	282	705	1,128	564
Kentucky	359	898	1,436	718
Louisiana	417	1,043	1,668	834
Maine	154	385	616	308
Maryland	543	1,358	2,172	1,086
Massachusetts	666	1,665	2,664	1,332
Michigan	1,026	2,565	4,104	2,052
Minnesota	496	1,240	1,984	992
Mississippi	230	575	920	460
Missouri	629	1,573	2,516	1,258
Montana	100	250	400	200
Nebraska	178	445	712	356
Nevada	146	365	584	292
New Hampshire	146	365	584	292
New Jersey	875	2,188	3,500	1,750
New Mexico	170	425	680	340
New York	1,801	4,503	7,204	3,602
North Carolina	681	1,703	2,724	1,362
North Dakota	63	158	252	126

State	Veteran population in thousands	No. of beds: NHC 2.5/1000	No. of beds: NHC 4/1000	No. of beds: Dom 2/1000
Ohio	1,296	3,240	5,184	2,592
Oklahoma	378	945	1,512	756
Oregon	356	890	1,424	712
Pennsylvania	1,508	3,770	6,032	3,016
Rhode Island	119	298	476	238
South Carolina	354	885	1,416	708
South Dakota	77	193	308	154
Tennessee	530	1,325	2,120	1,060
Texas	1,747	4,368	6,988	3,494
Utah	140	350	560	280
Vermont	64	160	256	128
Virginia	664	1,660	2,656	1,328
Washington	598	1,495	2,392	1,196
West Virginia	217	543	868	434
Wisconsin	561	1,403	2,244	1,122
Wyoming	54	135	216	108
Puerto Rico	124	310	496	248

Estimate as of March 31, 1989.
Source: Office of Reports and Statistics, VA. (Based on last available Bureau of the Census data.)

3. In § 17.172, the current text is redesignated as paragraph (a), and paragraphs (b) and (c) and the authority for the section are added to read as follows:

§ 17.172 Scope of grants program.

(a) * * *

(b) The Department of Veterans Affairs may offer a State a grant which is less than the amount of the grant requested subject to the State's provision of assurance that adequate financial support will be available for the project and for its maintenance, repair, and operation when complete. If VA offers a grant to a State for less than the amount requested and the State refuses to accept it, these Federal funds will be applied to other applications which have met all Federal requirements in the order of their priority on the list which was established by the Secretary under § 17.173(d) of this part for that fiscal year.

(c) If a State accepts the grant for less than the amount requested, the State may request that its application for additional funds be ranked on the next priority list for additional Federal funds.

(Authority: 38 U.S.C. 5035(b)(2)(D))

§ 17.173 [Amended]

4. In § 17.173(c)(3), the undesignated first and second paragraphs are designated as (c)(3)(i) and (c)(3)(ii), respectively. In newly designated § 173(c)(3)(ii)(C) remove the words "June 15" where they appear and add, in their place, the words "August 15".

5. In § 17.173, paragraphs (e), (f), (g), and (h) are redesignated as paragraphs (f), (g), (h), and (i), respectively, paragraphs (a)(5) and (b)(7) are revised and an authority citation is added at the end of paragraph (a)(5), newly designated paragraph (c)(3)(i) is revised, the last sentence of newly designated paragraph (c)(3)(ii)(A) is revised, paragraphs (c)(3)(ii)(A) (1) and (2) are added, the first sentence of paragraph (d) is revised, new paragraph (e) is added, and a parenthetical is added at the end of the section, so the new and revised material reads as follows:

§ 17.173 Applications with respect to projects.

(a) * * *

(5) The State application for Federal assistance shall include environmental documentation for the project by submitting a Categorical Exclusion (CE), Environmental Assessment (EA), or an Environmental Impact Statement (EIS). The environmental documentation will require approval by the Department of Veterans Affairs before final award of a construction or acquisition grant for a State veterans home. (See § 26.6 of this chapter for compliance requirements.) If the proposed actions involving construction or acquisition do not individually or cumulatively have a significant effect on the human environment, the applicant shall submit a letter noting a Categorical Exclusion. If construction outside the walls of an existing structure will involve more than 75,000 gross square feet (GSF), the application shall include an environmental assessment to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(c) of the National Environmental Policy Act of 1969. When the application submission requires an environmental assessment, the State shall briefly describe the possible beneficial and/or harmful effect which the project may have on the following impact categories:

(i) Transportation;
(ii) Air quality;
(iii) Noise;
(iv) Solid waste;
(v) Utilities;
(vi) Geology (soils/hydrology/flood plains);
(vii) Water quality;
(viii) Land use;
(ix) Vegetation, wildlife, aquatic, and ecology/wetlands;
(x) Economic activities;
(xi) Cultural resources;
(xii) Aesthetics;
(xiii) Residential population;
(xiv) Community services and facilities;
(xv) Community plans and projects; and
(xvi) Other.

If an adverse environmental impact is anticipated, the action to be taken to minimize the impact should be explained in the environmental assessment.

(Authority: 38 U.S.C. 5035(a))

(b) * * *

(7) Grantees will comply with the Federal requirements contained in title 38, Code of Federal Regulations, parts 43 and 44 and assurances contained in SF-424D, Assurances-Construction Programs.

(Authority: 38 U.S.C. 5035(a))

* * * * *

(c) * * *

(3)(i) If such application provides sufficient information for the Secretary to establish its priority, determine the priority of the project described in the application in relation to all other projects in accordance with the criteria set forth in this paragraph. In establishing a project's priority, the

Secretary shall rank projects from the highest to the lowest priority in the order of priority groups set forth in this paragraph, giving the projects in Group 1 the highest priority and the projects in Group 6 the lowest. Where more than one project is ranked in a single priority group, the Secretary shall rank those projects by applying the criteria applicable to the next lower priority group. If a State's application for Federal assistance for a project that exceeds 50 percent of the next fiscal year's estimated appropriation for State home grants will be placed at the bottom of the priority group in which it is ranked. Where such ranking results in more than one project being given the same priority, the Secretary shall rank those projects, except as otherwise provided, in accordance with the criteria applicable to the next lowest priority group until all projects are ranked with a different priority.

(ii) * * *

(A) * * * For the purpose of the priority list, the Secretary will accept the following as demonstrating that a State has made sufficient funds available:

(*1*) A copy of the Act, as approved by the Governor, making available at least one-half of the State's matching funds for the project; and

(*2*) A letter from an authorized State budget official certifying that at least one-half of the State funds are, or will be, available for the project, so that if VA approves the grant during the next fiscal year, the project may proceed without further State action to make such funds available.

* * * * *

(Authority: 38 U.S.C. 5035(b))

(d) The Secretary shall establish after August 15 of each year a list of projects, including projects that have been conditionally approved under paragraph (e) of this section, in the order of their priority on August 15 of that year as determined pursuant to paragraph (c) of this section. * * *

* * * * *

(e) The Secretary may conditionally approve a project, conditionally award a grant for the project, and obligate funds for the grant if:

(1) The grant application is sufficiently complete to warrant the conditional award; and

(2) The State requests conditional approval for its application and provides the Department of Veterans Affairs written assurance that it will complete the application and meet all requirements not later than 90 days after the date of conditional approval by the Secretary of the Department of Veterans Affairs.

The final grant award shall not exceed 10 percent of the amount conditionally approved, and in no case shall the total amount of the grant exceed 65 percent of the total estimated cost of the project. If the State fails to complete the remaining requirements within the 90 days from the date of conditional approval, the Secretary shall rescind the conditional approval and grant award, and deobligate the funds previously obligated for the project.

(Authority: 38 U.S.C. 5035(b) (4), (6)(A)–(7)(B))

* * * * *

(Information collection requirements contained in § 17.173 were approved by the Office of Management and Budget under control number 2900–0502.)

6. Section 17.177 is revised to read as follows:

§ 17.177 General program requirements for construction and acquisition of and equipment for State home facilities.

(a) *Introduction.* (1) The general program requirements set forth in this section have been established to guide the State agencies and their architects in preparing drawings, specifications, cost estimates, and the equipment list for the grant application.

(2) States shall apply the Uniform Federal Accessibility Standards (UFAS) (24 CFR part 40, appendix A), during the design and construction of State home projects. UFAS standards establish requirements for facility accessibility by physically handicapped persons for Federal and Federally-funded facilities and were jointly developed by the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service, under the authority of sections 2, 3, 4, and 4a of the Architectural Barriers Act of 1968, as amended, Public Law 90–480, 42 U.S.C. 4151–4157.

(3) States must comply with these requirements where they exceed any National, State, or local codes. If the State or local codes exceed these general requirements, compliance with the more stringent standard is required.

(4) The space allotted to the various services (i.e., medical, nursing, dietary, and the like) will depend upon the requirements of the facility. Some services that are required by these regulations to be in separate spaces or rooms, may be combined if the result will not compromise safety and medical and nursing practices. The Department of Veterans Affairs shall accept a design and waive minimum requirements where a service or services will have minimal renovations and remain in their present locations.

(Authority: 38 U.S.C. 5034(2))

(b) *General conditions of the contract for construction.* The applicant may use the general conditions of the contract for construction of the American Institute of Architects (AIA) or other general conditions as required by the State in awarding contracts for State home grant projects. (See 37 CFR part 43 for contract requirements.)

(c) *Program criteria.* The State will use the program criteria in §§ 17.178 through 17.179, as required by the scope of the project, subject to the approval of the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

7. Sections 17.178 through 17.183 are added to read as follows:

§ 17.178 Domiciliary and nursing home care program.

(a) *Objective.* Domiciliary and nursing home care facilities should provide a therapeutic, rehabilitative, safe and home-like environment to assist in maintaining or restoring veterans to the highest level of functioning. Long-term care facilities shall be designed to encourage and facilitate participation in therapeutic programs.

(Authority: 38 U.S.C. 5034(2))

(b) *General.* All newly constructed domiciliary beds shall meet nursing home care construction standards and be suitable to provide for future conversion to nursing home care if needed. The Department of Veterans Affairs may waive this requirement if the State shows that it will need domiciliary beds more than nursing home beds for eligible veterans. See § 17.183 of this part.

(Authority: 38 U.S.C. 5034(2))

(c) *Nursing units.* A nursing unit with related facilities will normally be constructed so that nurses may supervise 30 to 60 patients. If there are design limitations, fewer beds are permissible. A 30-bed unit with a centrally located nursing station is preferred on skilled care units to provide efficient use of staff. A design that minimizes the distance between rooms and nursing stations is recommended. Patient storage may be planned in each nursing unit for bulky clothing that will not fit into patients' closets. A nurses' call system shall be required for nursing units. Each patient shall be furnished with an audiovisual or visual nurses' call system which will register a call from the patient with the signal light above the corridor door and at the

nursing station in hospitals and nursing homes. An empty conduit system shall be installed for domiciliaries for use in a potential future conversion to a nursing home. A nursing call system shall also be provided in each patient's toilet room and bathroom. Wiring for a nurses' call system shall be installed in conduit.

(Authority: 38 U.S.C. 5034(2))

(d) *Bed configurations.* At least 80 percent of the total beds should be in single and/or double bed rooms. Rooms shall have no more than four beds. Two large two-bed rooms are allowed for a 50–60 bed unit. Adequate space should be provided to allow access to three sides of each bed for the staff to work and utilize medical and emergency equipment.

(Authority: 38 U.S.C. 5034(2))

(e) *Patient bedrooms.* Each bedroom shall have direct access to an enclosed toilet and lavatory. The percentage of the patient bedrooms that shall be accessible to the physically handicapped must comply with UFAS requirements. These rooms must include UFAS clearances around beds and 5-foot wheelchair turning radius. Individual privacy should be provided by screens, privacy curtains, or similar approaches in bedrooms for more than one patient. No patient room shall be located on a floor which is more than 50 percent below grade level. It is desirable that patient rooms include:

(1) Wardrobes with closets and drawers large enough to accommodate the personal clothing of patients who require care for an extended period of time.

(2) Room for a desk, lounge chair, television, and other personal belongings.

(3) Total electric beds.

(4) A sink and mirror.

(5) Piped oxygen and vacuum suction for patients as required.

(6) Operable windows to allow access to air. The sill shall be low enough to permit patients to view the ground while sitting.

(Authority: 38 U.S.C. 5034(2))

(f) *Patient room toilets.* Patient toilets must be designed for maximum accessibility and safety for the patients and to facilitate staff assistance. One toilet/bathroom for each bedroom is preferred with a maximum of four beds for each bathroom. Shower/tub rooms should provide an area for setting clean clothes and supplies. Adequate ventilation should be provided to prevent condensation and mildew. The percentage of the patient toilets/bathrooms that are accessible to the physically handicapped must comply with UFAS requirements. These rooms must include UFAS clearances, grab bar configurations, and mounting heights. Alternative grab bar configurations may be used for the remaining percentage of patient toilets/bathrooms as approved by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(g) *Reception and control.* Information, telephone, switchboard, mailboxes, and control center facilities should be located adjacent to the main lobby entrance. The information desk serves as a first point of contract, information, and control area for those entering for admission, a visit, or business.

(Authority: 38 U.S.C. 5034(2))

(h) *Administrator/Director's suite.* The project may include an administrator/director's suite to include all administrative activities required by the Director, Assistant Director, and their immediate staffs, including secretaries, analysts, administrative assistants, and/or trainees.

(Authority: 38 U.S.C. 5034(2))

(i) *Dietetic Service.* Dietetic Service facilities such as an office for the dietitian, a kitchen, a dishwashing room, adequate refrigeration, dry storage, receiving area, and garbage facilities should be provided as required. It is desirable to have eating areas on each unit that have a sink, toilet facilities, and storage, that can accommodate wheelchairs and gerichairs, while still being attractive and appealing for dining. Tables should be able to accommodate three to four wheelchairs. Buffet lines may be provided on the unit to allow some choice for patients who cannot get to the main dining room.

(1) Dining room, food preparation, and dishwashing facilities may be planned as separate facilities from Dietetic Service area, if appropriate.

(2) Space for vending machines may be provided.

(Authority: 38 U.S.C. 5034(2))

(j) *Therapy and treatment programs.* Facilities for rehabilitation medicine, physical, occupational, and recreational therapies and other programs shall be planned by the State to meet program requirements and standards of care prescribed by the Department of Veterans Affairs. In addition to the patient therapy spaces, offices may be provided. Medical support areas should be planned to meet program requirements and standards and may include areas for rehabilitation, recreation, dental care and other medical support services.

(Authority: 38 U.S.C. 5034(2))

(k) *Janitors closet.* One janitors closet should be planned for each nursing unit, in the dietetic area, and in the general administrative and clinical space with at least one on each floor. The kitchen and other areas which generate waste or require special care should have their own janitors closet. Convenient storage for floor cleaning machines may also be provided.

(Authority: 38 U.S.C. 5034(2))

(l) *Staff facilities.* Staff toilets should be provided on each floor. Each facility should have an employee locker and lounge.

(Authority: 38 U.S.C. 5034(2))

(m) *Conference room/In-service training.* A conference room which may also be used for staff training and development may be provided. Family and group counseling rooms may also be provided.

(Authority: 38 U.S.C. 5034(2))

(n) *Lounges/recreation.* Two patient lounges which will accommodate large numbers of wheelchair/gerichairs should be considered. Lounges may be separated, one for smokers and one for non-smokers. Lounges should be directly visible from the nursing station or adjacent to the nursing station. Atriums may be planned on the nursing unit, or provisions may be made for access to an outdoor sundeck or patio. An outdoor recreation/patio space should be developed adjacent to a common use area. Every effort should be made to reduce the noise levels on the nursing unit by using noise reducing materials in construction and decorating.

(Authority: 38 U.S.C. 5034(2))

(o) *Miscellaneous space.* The State home may include space for a library, barber and/or beauty shop, retail sales, canteen, mailroom, chapel, and computer communications area. Space for a child day care center may be planned if it will primarily serve the needs of persons employed by the State home. Whirlpools and wheelchair scales may be provided for each State home built to nursing home standards. Other spaces in the State home must be fully justified by the applicant and approved by the Department of Veterans Affairs before the Department of Veterans Affairs can participate in funding the cost of the area.

(Authority: 38 U.S.C. 5034(a))

§ 17.179 State home hospital program.

(a) *General.* The Department of Veterans Affairs cannot participate in the construction of new State home hospitals. However, the Department of

Veterans Affairs may participate in the remodeling, alteration, or expansion of existing State home hospitals.

(Authority: 38 U.S.C. 5034(2))

(b) *Hospital's nursing units.* Patient bedrooms may be grouped into distinct nursing units for general medical and surgical patients, and psychiatric patients. A 40-bed unit is most desirable; however, a range of 30–50 beds may be considered.

(Authority: 38 U.S.C. 5034(2))

(c) *Distribution of beds.* Single-bed rooms should be provided for patients who are infectious, terminal, or who for other reasons require separation.

(Authority: 38 U.S.C. 5034(2))

(d) *Construction requirements.* A State may use its own construction standards for a State hospital alteration or expansion if the plans are approved by the State's Department of Health and the State agency responsible for the State home hospital. The grantee should follow applicable National, State, and/or local codes for hospital construction, remodeling, and/or renovation.

(Authority: 38 U.S.C. 5034(2))

(Information collection requirements contained in § 17.179 were approved by the Office of Management and Budget under control number 2900–0520.)

§ 17.180 Preapplication phase.

A State shall submit to the Department of Veterans Affairs a preapplication (SF–424, 424C, and 424D) for Federal assistance for each State home project if Federal participation exceeds $100,000. An original and two copies are required. Costs incurred for the project by the State after the date the Department of Veterans Affairs notifies the State that the project is feasible for Department of Veterans Affairs participation are allowable costs if the application is approved and the grant is awarded. These pre-award expenditures include architectural and engineering fees.

(Authority: 38 U.S.C. 5034(2))

(a) *Purpose.* A preapplication is required to determine the applicant's general eligibility, to establish communication between the Federal agency and the applicant, and to identify those proposals which are not feasible for Department of Veterans Affairs participation before the applicant incurs significant expenditures in preparing a formal application. Filing a preapplication by April 15 of each year will give the Department sufficient time to accomplish these purposes. The State shall submit to the Department of Veterans Affairs a letter designating the State Official authorized to apply for a State home construction or acquisition grant and a point of contact for all matters relating to a State home grant. If the authorized State official is changed, notice shall be provided in writing to the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(b) *Preapplication requirements.* The preapplication shall include schematic drawings, a space program, and a needs assessment. States applying for Federal assistance for new State home beds shall provide justification for the beds by addressing the following areas:

(1) Demographic characteristics of the veteran population of the area;

(2) Availability and suitability of alternative health care providers and facilities in the area;

(3) Waiting lists for existing State home beds;

(4) Documentation that existing State home facilities in the State meet current codes and standards;

(5) Availability of acute medical care services and qualified medical care personnel to staff the proposed facility;

(6) Other information that may be required by the Assistant Chief Medical Director for Geriatrics and Extended Care in the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(c) *Revisions to preapplications.* Grantees shall request approval from the Department of Veterans Affairs for significant revisions after preapplications have been submitted to the Department of Veterans Affairs. If the scope changes and/or cost estimates increase by more than 10 percent, a new preapplication may be required which will be subject to the same review and approval procedure as for the original preapplication.

(Authority: 38 U.S.C. 5034(2))

(Information collection requirements contained in § 17.180 were approved by the Office of Management and Budget under control number 2900–0520.)

§ 17.181 Application phase.

(a) *General.* The applicant shall submit an original and two copies of the formal application (SF 424, 424C, and 424D) after the preapplication has been reviewed by the Department of Veterans Affairs and determined feasible for Department of Veterans Affairs participation. The application must meet the requirements of parts 43 and 44 of this chapter and include an updated space program, design development plans (35 percent), and specifications as outlined in paragraph (b) of this section.

(Authority: 38 U.S.C. 5034(2))

(b) *VA review.* (1) *Program.* The applicant shall provide a narrative description of existing or planned program(s) at the facility and how this project will affect the operation of the existing State home (if applicable).

(2) *Cultural resources.* The applicant shall provide a letter and two copies from the State Historic Preservation Officer (SHPO) stating whether the project area includes any properties on, eligible for, or likely to meet the criteria for the National Register of Historic Places. If the property does, or may include, National Register quality properties, the letter from the SHPO should discuss the determination of effect of the proposed project on such property.

(3) *Design development site plan.* The applicant shall submit a site survey which has been performed by a licensed land surveyor. A description of the site shall be submitted noting the general characteristics of the site. This should include soil reports and specifications, easements, main roadway approaches, surrounding land uses, availability of electricity, water and sewer lines, and orientation. The description should also include a map locating the existing and/or new buildings, major roads, and public services in the geographic area. Additional site plans should show all site work including property lines, existing and new topography, building locations, utility data, and proposed grades, roads, parking areas, walks, landscaping, and site amenities.

(4) *Design development (35 percent) drawings.* The applicant shall provide to the Department of Veterans Affairs one set of sepias and eight sets of prints, rolled individually per set, to expedite the review process. The drawings shall indicate the designation of all spaces, size of areas and rooms and indicate in outline the fixed and movable equipment and furniture. The drawings shall be drawn at ⅛" or ¼" scale. Bedroom and toilet layouts, showing clearances and UFAS requirements, should be shown ¼" scale. The total floor and room areas shall be shown in the drawings. The drawings shall include:

(i) Plan of any proposed demolition work;

(ii) A plan of each floor. For renovations, the existing conditions and extent of new work should be clearly delineated;

(iii) Elevations;

(iv) Sections and typical details;

(v) Roof plan;

(vi) Fire protection plans; and

(vii) Technical engineering plans, including structural, mechanical, plumbing, and electrical drawings.

If the project involves acquisition, remodeling, or renovation, the applicant should include the current as-built site plan, floor plans and building sections which show the present status of the building and a description of the building's current use and type of construction.

(5) *Space program.* The State shall submit a space program which includes a list of each room or area and the square feet proposed. The plan should note special or unusual services or equipment. The format should be similar to the Chart of Net Square Feet Allowed and room titles contained in § 17.183 (c)(5)(i) through (c)(5)(iii) of this part.

(6) *Design development outline specifications.* The applicant shall provide eight copies of outline specifications which shall include a general description of the project, site, architectural, structural, electrical, and mechanical systems such as elevators, nurses' call system, air conditioning, heating, plumbing, lighting, power, and interior finishes (floor coverings, acoustical material, and wall and ceiling finishes).

(7) *Design development cost estimates.* Three copies of cost estimates shall be included in the application to the Department of Veterans Affairs. Estimates shall show the estimated cost of the buildings or structures to be acquired or constructed in the project. Cost estimates should list the cost of construction, contract contingency, fixed equipment not included in the contract, movable equipment, architect's fees, and construction supervision and inspection. Unless justified by the State, the Department of Veterans Affairs allowance for equipment not included in the construction contract shall not exceed 10 percent of the construction or acquisition contract cost. The Department of Veterans Affairs allowance for contingencies shall not exceed 5 percent of the total project cost for new construction or 8 percent of the total project cost for remodeling or renovation projects. If the project involves non-Federal participating areas, such costs should be itemized separately.

(8) *Design development conference.* After Department of Veterans Affairs review of the design development documents, a design development conference is recommended for all major projects. This will provide an opportunity for the applicants and their architects to learn Department of Veterans Affairs procedures and requirements for the project and to discuss Department of Veterans Affairs review comments. The material in paragraphs (b)(1) through (b)(7) of this section should be submitted for Department of Veterans Affairs review at least three weeks before the design development conference in the Department of Veterans Affairs Central Office in Washington, DC.

(Authority: 38 U.S.C. 5034(2))

(c) *Final review and approval (100% construction documents, bid tabulations and cost estimates).* (1) The applicant shall submit to the Department of Veterans Affairs for review and approval one labeled set of microfiche aperture cards, microfilm, or Compact Disc/Read Only Memory (CD ROM) compact laser disc with 100% construction documents (plans and specifications). The applicant shall also submit three copies of: itemized bid tabulations; assurances of compliance with Federal requirements, and revised budget page (SF 424C) based on the selected bids. This should include final cost estimates for all item in the project. Three signed copies of the Memorandum of Agreement shall be submitted which reflect the total estimated cost of the project and the Department of Veterans Affairs participation in the total cost.

(2) Following approval of final construction documents, bid tabulations, and costs estimates, the Secretary will sign the Memorandum of Agreement awarding the grant and committing available Federal funds.

(Authority: 38 U.S.C. 5034(2))

(d) *Construction or acquisition.* The State shall enter into a construction or acquisition contract and begin construction or acquisition of the State home within 90 days after the final grant has been awarded by the Secretary of Veterans Affairs. Any delays beyond 90 days must be fully justified by the State and approved by the Department of Veterans Affairs or the grant may be rescinded.

(Authority: 38 U.S.C. 5034(2))

(e) *Grant revisions.* When significant deviations occur in the approved program or budget, the procedures set forth in paragraphs (e) (1) and (2) of this section shall apply.

(1) If a State has received the award of a construction or acquisition grant, the State shall request prior approval from the Department of Veterans Affairs for programmatic or budgetary revisions when the scope or objective of the project changes in a significant manner or when an approved line item budgeted amount increases or decreases by more than 10 percent. All grant modifications of this type shall be within the total contingency allowance of 5 percent for new construction or 8 percent for remodeling or renovation.

(2) In unusual and unanticipated circumstances, the Department of Veterans Affairs may participate in modifications to a grant that exceeds the contingency allowance by awarding a grant increase for the project. A grant increase will require an amended application from the State and complete justification, subject to the approval of the Department of Veterans Affairs. The amended application for a grant increase will be treated as an original application for the purpose of the priority list and the award of any additional Federal funds for the project.

(Authority: 38 U.S.C. 5035(e))

(f) *Final architectural and engineering inspection.* The grantee shall notify the Department of Veterans Affairs immediately upon completion of the project and request a final architectural and engineering inspection. This inspection is required prior to final payment under the construction or acquisition grant.

(Authority: 38 U.S.C. 5034(2))

(Information collection requirements contained in § 17.181 were approved by the Office of Management and Budget under control number 2900–0520.)

§ 17.182 Equipment.

(a) *General.* Equipment necessary for the State home's planned effective operation shall be included in the cost of the project.

(Authority: 38 U.S.C. 5034(2))

(b) *Definition of equipment.* The term "equipment" as used in this section means all items necessary for the functioning of all services of the State home, including equipment as needed to provide for accounting and other records, and maintenance of buildings and grounds. The term "equipment" does not include consumable supplies such as food, drugs, dressings paper, printed forms, soap, and the like which are routinely required to operate the State home.

(Authority: 38 U.S.C. 5034(2))

(c) *Classification of equipment.* All equipment shall be classified in two groups as indicated in paragraphs (c) (1) and (2) of this section:

(1) *Fixed equipment (included in construction/acquisition contract).* Fixed equipment is permanently affixed to the building or is connected to service distribution systems designed and

installed during construction (e.g., kitchen and intercommunication equipment, built-in casework, and cubicle curtain rods). The Federal share in the cost of such equipment, included in the construction contract, will be determined by the Department of Veterans Affairs percentage of participation in the aggregate cost of the project.

(2) *Movable and fixed equipment (not included in project contact).* Movable and fixed equipment may be purchased separately from the construction or acquisition contract and includes furniture, furnishings, wheeled equipment, kitchen utensils linens, draperies, venetian blinds, electric clocks, pictures and trash cans. The Federal share in the cost of such equipment not included in the project contract will be limited to 10 percent of the project contract cost unless justified by the State and approved by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5034(2))

(d) *Purchase of equipment.* (1) The State shall select and purchase all equipment for the complete and effective functioning of services needed to operate the State home. The State may postpone purchasing of equipment until the facility is almost ready for occupancy to assure that the most current models of equipment are purchased. The equipment shall meet State standards. Title to all equipment purchased by the State with grant monies shall be vested to the State.

(2) The quality and amount of equipment shall be properly apportioned to the various services of the facility so that unduly expensive or elaborate equipment is not provided for some services at the expense of other services.

(Authority: 39 U.S.C. 5034(2))

(e) *Equipment list.* (1) Prior to the completion of the project, the State shall submit to the Department of Veterans Affairs for approval a separate, complete itemized list of fixed and movable equipment, not included in the construction contract. Fixed equipment shall be itemized by category of equipment with the estimated cost of each category or item and the total cost. Movable equipment shall be itemized according to the rooms or functional areas identified on the final drawings. The list shall show the quantity and estimated cost of each item. The quantity will be based on the actual number of units and number of beds in each unit.

(2) The Department of Veterans Affairs will review the equipment list to ascertain medical applicability, quantity, and cost of items. The quantity will be determined by the number of nursing or domiciliary units, the number of bed areas provided, and the items required to make constructed or acquired areas functional. Medical applicability will be determined by whether such items are normally found or used in the type of medical activity/area planned. The Department of Veterans Affairs may disapprove items on the equipment list, but the applicant will be given the opportunity to justify such item(s).

(Authority: 38 U.S.C. 5034(2))

(Information collection requirements contained in § 17.182 were approved by the Office of Management and Budget under control number 2900-0520.)

§ 17.183 General design guidelines and standards.

(a) *General.* Nursing homes and domiciliaries should be planned to approximate the home atmosphere as closely as possible. These guidelines and standards include minimum requirements for site selection and development; architectural design including handicapped accessibility and allowable space criteria; structural, mechanical, and electrical design; plumbing systems and elevator requirements; fire safety criteria; and asbestos abatement rules. State homes to be constructed or acquired with Federal financial assistance shall comply with applicable National, State, and local codes. Such codes include building codes, electrical codes, seismic codes, fire and life safety codes, plumbing codes, and others. Both nursing homes and domiciliaries are health care occupancies, and all space shall be protected with a sprinkler system as well as quick response sprinklers for all smoke compartments containing patient sleeping rooms.

(1) Except as provided in paragraphs (a)(1)(i) and (a)(1)(ii) of this section, in no case shall the total cost of remodeling exceed the cost of constructing a comparable new building or facility.

(i) If a building or facility is on or eligible for the National Register of Historic Places, the total cost of remodeling, renovating, or adapting it may exceed the cost of comparable new construction by five percent.

(ii) If the demolition of a building on or eligible for the National Register of Historic Places is necessary, the cost to professionally record the building for the Historic American Buildings Survey (HABS) plus the total cost for demolition and site restoration shall be included by the State in calculating the total cost of new construction.

(2) The cost of routine maintenance and replacement of mechanical, electrical, structural and architectural work, or maintenance and repair of any building system or equipment will not be considered as a cost for construction or acquisition for a State home grant application. The Department of Veterans Affairs may waive this requirement if it is determined that the work is necessary to comply with standards of life safety or quality patient care or is involved inextricably with the construction or acquisition project.

(b) *Site selection and development.*—(1) *Site accessibility.* The site should be located in a safe, secure, residential-type area which is accessible to acute medical care facilities, community activities and amenities, and transportation facilities typical of the area.

(2) *Mineral rights.* The State shall establish whether the site is subject to mineral rights which have not been developed and include a report on the mineral rights as part of the formal application.

(3) *Limitations.* The State should avoid sites that are near insect-breeding areas, noise or other industrial developments: airports, railways or highways producing noise or air pollution; or potential flood hazards. In the event that these site related disadvantages cannot be avoided, adequate provision will be made to eliminate or minimize the condition.

(4) *Alternatives.* The State shall look at alternative sites for the State home unit and submit a report on these sites to the Department of Veterans Affairs for review early in the application phase.

(5) *Demolition plan.* The cost of demolition of a building cannot be included in the cost of construction unless the proposed construction is in the same location as the building to be demolished or unless the demolition is inextricably linked to the design of the construction project. If the State believes that this cost may be included in the cost of the construction project, a demolition plan should be submitted which includes the extent and cost of existing site features to be removed, stored, or relocated.

(6) *Asbestos abatement.* For existing buildings, a certified industrial hygienist shall be hired for assessment, design, cost estimate, and construction monitoring for asbestos abatement. The abatement process shall follow EPA,

OSHA, State, and local regulations and guidelines.

(c) *Architectural requirements.* (1) *Finishes.* Walls shall be washable or easily cleaned and smooth. Walls in kitchens and related spaces shall have glazed materials or similar finish and bases shall be waterproof and free from voids. Walls subjected to wetting should also be glazed to a point above the splash or spray line. Wainscots of durable material should be used in patient corridors and other corridors where there is considerable wheeled traffic. Emphasis should be placed on the use of materials for walls and floors that are safe, sanitary, and noise-reducing. The color scheme should provide an attractive and therapeutic environment for elderly patients.

(2) *Handicapped accessibility.* All State home facilities shall provide necessary ingress, egress, and movement throughout the facility for the physically handicapped and elderly in compliance with the Uniform Federal Accessibility Standards (UFAS). Disabled persons shall be provided with access and use that is independent, convenient, and substantially equivalent to that provided other persons.

(3) *Doors.* All doors should be easy to open and in accordance with UFAS requirements.

(4) *Fire Protection.* Facilities shall meet the applicable provisions of the 1988 edition of the National Fire Protection Association's Life Safety Code, NFPA 101, dated February 2, 1988, including NFPA 101M, Alternative Approaches to Life Safety, dated December 2, 1987, (which are incorporated by reference). Incorporation by reference of the 1988 edition of the Life Safety Code including NFPA 101M was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The Code is available for inspection at the Office of the Federal Register, room 8301, 1100 L Street, NW., Washington, DC. Copies may be obtained from the National Fire Protection Association, Battery March Park, Quincy, MA 02269. If any changes in this Code are also to be incorporated by reference, a document to that effect will be published in the **Federal Register.**

(5) *Space program criteria.* (i) *General.* The chart at paragraph (c)(5)(iii) of this section shows the net square footage allowed for Department of Veterans Affairs participation in the cost of the State nursing homes and domiciliaries.

(ii) *Deviations.* Any deviation from these space criteria of more or less than 10 percent, except to meet a more stringent State or local requirement, must be justified by the State and approved by the Department of Veterans Affairs if the space is to be included in the cost of construction. The Assistant Chief Medical Director for the Office of Geriatrics and Extended Care may approve a deviation if it will improve the safety, quality of care, or quality of life provided to veterans in a State home. If a deviation is not approved by the Department of Veterans Affairs, the cost of questionable space will not be included and the percentage of Federal participation may be reduced.

(iii) *Chart of net square feet (NSF) allowed.*

	Non-Convertible Domiciliary (DOM)	Convertible DOM/Nursing Home
I. Support facilities (maximum allowable square feet per facility for VA participation):		
Administrator's office	200	200.
Assistant administrator	150	150.
Medical officer, director of nursing or equivalent	150	150.
Nurse's office and dictation area	120	120.
General administration (each office/person)	120	120.
Clerical staff (each)	80	80.
Computer area	40	40.
Conference room (consultation area, in-service training)	300 (each)	500 (each).
Lobby/waiting area	3 (per bed) (150 min./600 max. per facility)	3 (per bed).
Public/patient toilets (male/female)	25 (per fixture)	25 (per fixture).
Pharmacy	0	(As required).
Dietetic service	(As required)	(As required).
Dining area	20 (per bed)	20 (per bed).
Canteen/retail sales	2 (per bed)	2 (per bed).
Vending machines	1 (per bed) (450 maximum per facility)	1 (per bed).
Resident toilets (male/female)	25 (per fixture)	25 (per fixture).
Child daycare	(As required)	(As required).
Medical support (staff offices/exam/treatment room/family counseling, etc.).	140 (each)	140 (each).
Barber and/or beauty shops	140	140.
Mail room	120	120.
Janitor's closet	40	40.
Multipurpose room	15 (per bed)	15 (per bed).
Employee lockers	6 (per employee)	6 (per employee).
Employee lounge	120 (maximum 500 per facility)	120.
Employee toilets	25 (per fixture)	25 (per fixture).
Chapel	450	450.
Physical therapy	2.5 (per bed)	5 (per bed).
Office if required	120	120.
Occupational therapy	5 (per bed)	5 (per bed).
Office if required	120	120.
Library	1.5 (per bed)	1.5 (per bed).
Building maintenance storage	2.5 (per bed)	2.5 (per bed).
Resident storage	6 (per bed)	6 (per bed).
General warehouse storage	6 (per bed)	6 (per bed).
Medical/dietary	7 (per bed)	7 (per bed).
General laundry	(As required)	(As required).
II. Bed units (50 Beds):		
One	150	150.
Two	230	245.
Large two-bed (2 per unit)	0	305.

	Non-Convertible Domiciliary (DOM)	Convertible DOM/Nursing Home
Three	340	370
Four	450	460
Lounge areas (resident lounge with storage)	8 (per bed)	8 (per bed).
Resident quiet room	3 (per bed)	3 (per bed).
Clean utility	120	120.
Soiled utility	105	105.
Linen storage	90	150.
General storage	100	100.
Nurses station, ward secretary	0	260.
Medication room	0	75.
Waiting area	50	50.
Unit supply and equipment	50	50.
Staff toilet	25 (per fixture)	25 (per fixture).
Stretcher/wheelchair storage	75	100.
Kitchenette	150	120.
Janitor's closet	40	40.
Resident laundry	125	125.
Trash collection	60	60.
III. Bathing and Toilet Facilities:[1]		
(A) Private or shared facilities:		
Wheelchair facilities	25 (per fixture)	25 (per fixture).
Standard facilities	15 (per fixture)	15 (per fixture).
(B) Full bathroom	75	75.
(C) Congregate bathing facilities:		
First tub/shower	80	80.
Each additional fixture	25	25.

[1] Bathing and toilet facilities must comply with the Uniform Federal Accessibility Standards.

[FR Doc. 91-9218 Filed 5-2-91; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 233

Forfeiture Authority and Procedures

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Consistent with procedures provided by the former customs laws of the United States (19 U.S.C. 1600, *et seq.*), postal regulations establishing procedures for administrative forfeitures currently limit the ceiling on commencement of civil administrative forfeitures to seized property which has an appraised value of $100,000 or less. The Customs and Trade Act, Public Law 101-382, effective August 20, 1990, amended section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) to raise the ceiling on administrative forfeitures from $100,000 to $500,000, and entirely remove the ceiling on administrative forfeitures of monetary instruments (including cash) within the meaning of 31 U.S.C. 5312(a)(3). Accordingly, the Postal Service is publishing this final rule to make postal regulations consistent with this amendment.

EFFECTIVE DATE: May 3, 1991.

FOR FURTHER INFORMATION CONTACT: Fred I. Rosenberg (202) 268-5477.

SUPPLEMENTARY INFORMATION: Until enactment of the Customs and Trade Act, Public Law 101-382, effective August 20, 1990, section 607(a) of the Tariff Act of 1930 (19 U.S.C. 1607) required that property seized for forfeiture, including cash or other monetary instruments, having an appraised value of over $100,000 in value, must be forfeited under the judicial process rather than through an administrative process within the applicable law enforcement agency. There was no value limit on conveyances which contain illegal drugs, and the section did not apply to real property seizures. The Customs and Trade Act increased the value of seized property which could be administratively forfeited from $100,000 to $500,000, and it entirely removed the dollar limitation in regard to administrative forfeiture of monetary instruments, including cash. The Customs and Trade Act did not change the "no value" limit on conveyances which contain illegal drugs or the fact that the section does not apply to real property seizures.

List of Subjects in 39 CFR Part 233

Law enforcement, Crime, Postal Service.

Accordingly, part 233 of 39 CFR is amended as follows:

PART 233—INSPECTION SERVICE AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401-3422; 18 U.S.C. 981, 1956, 1957, 2254; 21 U.S.C. 881.

§ 233.7 [Amended]

2. In 233.7, paragraph (g), remove "$100,000" where first stated and insert "$500,000, with the exception of: (1) Monetary instruments within the meaning of 31 U.S.C. 5312(a)(3), or (2) any conveyance which was used to import, export, transport, or store any controlled substance" in its place; remove "$100,000 or less" where stated for the second time and insert in its place "$500,000 or less, or for any monetary instruments within the meaning of 31 U.S.C. 5312(a)(3) or any conveyance which was used to import, export, transport, or store any controlled substance"; in paragraph (h), the italicized heading is revised to read as follows:

* * * * *

(h) *Notice of seizure for property having a value of $500,000 or less, or for monetary instruments or for conveyances which were used to transport or store any controlled substance; advertisement; declaration of forfeiture.* * * *

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91-1460 Filed 5-2-91; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-474; RM-7355]

Radio Broadcasting Services; Geneva, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ray-Mar Broadcasting Company, substitutes Channel 284A for Channel 285A at Geneva, Ohio, and modifies the license of Station WDON(FM) to specify the alternate Class A channel. See 55 FR 46079, November 1, 1990. The allotment of Channel 284A could enable Station WDON(FM) to increase power to 6 kW and thus increase its coverage area. Channel 284A can be allotted to Geneva in compliance with the Commission's minimum distance separation requirements with a site restriction of 15 kilometers (9.3 miles) west to accommodate petitioner's desired transmitter site. The coordinates for Channel 284A at Geneva are North Latitude 41-48-39 and West Longitude 81-07-33. Canadian concurrence in the allotment has been received because Geneva is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 10, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-474, adopted April 17, 1991, and released April 25, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Channel 285A and adding Channel 284A at Geneva.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-10546 Filed 5-2-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 89-01; Notice 10]

Passenger Automobile Average Fuel Economy Standards; Final Decision

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final decision.

SUMMARY: This decision is issued in response to a petition filed by Dutcher Motors, Inc. (Dutcher) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model year (MY) 1992 passenger automobiles, and that a lower alternative standard be established for it. This decision exempts Dutcher and establishes an alternative standard of 17.0 mpg for MY 1992. The decision was preceded by publication of a notice requesting public comments.

DATES: Effective Date: June 3, 1991. This exemption and the alternative standard apply to Dutcher for model year 1992. Petitions for reconsideration must be submitted by June 3, 1991.

ADDRESSES: Petitions for reconsideration must be submitted to: Adminstrator, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not required, that 10 copies be provided.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0846.

SUPPLEMENTARY INFORMATION: NHTSA is exempting Dutcher from the generally applicable average fuel economy standard for 1992 model year passenger automobiles and establishing an alternative standard applicable to Dutcher for that model year. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act") (15 U.S.C. 2002(c)). Section 502(c) provides that a passenger automobile manufacturer which manufactures fewer than 10,000 passenger automobiles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Section 502(e) of the Act (15 U.S.C. 2002(e)) requires NHTSA, in determining maximum feasible average fuel economy, to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final decision was preceded by a proposed decision announcing the agency's tentative conclusion that Dutcher should be exempted from the generally applicable MY 1992 passenger automobile average fuel economy standard of 27.5 mpg, and that an alternative standard of 17.0 mpg should be established for Dutcher that model year (56 FR 3441, January 30, 1991). No comments were received on the proposed decision.

The agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on the conclusions that the maximum feasible average fuel economy level for Dutcher in MY 1992 is 17.0 mpg, that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision, and that the national effort to conserve energy will not be affected by granting this requested exemption, NHTSA hereby exempts Dutcher from the generally applicable passenger automobile average fuel economy standard for the 1992 model year and establishes an alternative standard of 17.0 miles per gallon for Dutcher for that year.

NHTSA has analyzed this decision, and determined that neither Executive Order 12291 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Dutcher. If the Executive order and the Departmental policies and procedures were

applicable, the agency would have determined that this action is neither "major" nor "significant." The principal impact of this exemption is that Dutcher will not be required to pay civil penalties if it achieves a CAFE level equivalent to the alternative standard established in this notice. Since this decision sets an alternative standard at the level determined to be Dutcher's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which limit the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Dutcher's MY 1992 automobiles cannot achieve better fuel economy than 17.0 mpg, granting this exemption will not affect the amount of gasoline available.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Dutcher. It does relieve the company from having to pay civil penalties for noncompliance with the generally applicable standard for MY 1992. Since the price of 1992 Dutcher automobiles will not be affected by this decision, the purchasers will not be affected.

List of Subjects in 49 CFR 531

Energy conservation, fuel economy, gasoline, imports, motor vehicles. In consideration of the foregoing, 49 CFR part 531 is amended to read as follows:

PART 531—[AMENDED]

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

Authority: 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. Section 531.5 is amended by revising paragraph (b)(11); the introductory text of paragraph (b) is republished to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(11) Dutcher Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1986	16.0
1987	16.0
1988	16.0
1992	17.0

Issued on April 30, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-10505 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 90-01; Notice 2]

RIN 2127-AD16

Federal Motor Vehicle Safety Standards; School Bus Pedestrian Safety Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a new safety standard requiring new school buses to be equipped with a stop signal arm. The standard requires that the stop signal arm be octagonal, meet minimum specified dimensions, and have the word "STOP" in white letters on a background which is red with a white border. To increase the arm's conspicuity, the new standard also requires that the arm be either reflectorized or have at least two red flashing lamps. The standard requires that the device be located on the left side of the bus. The standard further requires that it be automatically deployed, at a minimum, during the entire time that the red signal lamps required by Standard No. 108 are activated. In addition, the standard allows a means by which the driver could manually override the automatic mechanism, provided that the override is equipped with an audible signal to prevent permanent engagement of the override. The intended effect of this rule is to reduce the risk to pedestrians near stopped school buses.

DATES: *Effective Date:* This standard becomes effective September 1, 1992.

Incorporation by reference: The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 1, 1992.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by the agency not later than June 3, 1991.

ADDRESSES: Petitions for reconsideration should refer to Docket No. 90-01; Notice 2 and be submitted to the following: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (docket hours 9:30 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gauthier, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-4799.

SUPPLEMENTARY INFORMATION:

Background

Although statistics about school bus operation demonstrate that school buses provide an extremely safe form of transportation, the agency is committed to improving school bus safety. At the request of Congress, the National Academy of Sciences (NAS) studied school bus safety to determine which safety measures would be "most effective" in protecting school children while boarding, leaving, and riding in school buses. (See "Surface Transportation and Uniform Relocation Assistance Act of 1987," Pub. L. 100-17, 204(a) 101 Stat. 219, April 2, 1987.) In May 1989, the National Research Council (NRC), an agency of the NAS, issued a report entitled "Improving School Bus Safety," Special Report No. 222. Among other things, the study reviewed relevant crash data and potential safety measures to prevent injuries suffered by pedestrians, especially students, struck by a school bus or a vehicle passing the bus.

Based on data from the Fatal Accident Reporting System (FARS) for the years 1982 through 1986 about student-aged children killed in school bus related crashes, the NAS report concluded that in an average year, 12 of those killed were student-aged passengers in school buses or vehicles operated as school buses, eight were passengers of other vehicles, and 38 were pedestrians killed after being struck by the school bus or other vehicle. Of the 38 pedestrian fatalities, approximately 26 were killed by school buses or vehicles operating as school buses. The other 12 pedestrian fatalities resulted from pedestrians being struck by other vehicles passing a school bus that stopped to load or unload passengers. An independent

study by the Kansas Department of Education concluded that for the years 1982 through 1988, there were an average of 11 children killed each year by vehicles passing school buses in loading zones. NHTSA's subsequent analysis of FARS data for the years 1982 through 1988 indicated that about half of the bus-caused pedestrian fatalities (12 annually) occurred as the children were boarding or leaving the bus.

The NAS study also estimated that each year 950 pedestrians are injured in school bus loading zones, of which it assumed, based on extrapolating from State data, 800 involve student-aged pedestrians. Approximately 525 of these pedestrians are injured by being struck by vehicles other than the school bus; the remainder are struck by the school bus. Twenty percent of these injuries are categorized as being "incapacitating injuries." These injuries are defined by the American National Standards Institute (ANSI) as including any injury that prevents the injured person from walking, driving or normally continuing activities he or she was capable of performing before the injury occurred. These include severe lacerations, broken or distorted limbs, skull and chest injuries. The majority of non-fatal injuries are caused by vehicles other than the school bus striking the student pedestrian.

These data about pedestrians indicate that despite an apparent downward trend, deaths and injuries caused by vehicles passing school buses remain a significant safety problem. The data also indicate that children are at a much greater risk of being killed while boarding or leaving a school bus than they are while on board a bus.

The 1987 Act directed the agency to review the NAS report to determine safety measures that were potentially "most effective" in improving school bus safety. The agency issued a notice endorsing some of the recommendations in the NAS report, finding that they had the potential for reducing fatalities and injuries to school bus users. (54 FR 29629, July 13, 1989). As for equipment intended to increase pedestrian safety in school bus loading zones, the agency concluded that programs to require the installation of stop signal arms and crossview mirrors on school buses were potentially among the "most effective" in improving school bus safety.

A stop signal arm is a device patterned after conventional "STOP" signs and attached to the left side of a school bus. When the school bus stops, the stop signal arm extends outward from the bus. Its purpose is to alert motorists that a school bus has stopped or is stopping. In considering the effectiveness of stop signal arms, the NAS report emphasized the difficulty in conclusively determining the effectiveness of school bus safety measures. Nevertheless, the NAS report cited studies demonstrating that stop signal arms are effective in reducing illegal passing of stopped school buses, thus reducing the risk to pedestrians struck by other vehicles in school bus loading zones. For instance, a 1983 study by Hale et al. indicated that school buses equipped with eight-light systems and stop signal arms recorded almost 40 percent fewer passing violations than buses equipped with light systems but not the stop signal arm. (Hale, A.R. *et al.*, "Development and Test Rural Pedestrian Countermeasures," NHTSA Report DTNH22-80-C07568.). Similarly, a study by Brackett et al., comparing passing violations before and after school buses were equipped with a stop signal arm, estimated that passing violations could be reduced about 30 percent through the use of stop signal arms. (Brackett, R.Q. *et al.*, "School Bus Safety Equipment Evaluation," Texas Transportation Institute, The Texas A&M University System, College Station, TX, 1984).

Based on these considerations, NHTSA initiated a series of efforts to assess methods to improve school bus safety, including pedestrian safety in school bus loading zones. In taking these steps, NHTSA emphasized that the safety record of school buses has been excellent. Although school buses transport many more passengers per trip than other vehicles, the occupant fatality rate per vehicle mile driven is only one-fourth that of passenger cars. Similarly, the number of fatalities and injuries related to pedestrians in school bus loading zones is comparatively small.

Nevertheless, because of the special concern for the well-being of school children and because each fatality and injury involving them is particularly tragic, NHTSA issued two notices about measures intended to reduce the risk to pedestrians near stopped school buses. One notice was an advance notice of proposed rulemaking (ANPRM) to obtain information about outside cross-view mirror systems and other equipment (e.g., crossing control arm barriers, audible back-up warnings, video monitors, and proximity detectors) intended to help school bus drivers detect pedestrians, thus preventing pedestrians from being struck by school buses. (54 FR 53127, December 27, 1989) The agency is reviewing comments to that notice and expects to issue a subsequent notice soon. A second notice proposed a new safety standard to require school buses to be equipped with a stop signal arm (55 FR 3619, February 2, 1990). That notice provides the starting point for this final rule.

Notice of Proposed Rulemaking on Stop Signal Arms

In its February 1990 notice, the agency proposed that the stop signal arm meet minimum size requirements, be octagonal, have a specified color scheme (i.e., a red background with a white border and the word "STOP" in white letters), be reflectorized, and be installed on the left side of the bus. The notice also proposed that the stop signal arm be automatically deployed whenever the red signal lamps required by Standard No. 108 were activated. Finally, the notice proposed to allow a means by which the driver could manually override the automatic deployment mechanism.

The NPRM addressed several issues and invited comments about stop signal arms and pedestrians struck by vehicles passing stopped school buses. The notice referred to the previously mentioned studies evaluating the effectiveness of stop signal arms and the endorsement of their use by the NAS report and by the Tenth National Conference on School Transportation. The latter was a meeting of official representatives of State Departments of Education, local school district personnel, contract school bus operators, manufacturers, and others interested in school bus safety.

The notice also explained that although no Federal provision requires the installation of a stop signal arm on school buses, some Federal provisions are designed to protect student pedestrians in the vicinity of stopped school buses. First, section S5.1.4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 Lamps, Reflective Devices, and Associated Equipment (49 CFR 571.108), which sets forth the minimum standard of performance, requires school buses to be equipped with either four red lamps (two in front of the bus and two in back of the bus) or an eight lamp system with four amber lamps and four red lamps. The red lamps are automatically activated when the bus entrance door is opened. Second, Highway Safety Program Guideline No. 17, Pupil Transportation Safety (23 CFR 1204.4, Guideline 17), states that "(w)hen vehicles are equipped with stop signal arms, such devices should be operated only in conjunction with red signal lamps." (Section IV.B.3.(6)c.)). The Highway Safety Program Guidelines are designed to provide a uniform national pupil

transportation safety program and to assist the States in achieving the highest level of safety in the transportation of children on school buses.

The NPRM also described the Society of Automotive Engineer's recommended practice, SAE J1133 Apr84, School Bus Stop Arms, which is not binding on any manufacturer or school bus user. That practice sets forth test procedures, "requirements," and guidelines for school bus stop signal arms. The recommended practice also specifies the sign's color scheme, the minimum size, and the inclusion of at least two flashing lamps. It incorporates vibration, moisture, dust, corrosion, warpage, durability, and flash rate tests for the lamps and sets forth requirements for luminous intensity, color, and materials. SAE J1133 also sets forth "guidelines," for photometric design, certain design aspects, installation, and activation.

The NPRM also explained the potential Federalism implications of the rulemaking. As of December 1989, 36 States required stop signal arms. The agency estimated that at least 71 percent of new school buses were being equipped with stop signal arms. The notice explained that because FMVSSs set forth minimum standards of performance, any purchaser of school buses may order from a school bus manufacturer a school bus that not only meets but exceeds the requirements in the FMVSSs. In addition, under section 103(d) of the Vehicle Safety Act, which provides for the preemption of nonidentical State requirements covering the same aspect of performance of a FMVSS, a State may require school buses "procured for its own use" to meet a performance standard higher than the Federal one. After noting that many States have based their stop signal arm requirements on SAE J1133, the notice described the stop signal arm requirements of certain States.

Comments to the NPRM and the Agency's Response

NHTSA received 25 comments in response to the NPRM. These were from State organizations, school bus and school bus equipment manufacturers, associations, school bus contractors, and individuals. All but two commenters agreed with the general proposal to require a stop signal arm on school buses. Nevertheless, commenters had many different opinions on specific requirements about the design and operation of stop signal arms. The agency has considered the points raised in the comments in developing the final rule. The agency's discussion of the significant comments and other relevant information is set forth below. For the convenience of the reader, this notice follows the NPRM's order.

General Considerations

Safety Need

The proposal first asked whether there was a safety need for requiring the installation of the stop signal arm. Although commenters noted the difficulty in obtaining comparative data to establish a safety need for the requirement, the consensus was that such a safety need exists. For instance, the Washington Superintendent of Public Instruction (Washington) commented that there was "no question" about the safety need for stop signal arms. The Ohio Department of Education (Ohio) stated that stop signal arms are directly related to better student safety. Only the California Department of Education (California DOE) and the California Highway Patrol (CHP) believed that there was no safety need.

Given the data and recommendations in the NAS report, the Hale and Brackett studies on illegal school bus passes, and general support in the docket comments for stop signal arms, the agency has concluded that a safety need exists for better controlling the movement of vehicles passing stopped school buses during the loading and unloading of passengers. The agency notes that the opposition from the California entities may stem from that State's mandatory student escort program that requires school bus drivers to escort elementary school children across the street. Despite California's opposition, the agency notes that the purpose of traffic control devices is to "help insure highway safety by providing for the orderly and predictable movement of traffic, both motorized and non-motorized, throughout the national highway transportation system, and to provide such guidance and warnings as are needed to insure the safe and informed operation of individual elements of the traffic stream." (Manual on Uniform Traffic Control Devices for Streets and Highways, Federal Highway Administration, 1988, 1A-1) (emphasis added). The Manual's section on "Traffic Controls for School Areas" further explained that "(n)on-uniform procedures and devices cause confusion among pedestrians and vehicle operators, prompt wrong decisions, and can contribute to accidents. In order to achieve uniformity of traffic control in school areas, comparable traffic situations must be treated in the same manner." This goal for nationwide uniformity among the States to reduce confusion necessitates requiring all school buses to be equipped with a stop signal arm. Even CHP agreed about the need for nationwide uniformity, stating that a "nationally consistent equipment requirement (is needed so) that every school bus in the nation should send the same signals to other motorists to stop traffic."

Effectiveness of Stop Signal Arms

Based on the previously mentioned studies on the effectiveness of school buses equipped with a stop signal arm in reducing illegal passing of stopped school buses, the agency tentatively concluded in its proposal that such a requirement would reduce the number of student pedestrians struck by vehicles passing stopped school buses. The NPRM requested comments about the reasonableness of its tentative conclusion.

In response to that request, several commenters provided information about the effectiveness of stop signal arms. The Connecticut Department of Motor Vehicles (Connecticut), the Insurance Institute for Highway Safety (IIHS), Mayflower Contract Services, the Colorado Department of Education (Colorado), the Florida Department of Education (Florida), Kickert School Bus Lines (Kickert), and the Hawaii Department of Transportation (Hawaii) indicated either that they believed stop signals arms are effective in protecting pedestrains near stopped buses or provided information that alluded to the effectiveness of these devices. Several commenters agreed with statements in the NAS report and the NPRM about the difficulty in empirically determining the effectiveness of stop signal arms. Only CHP and the California DOE questioned whether school bus stop signal arms would be effect.

Since issuing the NPRM, the agency has analyzed further information indicating that stop signal arms are effective in reducing illegal passing of stopped school buses. A 1986–1987 study conducted in Henrico County, Virginia, a jurisdiction requiring school buses to be equipped with a stop signal arm, concluded that each school bus was illegally passed an average of 1.25 times per day. In contrast, the 1984 study conducted by Brackett in Texas, a jurisduction in which school buses were not equipped with stop signal arms, concluded that each school bus was illegally passed an average of 2.8 times per day. Aggregating the number of illegal passes over the course of a school year for those school buses not now required to be equipped with a stop signal arm indicates that adoption of

such a requirement will result in millions of fewer instances of illegal passing. This reduced risk of illegal passing of stopped school buses, in turn, should reduce the potential for injuries and fatalities sustained by student pedestrians in such illegal passing situations. Because the docket comments and the agency's subsequent analysis appear to confirm the agency's initial determination that stop signal arms are effective in reducing the risk to pedestrians around stopped school buses, the agency has decided to require school buses to be equipped with the stop signal arm.

While the number of illegal passes of a stopped school bus can be reduced by the installation of stop signal arms, the agency encourages the States to educate motorists more fully about their laws on the stopping for school buses that are loading and unloading students. The agency also encourages State and local authorities to increase their enforcement efforts in this area.

The Effect of a Federal Standard on the States

After discussing current levels of stop signal arm usage and the proposal's anticipated effect on the States and State laws, the notice invited comments about the potential impact of a Federal safety standard on existing State laws. In particular, the notice asked whether States would have to amend their laws to comply with the proposed Federal standard in light of section 103(d) of the Vehicle Safety Act.

Of the twelve State organizations that commented on the proposal, all but the two California entities favored the proposal. In addition, Blue Bird stated that a Federal standard was necessary to promote uniformity. As for specific amendments to existing laws, CHP stated that the California Code of Regulations would have to be amended if a stop signal arm is to be installed on California school buses. CHP also stated that the California Vehicle Code would have to be amended to permit flashing lights if such lights on the stop signal arm were required. Two States favoring the proposal stated that a Federal requirement would affect their laws. Florida commented that the proposal's performance and locational requirements might affect their current requirements. The Illinois Department of Transportation (Illinois) explained that it would have to amend its regulation, which currently requires a hexagonal semaphore.

After reviewing the comments, the agency concludes that a Federal standard requiring a stop signal arm on school buses will not impose significant burdens on the States. The agency has determined that this final rule is necessary to ensure uniform school bus stopping and signalling procedures to give passing motorists a consistent message, even though this action will require several States to equip their school buses with a stop signal arm and a few others to modify their laws. It appears that those States having to modify their laws will have little difficulty in enacting the necessary legislation to comply with the new safety standard and section 103(d) of the Vehicle Safety Act.

Stop Signal Arm Characteristics

The NPRM proposed that the stop signal arm be a regular octagon in shape, be on a red background with the word "STOP" in white lettering on both sides and a white border, be at least a specified size, and be reflectorized. The proposal also requested comments on the desirability of adopting other requirements, including those in the SAE recommended practice about flashing lights.

As for the stop signal arm's shape, the NPRM proposed that it be patterned after conventional octagonal highway stop signs with a red background with white lettering. The agency reasoned that drivers recognize the meaning of octagonal signs and have been conditioned to stop when they see them. The notice further explained that standardization of shape, color scheme, and the word "STOP" would ensure that a driver traveling out-of-state would encounter the same familiar stop sign design throughout the country. In addition, the proposal noted that FHWA's Manual on Uniform Traffic Control Devices (1988) requires stop signs to have these characteristics and that the Tenth National Conference expressly recommended that the stop signal arm have these characteristics.

In response to the proposal's request for comments, Blue Bird, Colorado, CHP, the National Student Transportation Association (NSTA), 3M, Superior Coach, and a school teacher supported the proposal to standardize the stop signal arm's shape and color scheme. Even Illinois, a State now requiring a hexagonal shaped sign, did not object to standardizing the stop signal arm's shape. Based on the foregoing, the agency is adopting the requirements that the stop signal arm be octagonal in shape with white letters and a white border on a red background, as set forth in Figure 1 of the final rule.

Minimum Size Requirements

The NPRM also proposed to specify the minimum size of the sign and its lettering. Based on the FHWA's "Standard Alphabets for Highway Signs," a reference guide specifying the size and appearance of letters and numerals used on highway signs, and SAE J1133's recommended practice, the agency proposed to require that the octagonal stop signal arm be a regular octagon at least 450 mm X 450 mm in diameter (approximately 17.7 inches X 17.7 inches), that the white border be at least 12 mm wide (approximately 0.47 inch), and that the white lettering be at least 150 mm (approximately 5.9 inches) in height and have a stroke width of at least 20 mm (approximately 0.79 inch). The proposal asked whether the proposed size specifications adopted from the FHWA practice and SAE J1133 should be incorporated in the standard and whether stop arms and lettering meeting these proposed size requirements would be large enough to be seen and understood by drivers of other vehicles approaching a stopped bus.

In response to these proposals, Blue Bird, Florida, and NSTA expressly supported specifying the sign's size. In addition, the agency assumes that other commenters who generally endorsed the proposal implicitly agreed to the proposed size. 3M believed that the proposed size might be inadequate to make the stop signal arm conspicuous, especially when other vhicles were traveling at 55 miles per hour.

After reviewing the proposal on minimum size requirements in light of the comments, the agency has decided to adopt the size requirements, as proposed. Despite reservations by 3M, the agency concludes that the FHWA guidelines on highway signs, specifications in SAE 1133, and real-world experiences of States using stop signal arms indicate that the proposed minimum size requirements will ensure that the stop signal arm will be conspicuous to drivers of vehicles approaching a stopped school bus. Given that States may specify requirements more stringent than the minimum requirements adopted in this notice, those States who agree with 3M's concerns may equip school buses with a larger stop signal arm.

Conspicuity of Stop Signal Arms

This final rule discusses reflectorization and flashing lights together because both measures are designed to improve the conspicuity of stop signal arms in poor lighting conditions. NHTSA proposed requiring stop signal arms be reflectorized, believing that reflectorization would increase the stop signal arm's

conspicuity, especially when ambient lighting conditions are poor. The proposal requested comments about the need for, costs of, and requirements related to reflectorization. The agency also requested comments on requiring flashing lights on stop signal arms based on provisions in SAE J1133.

Several commenters addressed reflectorization and illumination of stop signal arms. Colorado, Florida, Superior Coach, and a teacher stated that reflectorization together with illumination were effective in increasing the conspicuity of stop signal arms in poor lighting conditions. As for requiring reflectorization alone, the NSTA opposed such a requirement, stating that the benefits of such a requirement had not been established. Carpenter Body Works also opposed requiring reflectorization in any situation. Hawaii and Washington stated they do not require their stop signal arms to be reflectorized. The Virginia Department of Education (Virginia) preferred that reflectorization be at the State's option due to its additional costs. Illinois and the Minnesota Department of Transportation (Minnesota) also stated that a stop signal arm with lights should be allowed as an option to reflectorization. IIHS believed that flashing lights were more effective than reflectorization because reflectorization helps conspicuity primarily in low light conditions such as when headlights on other vehicles render it visible. This led IIHS to conclude that reflectorization is not an adequate substitution for flashing lights in daylight hours. In contrast, 3M advocated requiring the use of reflectorization as a "fail safe" system that would provide high visibility during darkness. 3M criticized the use of flashing lights which might fail, which could "compete and veil the sign shape and message," and which mean different things under different conditions. Similarly, CHP opposed flashing lights, stating that motorists might become jaded to the importance of their message in their uses on other types of vehicles such as emergency vehicles.

Based on the data and the comments, the agency has determined that it is necessary to increase the conspicuity of stop signal arms during poor lighting conditions. While the K-DOT school bus data indicate that most children are killed during "daylight" conditions, at least 10 percent are killed during limited light conditions (e.g., dawn, dusk, dark). In addition, 10 to 20 percent of the fatalities occur during cloudy, rainy, snowy, and foggy conditions, which affect light conditions. Finally, the majority of fatalities occur from November to March, the months when daylight hours are shorter and weather conditions poorer. For the above reasons, the agency has decided to require measures to increase the conspicuity of stop signal arms.

Despite the agency's conclusion that increased conspicuity of stop signal arms is necessary, neither the comments nor independent studies conclusively indicate that one approach is superior to the other. After reviewing the merits of reflectorization and flashing lights to increase the conspicuity of stop signal arms, particularly during poor ambient lighting conditions, the agency has determined that school bus manufacturers and purchasers should have the option of using either a reflectorized stop signal arm or one that is equipped with at least two red flashing lamps. This would enable the State or local school districts to follow their own particular preference to improve stop signal arm conspicuity during limited or non-existing light conditions. They could decide to order buses with stop signal arms that are both reflectorized and equipped with flashing lamps. This decision is consistent with the statement in the FHWA's Manual on Uniform Traffic Control Devices that "signs used for school traffic control shall be reflectorized *or* illuminated when regularly scheduled classes begin or end during hours of darkness, and should be reflectorized or illuminated when there is considerable use of school buildings by children during hours of darkness." (7B-5) (emphasis added).

If reflectorized, both sides of the stop signal arm must use Type III retroreflectorized material that meets Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, FHWA section 718 "Reflective Sheeting" (1985), as set forth in S6.1 and Table 1 of the final rule.

If flashing lamps are used, they must meet the requirements for color, flash rate, and vibration, moisture, dust, corrosion, photometry, and warpage, as set forth in S6.2 of the final rule. These tests are patterned after the tests in certain SAE Recommended Practices: For color in SAE J578, Color Specification for electrical signal lighting devices; for flash rate in SAE J1054, Warning Lamp Alternating Flashers: And for vibration, moisture, dust, corrosion, photometry, and warpage in SAE J575 Tests for Motor Vehicle Lighting Devices and Components and SAE J1133, School Bus Stop Arm.

The NPRM also requested comments about strobe lights on stop signal arms. The proposal noted that while strobe lights might prove beneficial in school districts operating in areas prone to poor visibility, requiring all school buses to be equipped with them would be expensive without providing significant additional safety benefits to most school districts.

Florida, Illinois, NSTA, the Ohio Department of Education (Ohio), and CHP opposed requiring strobe lights on stop signal arm, stating that they were expensive and without any demonstrated safety benefit. CHP and IIHS stated that strobe lights had the potential to make the stop signal arm less readable in certain situations. Because the comments confirm the agency's initial concerns about strobe lights, the agency continues to believe that strobe lights should not be required on stop signal arms.

Location of Stop Signal Arm

The NPRM proposed that the stop signal arm be installed on the left side of the bus. The agency decided to propose this general requirement about stop signal arm location, while seeking comments on more specific, objective locational requirements. The proposal explained the agency's preference for more precise locational requirements, which could be important in increasing the conspicuity of stop signal arms.

The commenters consistently favored locating the stop signal arm near the driver. Colorado stated that it requires a stop signal arm to be mounted outside the bus on the left side opposite the driver and immediately below the window. Minnesota commented that the arm should be approximately even with the driver's position. IIHS stated that stop signal arms typically are located near the driver at or just below the window line. While IIHS was not aware of evidence that this is the only effective position for stop signal arms, it believed that standardizing the location would reduce motorist confusion. Florida, NSTA, and CHP similarly believed that stop signal arms should be located near where they are most typically located today, i.e., outside the driver's window. CHP also stated that stop signal arms should be located in a "transverse vertical plane that passes through the driver's seat," but out of the reach of the passengers who might play with it. Florida suggested that the top of the sign be immediately below the window line.

At a July 1990 school bus transportation conference, State school bus transportation personnel expressed divergent opinions about the stop signal

arm's location relative to the length of the school bus. While several States said they install the device near the driver's window, other States explained that they have been installing the device further rearward than the driver's window because the device may be more visible at these locations if the school bus is stopped at an angle to the road. California stated that given their escort program in which the bus driver holds a stop sign at the front of the school bus, placing the stop signal arm near the bus's rear would be more effective.

Based on the goal for standardization, views of State school transportation personnel about effective locations for stop signal arms, typical location of these devices now in use, and the Vehicle Safety Act's directive that safety standards specify objective requirements, S5.4.1 of the final rule requires that school buses be equipped with one stop signal arm installed on the left side of the bus so that when extended it shall (1) be perpendicular to the side of the bus, plus or minus five degrees; (2) have the top edge of the octagon parallel to and within 6 inches of a horizontal plane passing through the lower edge of the driver's window frame; and (3) have the vertical centerline of the stop sign be at least 9 inches away from the school bus body when the sign is extended. The agency believes that these requirements provide uniform locational specifications while providing users flexibility to install stop signal arms consistent with their experiences with these devices.

Florida and CHP raised the issue of "dual" stop signal arms on longer school buses. Florida stated that it will require dual stop arms on its new school buses over 23 feet in length. CHP stated that the agency should require only one stop signal arm, but if a bus is equipped with a second stop signal arm, then "the forward stop arm should be blank on the rearward side, and the rearward stop arm should be blank on the forward side."

In response to these comments, the agency has decided to permit school buses to be equipped with a second stop signal arm. Motorists following the school bus will see two stop signs, thus reinforcing the message that they are to stop behind a stopped bus and not pass it. The optional second (rear) stop signal arm must comply with all the requirements for the mandatory stop signal arm, except that its front must be blank. The purpose of this latter requirement is to avoid confusion for drivers approaching a stopped bus from the front.

Activation and Override of Stop Signal Arms

As for the operation of a bus' stop signal arm, the NPRM proposed that it be automatically deployed whenever the bus' red signal lamps required by S5.1.4 of Standard No. 108 are activated, i.e., when the bus is in service and the entrance door is open. The notice also proposed to allow, but not to require, a manual override, reasoning that while it would be worthwhile to permit a manual override, it should not be required given cost and engineering considerations associated with an override. The proposal explained that, at times, a manual override might be necessary to allow the stop signal arm to act independently from its automatic activation. For instance, when the weather is cold, the bus driver may wish to keep the school bus door closed but have the stop signal arm activated while a child crossed the street to board the bus. Similarly, when a bus has stopped at a railroad crossing and the driver opens a door to check for approaching trains, the stop signal arm need not or should not be activated while the door needs to be opened.

The NPRM sought comments on the activation and override of stop signal arms. The agency was concerned about the possibility that an override device could permit a driver to override "permanently" the mechanism for automatically deploying the stop signal arm as long as the override device was activated. This would negate the safety benefits obtained from the stop signal arm.

In commenting about permitting a manual override, several States commented on the proposal about tying the deployment of the stop signal arm to the activation of the red stop signal lamps required by Standard 108, i.e., the stop signal arm would be automatically deployed when the bus entrance door is opened and those lamps are activated. Washington, Illinois, and Florida each opposed tying the stop signal arm deployment to the red signal lamp activation and suggested methods of stop signal arm activation other than opening the door. These States believed that their systems increased safety by preventing school children from leaving the bus before the driver had adequately controlled traffic.

Washington recommended a procedure in which the bus driver would activate the flashing red lamps by extending the stop signal arm while the service door remained closed to keep the students within the bus. The driver would only open the door after checking for stopped traffic. To accomplish its suggestion, Washington recommended eliminating the door switch in FMVSS No. 108, requiring a separate control for the stop signal arm independent of the switch that opens the door, and requiring that whenever the stop signal arm is extended, the flashing red lamps must operate. Illinois recommended that stop signal arm operation be patterned after its four-step procedure: (1) Activate the amber lights by hand or foot control, (2) upon a complete stop, desecure but do not open the service door, which turns off the flashing amber lights and turns on the flashing red lamps and extends the stop signal arm; (3) when traffic is clear, open the service door with the red signal still activated and the stop signal arm still extended; and (4) close and secure the service door with the red lamps going off and the stop arm retracting. Florida recommended having drivers activate the stop signal arm before opening the service door and opposed activation by the door switch alone. Florida advocated its current procedure, requiring a three-position switch that controls the warning lights and the stop signal arm and stops traffic before the door is open.

After reviewing the proposal in light of these comments, the agency has decided to adopt the requirement, as proposed. Accordingly, a stop signal arm must automatically extend, at a minimum, whenever the red signal lamps required by S5.1.4 of Standard 108 are activated. The agency emphasizes any system of activation is permissible provided the stop signal arm is extended during, at least, the entire time that the red warning lamps are activated. Accordingly, the systems described by Washington, Illinois, and Florida are permissible under the final rule and appear to serve the interests of safety. The agency nevertheless has decided not to set forth specific requirements regarding these systems, because such specific requirements would be beyond the scope of the proposal and may overburden or otherwise adversely affect States using other means of stop signal arm deployment. For instance, adopting Illinois's system would mandate the now optional 8-lamp system. Nevertheless, given the potential advantages of these systems in better controlling traffic, the agency encourages States to consider such a means of activating stop signal arms.

As for manual override devices, Connecticut stated that it allows an override that can extend or withdraw the stop signal arm regardless of its normal operation, claiming that this eliminates damage to vehicles. Ohio

requires an emergency system for extending stop signal arms and operating the red light. Minnesota commented that a manual override of the stop signal arm should also override the 8-lamp warning system. Illinois opposed allowing a manual override because it might be inadvertently left activated, preventing the stop arm from being extended when the bus was stopped to load or discharge passengers. NSTA opposed such an override, claiming that there was no need for it and that the driver could easily forget that the override was deployed, thus creating a permanent override. IIHS commented that an override should be permitted only if there was a provision reminding the bus operator of the override's activation. IIHS recommended that a manual override system include audible and visible reminders that would activate whenever the override is on and the bus is in use.

Based on the agency's tentative conclusions in the NPRM and comments about the benefits from permitting a manual override device, the agency has concluded that there is adequate reason to permit an override device. This is especially true when school buses are used in non-school charter service where the use of the stop signal arm is prohibited by State law. However, to prevent permanent override, the mechanism for operating the override must be located within the driver's reach. Further, the bus must be equipped with a continuous or intermittent signal, which is audible to the driver and which operates whenever the engine is running and the override is activated.

When school buses are used for non-school purposes, the agency is concerned that an audible signal, without any time limit, could become annoying to the driver and passengers during long boarding and unloading operations and could be the cause of permanent disablement of the audible signal. As stated earlier, the purpose of the audible signal is to ensure that the stop signal arm is not permanently overriden. As a result, the agency has determined that it would be beneficial to allow audible override signals on buses to be equipped with a timer that requires the signal for at least 60 seconds. The 60-second time limit was chosen since it represents an adequate time for the bus driver to recognize the audible signal over any roadside noises and to realize that the stop signal arm's manual override is engaged. If a time limit device is used with the audible signal, it must automatically recycle every time the service entry door is opened while the engine is running and the manual override is engaged.

Miscellaneous Issues

The NPRM also sought comments on issues related to but outside the scope of this rulemaking. These issues include the merits of equipping a school bus with an external loud speaker and increasing the conspicuity of school bus bumpers with a fluorescent paint. Those interested in these issues should review this rulemaking's docket, especially for comments by Washington, NSTA, Virginia, 3M, Superior Coach, Florida, and Ram Guard. As mentioned in the NPRM, the agency plans to use this information when considering future school bus safety measures.

Effective Date

The effective date of this final rule is September 1, 1992. Even though stop signal arms are now available, some leadtime is necessary because a few States need to amend their legislative or administrative codes. In addition, bus manufacturers need time to order the devices from equipment manufacturers. Accordingly, the agency has decided to make this rule effective on September 1, 1992.

Economic and Other Impacts

NHTSA has considered the costs and other impacts of this rulemaking, and has prepared and placed a Final Regulatory Evaluation (FRE) in the Docket. Based on this evaluation, the agency has determined that the rulemaking is not "major" within the meaning of Executive Order 12291. Given general public and Congressional interest, the agency has determined that it is "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

The NPRM calculated the annual additional consumer cost of buying school buses equipped with a stop signal arm by multiplying the unit price of equipping new school buses with this device by the number of school buses affected by the requirement. Based on several studies, the proposal estimated the unit cost for a reflectorized stop signal arm to be approximately $300. The agency calculated that approximately 10,900 school buses would be affected by the requirement, i.e., of approximately 38,000 new school buses manufactured each year, 28.7 percent of currently operating school buses were not equipped with a stop signal arm. Therefore, the proposal concluded that the approximate aggregate annual cost of this requirement would be $300 per reflectorized stop signal arm without flashing lights × 10,900 school buses presently sold without stop signal arms for a total of $3,270,000.

Two school bus manufacturers and several States responded to the proposal's request for information about the costs of requiring school buses to be equipped with a stop signal arm. Blue Bird and Thomas Built provided unit cost estimates ranging from $200 to $300 for stop signal arms with different characteristics, e.g., reflectorized, with flashing lights, etc. and different means of activation. Blue Bird further explained that, based on its sales records for the 1989 model year, 67 percent of all its new school buses were equipped with a stop signal arm. Florida commented that it requires two stop signal arms for buses exceeding 23 feet and that the second arm costs between $125 and $200. Illinois, Hawaii, and Washington commented that the cost of installing the proposed stop signal arm compared to the sign they now require would not be significant. California stated the total cost of retrofitting its 21,400 buses would exceed $8 million.

The agency has revised its initial cost estimate based on the comments and additional information. It now estimates that the unit cost for requiring school buses to be equipped with a stop signal arm will be between $200 and $300. The agency also has modified its estimates about the number of school buses affected by this final rule. Based on the data supplied by Blue Bird, the agency believes that 33 percent of the 38,700 new school buses manufactured each year are not equipped with stop signal arms. Therefore, the agency now estimates that 12,800 new school buses will be affected by this final rule. Stop signal arms can be vacuum, air, or electrically operated. Blue Bird provided installation rates for the three types of systems for the 1989 model year as follows: Vacuum—18 percent; air—46 percent; and electric—36 percent. Estimating installed prices of $200, $250, and $300 for vacuum, air, and electrically-operated systems, respectively, and applying Blue Bird's installation rates for the three types of systems, produces an estimated annual cost of $3,315,000 for this rulemaking.

In response to California's concern about the costs for retrofitting school buses currently in use, NHTSA emphasizes that its safety standards apply to the manufacture and sale of new school buses. Therefore, this rulemaking does not require any State or local jurisdiction to install this device on school buses now in use.

As explained in the earlier discussion about the effectiveness of stop signal

arms, the agency estimates that the effectiveness of these devices ranges between 30 to 55 percent. Although no conclusive relationship can be demonstrated between illegal passes and injuries and fatalities, each illegal pass of a stopped school bus has the potential of striking a student in a loading zone. As elaborated in the FRE, requiring the installation of stop signal arms should reduce the number of illegal passes by millions of incidents each year.

NHTSA has considered the effects of this action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. School bus manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new school buses. However, any impact on small entities from this action will be minimal since the price increase resulting from this rule is approximately $200 to $300, a small fraction of the purchase price of a bus, which can range from $20,000 to more than $60,000. Accordingly, the agency has determined that preparation of a regulatory flexibility analysis is unnecessary.

NHTSA has also analyzed this rulemaking action for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

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

In its analysis, the agency considered the rulemaking's likely effect on the States and possible alternatives to the rulemaking. The agency has determined that States increasingly are requiring school buses to be equipped with a stop signal arm, with 36 States now requiring them. Though the rule will result in school buses being equipped with this device in 14 States not now requiring them, the agency has determined that the rule is necessary to promote nationwide uniformity in sending the same signal to motorists traveling near stopped school buses. Of the twelve State organizations commenting on the proposal, all but the California DOE favored the rulemaking. In addition, the Tenth and Eleventh National Conferences on School Transportation, meetings attended by State representatives interested in pupil transportation, recommended that school buses be equipped with a stop signal arm. As this preamble explained earlier, the new Federal standard provides a minimum requirement that the States may exceed. In addition, few State commenters indicated the rule would pose a significant burden on them. Even the California Highway Patrol, which doubted the effectiveness of stop signal arms, acknowledged the importance of uniformity of highway controls, especially around school buses. Illinois, one of the few States that will have to modify its stop signal arm design, "strongly supported" the Federal Standard and stated the costs of modifying its devices would be minimal. NHTSA accordingly does not expect any significant adverse impact on the States from this rulemaking.

Alternatively, NHTSA could have discontinued this rulemaking and not required school buses to be equipped with a stop signal arm. Based on the agency's review of the rulemaking, including the commenters' general support for the rule and the national conference's endorsement of this device, the agency has decided that the Federalism implications are not significant enough to require the preparation of a Federalism Assessment or prevent the final rule's adoption.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 571.131, Federal Motor Vehicle Safety Standard No. 131, is added to read as follows:

§ 571.131 Federal Motor Vehicle Safety Standard No. 131; School bus pedestrian safety devices.

S1. *Scope.* This standard establishes requirements for devices that can be installed on school buses to improve the safety of pedestrians in the vicinity of stopped school buses.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries by minimizing the likelihood of vehicles passing a stopped school bus and striking pedestrians in the vicinity of the bus.

S3. *Application.* This standard applies to school buses.

S4. *Definitions.*

Stop signal arm means a device that can be extended outward from the side of a school bus to provide a signal to other motorists not to pass the bus because it has stopped to load or discharge passengers.

S5. *Requirements.* Each school bus shall be equipped with a stop signal arm meeting the requirements of S5.1 through S5.5 as depicted in Figure 1.

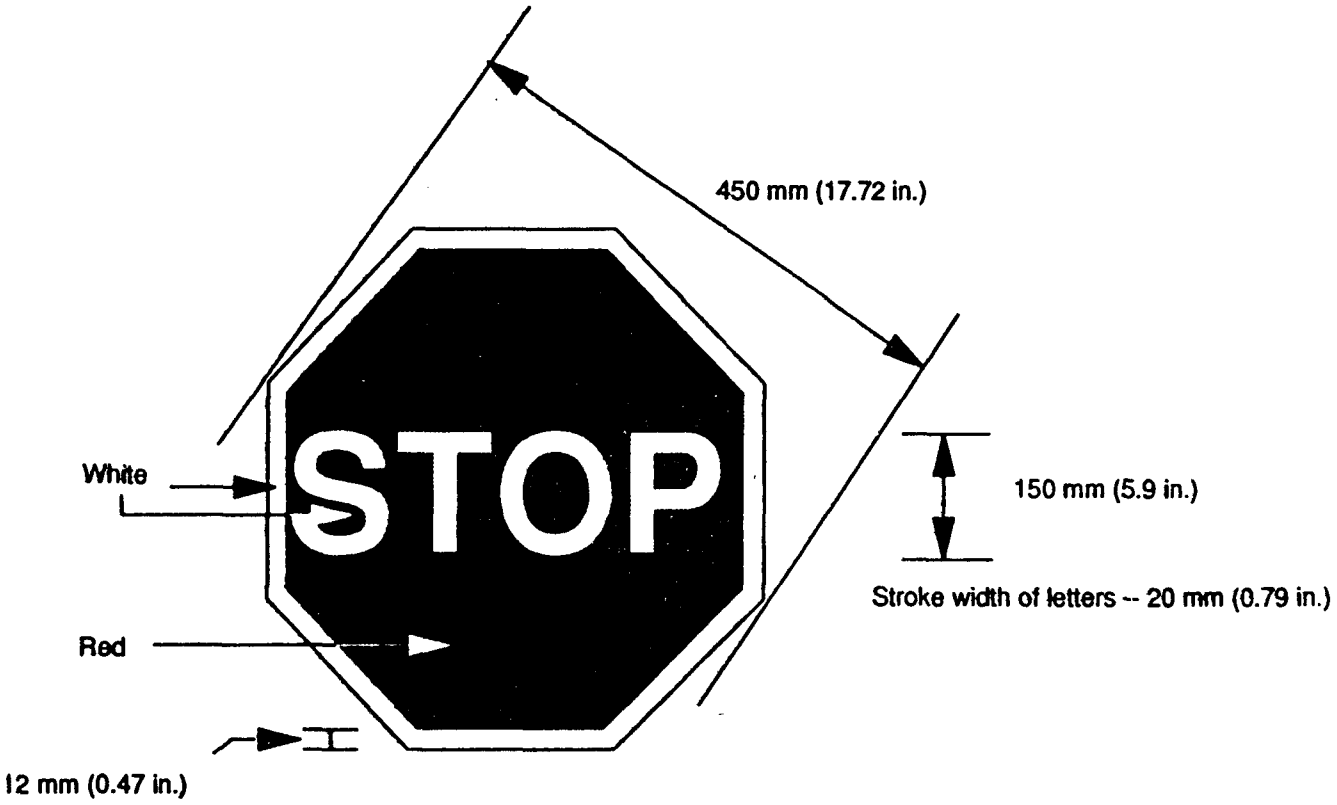

Figure 1. Characteristics of Stop Signal Device

S5.1 The stop signal arm shall be a regular octagon which is at least 450 mm×450 mm (17.72 inches×17.72 inches) in diameter.

S5.2 The stop signal arm shall be red on both sides, except as provided in S5.2.1 and S5.2.2, and S5.2.3.

S5.2.1 The stop signal arm shall have a white border at least 12 mm (0.47 inches) wide on both sides, except as provided in S5.2.3.

S5.2.2 The stop signal arm shall have the word "STOP" displayed in white upper-case letters on both sides, except as provided in S5.2.3. The letters shall be at least 150 mm (5.9 inches) in height and have a stroke width of at least 20 mm (0.79 inches).

S5.2.3 When two stop signal arms are installed on a school bus, the rearmost stop signal arm shall not contain any lettering, symbols, or markings on the forward side.

S5.3 *Conspicuity.* The stop signal arm shall comply with either S5.3.1 or S5.3.2, or both.

S5.3.1 The entire surface of both sides of the stop signal arm shall be reflectorized with type III retroreflectorized material that meets the minimum specific intensity requirements of S6.1 and Table 1. When two stop signal arms are installed on a school bus, the forward side of the rearmost stop signal arm shall not be reflectorized.

S5.3.2 Each side of the stop signal arm shall have at least two red lamps that meet the requirements of S6.2. The lamps shall be centered on the vertical centerline of the stop arm. One of the lamps shall be located at the extreme top of the stop arm and the other at its extreme bottom.

S5.4 The stop signal arm shall be installed on the left side of the bus.

S5.4.1 The stop signal arm shall be located such that, when in the extended position:

(a) The stop arm is perpendicular to the side of the bus, plus or minus five degrees;

(b) The top edge of the sign is parallel to and within 6 inches of a horizontal plane tangent to the lower edge of the driver's window frame; and

(c) The vertical centerline of the stop sign is at least 9 inches away from the side of the school bus.

S5.4.2 A second stop signal arm may be installed on a school bus. That stop signal arm shall comply with S5.4 and S5.4.1.

S5.5 The stop signal arm shall be automatically extended in such a manner that it complies with S5.4.1, at a minimum whenever the red signal lamps required by S5.1.4 of Standard No. 108 are activated; except that a device may be installed that prevents the automatic extension of a stop signal arm. The mechanism for activating the device shall be within the reach of the driver. While the device is activated, a continuous or intermittent signal audible to the driver shall sound. The audible signal may be equipped with a timing device requiring the signal to sound for at least 60 seconds. If a timing device is

used, it shall automatically recycle every time the service entry door is opened while the engine is running and the manual override is engaged.

S6 *Test Procedures.*

S6.1 *Reflectivity Test.* When tested under the conditions specified in S6.2 (b), (c), and (d) of Federal motor vehicle safety standard 125, Warning Devices, (49 CFR 571.125), the retroreflective materials shall meet the criteria specified in table 1.

TABLE 1.—MINIMUM SPECIFIC INTENSITY PER UNIT AREA (SIA)

(Candelas per Footcandle Per Square Foot)

Observation Angle (°)	Entrance Angle (°)	White	Red
Type III Retroreflective Element Material			
A—Glass Bead Retroreflective Element Material			
0.2	−4	250	45
0.2	+30	150	25
0.5	−4	95	15
0.5	+30	65	10
B—Prismatic Retroreflective Element Material			
0.2	−4	250	45
0.2	+30	95	13.3
0.5	−4	200	28
0.5	+30	65	10

S6.2 *Lighting Tests.*

S6.2.1 *Color.* The procedure shall be done in accordance with the Society of Automotive Engineers (SAE) J578, Color Specification (May 1988), 1990 SAE Handbook, Society of Automotive Engineers, Inc. Along with the incorporation by reference in S6.2.3, this incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096–0001. Copies may be inspected at Docket Room, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 or at the Office of the **Federal Register**, 1100 L Street, NW., room 8401, Washington, DC. When visually compared to the light emitted from a filter/source with a combination of chromaticity coordinates as explained in SAE J578, Color Specification (May 1988), within specific boundaries [y=0.33 (yellow boundary) and y=0.98—x (purple boundary)] the color of light emitted from the test object shall not be less saturated (paler), yellower, or purpler. The test object shall be placed perpendicular to the light source to simulate lamps on stop signal arms. In making visual comparisons, the light from the test object shall light one portion of a comparison field and the light from the filter/source standard shall light an adjacent area. To make a valid visual comparison, the two fields to be viewed shall be of near equal luminance.

S6.2.2 *Flash Rate.* The lamps on each side of the stop signal arm, when operated at the manufacturer's design load, shall flash at a rate of 60–120 flashes per minute with a current "on" time of 50 percent.

S6.2.3 *Vibration, Moisture, Dust, Corrosion, Photometry, and Warpage Tests.* The procedure shall be done in accordance with the Society of Automotive Engineers (SAE) J575, Tests for Motor Vehicle Lighting Devices and Components, (July 1983) and Society of Automotive Engineers (SAE) J1133, School Bus Stop Arm, (April 1984), 1990 SAE Handbook, Society of Automotive Engineers, Inc. Lamps and lighting components shall meet the criteria for vibration, moisture, dust, corrosion, photometry, and warpage in SAE J575, Tests for Motor Vehicle Lighting Devices and Components, (July 1983) and SAE J1133, School Bus Stop Arm, (April 1984) under the test conditions specified herein.

Issued on: April 25, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–10481 Filed 5–2–91; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 56, No. 86
Friday, May 3, 1991

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

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 51

[Docket Number FV-91-301]

Pistachio Nuts in the Shell; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would revise the United States Standards for Grades of Pistachio Nuts in the Shell. The proposed would add a fourth grade, U.S. No. 3 to the present standard. The Western Pistachio Association, a trade association representing major pistachio nut growers and packers in the United States, has requested the USDA to make these changes to bring the standards in line with current marketing trends. These changes would improve marketing information and communication between shippers and receivers of pistachio nuts in the shell. The Agricultural Marketing Service (AMS) has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

DATES: Comments must be postmarked or courier dated on or before July 2, 1991.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Thomas G. Gambill, at the above address or call (202) 447-5024.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "nonmajor" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 602 et seq.), the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entites. This proposed rule for the revision of U.S. Standards for Grades of Pistachio Nuts in the Shell will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary.

The United States Standards for Grades of Pistachio Nuts in the Shell were established in August 1984. The standards are covered under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). Industry representatives have requested that the standards be revised to add a new grade, U.S. No. 3, to the existing standards.

The growers and shippers represented by the Western Pistachio Association requested a revision because the present standards do not, in their judgement, reflect current marketing practices. They believe that this proposed revision would give the industry grade standards that would reflect today's modern marketing and packaging methods.

According to the Western Pistachio Association, the addition of a fourth grade would allow the industry to maintain the integrity and quality of the edible kernels and still allow the industry to supply a product to the market having more shell staining persent. Freshly harvested pistachio nuts normally have freshy hull material attached to the shell. If this hull material is not removed within a reasonable amount of time following harvest, the shells may become discolored or stained by tannins and oils leaching from the hulls.

Although this staining may affect the appearance of the shell, it is not believed to indicate any adverse affect on the kernel. Therefore, the proposed U.S. No. 3 grade utilizes the same internal (kernel) specifications found in the current U.S. No. 2 grade, maintaining the integrity and quality of the kernel, but provides for a greater percentage of stained shells in a lot. Also, two external defect tolerances other than for staining would be increased to allow for more defects than would be allowed for the U.S. No. 2 grade. This allows lots which may not be marketed through normal channels only due to external appearances to be marketed with the edible kernel being the focal point of the grade.

Specifically, four different factors listed in Table 1 would have increased tolerances under the new grade. Letter (a), Non-split and not split or suture, would be increased to allow 10 percent. Letter (c), light stained, would be increased to allow for 35 percent including numeral (1), Dark stained, which would be increased to allow for 6 percent. In addition, letter (d), Damage by other means, would be increased to allow for a total of 2 percent. All other tolerances in Table I, as well as those listed in Tables II and III will remain the same as those presently designated for the U.S. No. 2 grade.

In addition, the grade designation of U.S. No. 3 also meets the requirements of the Uniform Grade Nomenclature Policy for United States Standards for Grades of Fresh Fruits, Vegetables, Nuts and other Special Products (41 FR 21335) established July 1, 1976.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 be amended to read as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as

amended, 1090 as amended; 7 U.S.C. 1622, 1624, unless otherwise noted.

2. In Subpart—United States Standards for Grades of Pistachio Nuts in the Shell, § 51.2541 is amended by revising the introductory text to read as follows:

§ 51.2541 Grades.

"U.S. Fancy," "U.S. No. 1," "U.S. No. 2," and "U.S. No. 3" consist of pistachio nuts in the shell which meet the following requirements.

* * * * *

3. Section 51.2542 Tolerances is amended by revising Table I, II, and III in paragraph (a) to read as follows:

§ 51.2542 Tolerances.

(a) * * *

TABLE I

Factor: External (shell) defects (tolerances by weight)	U.S. fancy (percent)	U.S. No. 1 (percent)	U.S. No. 2 (percent)	U.S. No. 3 (percent)
(a) Non-split and not split on suture	2	3	6	10
(1) Non-split included in (a)	1	2	4	4
(b) Adhering hull material	1	1	2	2
(c) Light stained	7	12	20	35
(1) Dark stained included in (c)	2	3	4	6
(d) Damage by other means	1	1	1	2
(e) Less than 26/64 inch in diameter:				
(1) Small size	5	5	5	5
(2) Medium, Large, Extra Large sizes	1	1	1	1

TABLE II

Factor: Internal (kernel) defects (tolerances by weight)	U.S. fancy (percent)	U.S. No. 1 (percent)	U.S. No. 2 (percent)	U.S. No. 3 (percent)
(a) Damage	3	6	8	80
(b) Serious Damage	3	4	5	5
(1) Insect damage, included in (b)	1	2	3	3
Total internal defects shall not exceed	5	9	10	10

TABLE III

Factor: Other defects (tolerances by weight)	U.S. fancy (percent)	U.S. No. 1 (percent)	U.S. No. 2 (percent)	U.S. No. 3 (percent)
(a) Shell pieces and blanks	1	1	2	2
(b) Foreign material (No glass, metal, or live insects shall be permitted)	.25	.25	.50	.50
(c) Particles and dust	.25	.25	.25	.25

(b) * * *

Dated: April 30, 1991.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 91-10533 Filed 5-2-91; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

7 CFR Parts 800 and 810

RIN 0580-AA12

U.S. Standards for Canola

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes to establish United States Standards for Canola under the authority of the U.S. Grain Standards Act, as amended (USGSA). Under the USGSA canola seed shipped outside the United States must be officially inspected and weighed, except under certain provisions of the USGSA and in § 800.18 of the regulations. Official inspection and weighing would be available, upon request, for domestic shipments.

DATES: Comments must be submitted on or before July 2, 1991.

ADDRESSES: Written comments must be submitted to Allen Atwood, FGIS, USDA, Room 0628-S, Box 96454, Washington, DC 20090-6454; telemail users may respond to (IRSTAFF/FGIS/USDA) telemail; telex users may respond to Allen Atwood, TLX: 7607351, ANS:FGIS UC; and telecopy users may send responses to the automatic telecopier machine at (202) 447-4628.

All comments received will be made available for public inspection at room 0628 South Building, 1400 Independence Avenue, SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Allen Atwood, address as above, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform those services do not meet the requirements for small entities.

Background

For centuries, rapeseed oil has been used in foods and as a cooking oil. Currently, world production of rapeseed oil ranks third behind only soybean and

palm oil (Ref. 1). The existence of both winter and spring varieties of rapeseed has led to a wide area of adaptation. Rapeseed varieties are grown in the European Economic Community, China, Canada, India, Eastern Europe, and the United States. In the United States, the production area spreads from as far south and east as Alabama, Kentucky, and Tennessee, across the upper Midwest to the Pacific Northwest.

Rapeseed is a complex crop including not one but three botanical species, *Brassica napus* L., *B. campestris* L., and *B. juncea* L. Moreover, the botanical classification has become even more complicated due to the genetic altering of these species to create new varieties with varying levels of erucic acid and glucosinolates.

The long-chain fatty acid, erucic acid ($C_{22}H_{43}O_2$), is a component of rapeseed and its oil. A high level of erucic acid is desired for the production of certain chemicals, industrial lubricants, fully hydrogenated rapeseed oil, and superglycerinated fully hydrogenated rapeseed oil. A low level is desired for the production of salad and vegetable oils, margarine, and shortening. Glucosinolates, sulfur-containing anions, are components of both the seed and meal of rapeseed. Low levels of glucosinolates are desired in meal products.

Currently, there are rapeseed varieties with levels of high erucic acid and low glucosinolates (HEAR/LG), high erucic acid and high glucosinolates (HEAR/HG), low erucic acid and high glucosinolates (LEAR/HG), and low erucic acid and low glucosinolates (LEAR/LG). Some specific types of LEAR/LG varieties are known as canola. As presently defined in the Canadian Seed Regulations, canola oil must contain less than 2 percent erucic acid in its fatty acid profile, and the solid component must contain less than 30 micromoles per gram of glucosinolates in the meal (Ref. 2). In 1987, the Canadian Government amended its regulations to make "canola" the name in Canada for the plant source from which low erucic acid food-grade oil and low glucosinolate meal are derived. In addition, in 1988, the Food and Drug Administration revised its regulations (21 CFR 184.1555(c)) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 30 *et seq.*) "to recognize canola oil as the alternate common or usual name of low erucic acid rapeseed oil" (53 FR 52681; December 29, 1988). Section 184.1555(c)(1) provides that, "* * * chemically, low erucic acid rapeseed oil is a mixture of triglycerides, composed of both saturated and unsaturated fatty acids, with a erucic acid content of no more than 2 percent of the component fatty acids."

Although most supplies of canola are imported from Canada, production in the U.S. is increasing. In 1989, U.S. producers planted an estimated 75,000 acres of canola. Estimates of the 1990 harvest range from 100,000 to 200,000 acres. If producers are successful in growing and marketing the 1989 and 1990 crops, industry economists forecast that U.S. production may increase to 5 million acres by 1995 (Ref. 3).

In the past 2 years, U.S. consumption of canola oil has more than doubled. In 1989, the U.S. consumed an estimated 550 million pounds of canola oil, 80 percent of which was imported from Canada (Ref. 4). Consumer interest in canola oil has grown due to its nutritional characteristics. It is low in saturated fat (6 percent) compared to corn oil (13 percent), olive oil (14 percent), soybean oil (15 percent), and palm oil (51 percent) (Ref. 5). Canola oil is also characterized by a relatively high level of a monounsaturated fatty acid, oleic acid, and an intermediate level of the polyunsaturated fatty acids, linoleic and linolenic acids.

The use of canola meal has also increased in the U.S. In 1989, canola meal usage in the U.S. exceeded 270 thousand metric tons versus 140 thousand metric tons in 1985 (Ref. 6). Canola meal is used as a component of swine and poultry rations. Based on nutrient content and a unit weight basis, canola meal is worth 70 to 75 percent of the value of 44 percent soybean meal for feeding poultry and approximately 75 to 80 percent of the same for feeding swine and ruminants (Ref. 7).

Comment Review

As a result of growing interest in canola varieties of rapeseed in the U.S., FGIS requested public comments on the need for rapeseed standards in the May 30, 1989, **Federal Register** (54 FR 22924). Although FGIS specifically requested comments on the need for rapeseed standards, it stated that "FGIS is considering using the term "Canola" in standards for rapeseed varieties from which canola oil is derived." FGIS received a total of 11 comments during the 90-day comment period. The comments were submitted from all segments of the canola/rapeseed industry including producer and trade associations, foreign buyers, an inspection agency, a food manufacturing company, and a research association.

On the basis of these comments and other available information, FGIS proposes to establish U.S. Standards for Canola under the authority of the USGSA, as amended, to provide uniform Federal inspection procedures and to facilitate marketing of the crop. Under the USGSA, canola seed shipped outside the United States must be officially inspected and weighed, except under certain provisions of the USGSA and in § 800.18 of the regulations. Official inspection and weighing would be available, upon request, for domestic shipments.

Canola and/or Rapeseed Standards

Ten commentors were in favor of the establishment of canola and/or rapeseed standards. Only one commentor representing a foreign oilseed processing interest was not in favor of establishing standards. This commentor suggested that there is no need to establish numerical grading standards, and that, by offering tests for oil, moisture, erucic acid, free fatty acids, and glucosinolates, FGIS would satisfactorily facilitate marketing. The remaining 10 commentors, however, provided strong support for a numerical grading system. In brief, they suggested that the U.S. canola/rapeseed market will benefit by having established quality standards and that the development of official standards is both timely and appropriate. Also, from experience with other grains and oilseeds, FGIS has determined that numerical grades provide a relatively simple and reliable mechanism which facilitates the marketing of grains and oilseeds.

While 10 commentors supported the establishment of standards, several of those commentors were specifically in favor of canola standards, and several commentors were in favor of rapeseed standards. It should be noted that current U.S. markets for rapeseed can be served with production from 40,000 acres and marketing potential appears limited (Ref. 8). Furthermore, most of U.S. rapeseed is produced under contract to processing facilities. Based on limited production and market potential and current trading practices, FGIS believes there is no need to establish rapeseed standards other than for the canola varieties. If the need should arise, FGIS would consider proposing rapeseed standards at a later date. Consequently, FGIS proposes to establish United States Standards for the canola varieties of rapeseed.

FGIS proposes to require that each canola inspection for grade include screening for glucosinolates. Those lots which test high for glucosinolates will be graded as not standardized grain. Due to the current absence of a rapid

screening method, FGIS will not routinely test canola lots for erucic acid content as part of the inspection for grade. Except, in those instances where an applicant requests a test for erucic acid content, inspectors will issue a statement in the "Remarks" section of official certificates indicating that each lot was not tested for erucic acid content. However, FGIS will monitor a percentage of all canola inspections for glucosinolate and erucic acid levels. FGIS will use that monitoring program to identify any specific incidence where non-canola varieties of rapeseed are represented as canola.

Standards and Regulations Review: Proposed Action

Accordingly, it is proposed that official United States Standards for Canola be established under the USGSA as authorized pursuant to section 4(a) of the Act (7 U.S.C. 76). The format and structure of the proposed standards are uniform with other standards under the Act.

Specifically, the proposal divides the standards into 5 parts, and into sections, which are generally the same or similar to sections in other U.S. Standards for Grain. Part I, *Terms Defined,* would consist of § 810.301, *Definition of canola,* and § 810.302, *Definition of other terms,* which includes the terms conspicuous admixture, damaged kernels, distinctly green kernels, dockage, ergot, heat-damaged kernels, inconspicuous admixture, sclerotia, and sclerotinia. Part II, *Principles Governing the Application of Standards,* would consist of § 810.303, *Basis of determination,* which references certain quality determinations together with all other determinations. Part III, *Grades and Grade Requirements,* would consist of § 810.304, *Grades and grade requirements for canola,* which gives the actual grading chart. Part IV, *Special Grades and Special Grade Requirements,* would consist of § 810.305, *Special grades and special grade requirements,* which includes the special grade of garlicky canola. Part V, *Nongrade Requirements,* would consist of § 810.306, *Nongrade requirements,* which includes the nongrade requirement of glucosinolates.

In § 810.303, *Basis of determination,* determinations of total damaged kernels, heat-damaged kernels, distinctly green kernels, total conspicuous admixture, ergot, sclerotinia, stones, and inconspicuous admixture are made on the basis of the canola sample when free from dockage. Other determinations are made on the basis of the oilseed as a whole. However, the determination of odor is made on either the basis of the oilseed as a whole or the oilseed when free from dockage. Additionally, determinations of erucic acid, when requested, and glucosinolates are made on the basis of the canola sample according to procedures prescribed in FGIS instructions.

Except for ergot, sclerotinia, and stones, all percentages would be stated to the nearest tenth of a percent. Ergot, sclerotinia, and stones would be stated to the nearest hundredth of a percent. Percentages on the basis of count would be calculated by dividing the number of unsound kernels by the total number of seeds in the representative portion and multiplying by 100. Percentages on the basis of weight would be calculated by dividing the weight of the material removed by the weight of the representative portion and multiplying by 100.

Section 810.304 includes three numerical grades and a Sample grade. The grading factors in the proposed standards are heat damaged kernels, distinctly green kernels, total damaged kernels, ergot, sclerotinia, stones, total conspicuous admixture, and inconspicuous admixture. For export, it is proposed that dockage be included as a grading factor. This would be consistent with the Canadian inspection procedure and marketing practices.

Section 810.305 includes one special grade, garlicky canola. Section 810.306 includes the nongrade requirement of glucosinolates which would be ascertained during the inspection process and shown on the official inspection certificate for grade.

Furthermore, FGIS proposes to revise § 800.162(a)(2) of the Regulations under the USGSA, as amended, and § 810.102(d) of the Official United States Standards for Grain to indicate that test weight would not be an official factor in the canola standards. Test weight is extremely variable in canola and has not been shown to be correlated to the end-use value of the seed.

Additionally, FGIS proposes to revise § 800.0(b)(42) of the Regulations under the USGSA, as amended, to include canola and sunflower seed in the definition of grain. The United States Standards for Sunflower Seed were established in 1984 (49 FR 22761). In addition, the authority citation for Part 810 would be amended for clarity.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b)(1) of the USGSA (7 U.S.C. 76(b)), upon request, such information may be presented orally in an informal manner. It should be noted that pursuant to section 4(b) of the USGSA, no standards established or amendments or revocations of standards under the USGSA are to become effective less than 1 calendar year after promulgation unless, in the judgement of the Administrator, the public health, interest, or safety requires that they become effective sooner. FGIS is considering that in the public interest an effective date of less than 1 calendar year after promulgation would be warranted. An early effective date would facilitate domestic and export marketing and allow implementation during this crop year of any standards that may be adopted. FGIS, therefore, anticipates that any standards, if adopted, would be effective 30 days after promulgation.

References

(1) _____, "Canola Emerges as Significant Source of Edible Oil in U.S.," Milling and Baking News, July 25, 1989.
(2) Canadian Grain Commission, "Canadian Canola Cargoes," Quality of Canadian Canola and Flaxseed Cargoes, 3–4.
(3) Kohn, F., "Is Canola Coming," Soybean Digest, March, 1989, 8–10.
(4) Novak, J., "The Canola Caper," Forbes, October 16, 1989, 132.
(5) United States Department of Agriculture, Agricultural Handbook No. 8–4 and Human Nutrition Information Service, 1979.
(6) Dixon, P., "U.S. Production-What's the Potential," presentation to the Canola Council of Canada's Annual Convention on March 20–22, 1989.
(7) Canola Council of Canada, "Canola: The Specifics," Canada's Canola, 19–21.
(8) Prato, T., "Production, Processing and Marketing Potential for Repeseed in the Pacific Northwest," CIS 818, 1988.

List of Subjects

7 CFR Part 800

Administrative practice and procedure, Grain.

7 CFR Part 810

Exports, Grain.

For reasons set out in the premable, 7 CFR parts 800 and 810 are proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.0(b)(42) is revised to read as follows:

§ 800.0 Meaning of terms

* * * * *

(b) * * *

(42) *Grain.* Corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, triticale, mixed grain, sunflower seed, canola, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of the Act.[1]

* * * * *

3. Section 800.162(a)(2) is revised to read as follows:

§ 800.162 Certification of grade; special requirements.

(a) * * * (2) The test weight of the grain, if applicable; * * *

* * * * *

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

4. The authority citation for part 810 is revised to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

5. Section 810.101 is revised to read as follows:

§ 810.101 Grains for which standards are established.

Grain refers to barley, canola, corn, flaxseed, mixed grain, oats, rye, sorghum, soybeans, sunflower seed, triticale, and wheat. Standards for these food grains, feed grains, and oilseeds are established under the United States Grain Standards Act.

6. Section 810.102(d) is amended by revising the last sentence and adding a new sentence following the last sentence to read as follows:

§ 810.102 Definition of other terms.

* * * * *

(d) * * * Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds, with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

7. Section 810.104(b) is amended by revising the seventh sentence to read as follows:

§ 810.104 Percentages.

* * * * *

(b) * * * The percentage of smut in barley, sclerotinia, and stones in canola, and ergot are reported to the nearest hundredth percent. * * *

8. Section 810.107(b) heading and introductory text are revised to read as follows:

§ 810.107 Special grades and special grade requirements.

* * * * *

[1] See original footnote to paragraph (b)(3).

(b) *Infested barley, canola, corn, oats, sorghum, soybeans, sunflower seed, and mixed grain.* Tolerances for live insects responsible for infested barley, canola, corn, oats, sorghum, soybeans, sunflower seed, and mixed grain are defined according to sampling designations as follows:

* * * * *

9. Subparts C through L are redesignated as subparts D through M.

10. New subpart C is added to read as follows:

Subpart C—United States Standards for Canola

Terms Defined

810.301 Definition of canola.
810.302 Definition of other terms.

Principles Governing the Application of Standards

810.303 Basis of determination.

Grades and Grade Requirements

810.304 Grades and grade requirements for canola.

Special Grades and Special Grade Requirements

810.305 Special grades and special grade requirements.

Nongrade Requirements

810.306 Nongrade requirements.

Subpart C—United States Standards for Canola

Terms Defined

§ 810.301 Definition of canola.

Seeds of the *Brassica* species from which the oil shall contain less than two percent erucic acid in its fatty acid profile, and the air-dried, oil free meal shall contain less than 30.0 micromoles per gram of glucosinolates. Before the removal of dockage, the seed shall contain not more than 10.0% of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.302 Definition of other terms.

(a) *Conspicuous Admixture.* All matter other than canola which is conspicuous and readily distinguishable from canola and which remains in the sample after the removal of dockage.

(b) *Damaged Kernels.* Canola and pieces of canola that are heat-damaged, distinctly green damaged, frost damaged, or completely rime damaged.

(c) *Distinctly green kernels.* Canola and pieces of canola which, after being crushed, exhibit a distinctly green color.

(d) *Dockage.* All matter other than canola that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS instructions. Also, underdeveloped, shriveled, and small pieces of canola kernels removed in properly separating the material other than canola and that cannot be recovered by properly rescreening or recleaning.

(e) *Ergot.* Sclerotia (sclerotium, sing.) of the fungus, *Claviceps* species. Ergot sclerotia are associated with seed other than canola where, unlike in *Sclerotinia*, the fungal organism has replaced the seed.

(f) *Heat-damaged kernels.* Canola and pieces of canola which, after being crushed, exhibit that they are discolored and damaged by heat.

(g) *Inconspicuous admixture.* Any seed which is difficult to distinguish from canola. This includes, but is not limited to, common wild mustard (*Brassica kaber* and *B. juncea*), domestic brown mustard (*Brassica juncea*), yellow mustard (*B. hirta*), and seed other than the mustard group.

(h) *Sclerotia (Sclerotium, sing.).* Dark colored or black resting bodies of the fungi *Sclerotinia* and *Claviceps.*

(i) *Sclerotinia.* Genus name which includes the fungus *Sclerotinia sclerotiorum* which produces sclerotia. Canola seed is only infrequently infected, and the sclerotia, unlike sclerotia of ergot, are usually associated within the stem of the plants.

Principles Governing the Application of Standards

§ 810.303 Basis of determination.

Each determination of conspicuous admixture, ergot, sclerotinia, stones, damaged kernels, heat-damaged kernels, distinctly green kernels, and inconspicuous admixture is made on the basis of the canola sample when free from dockage. Other determinations not specifically provided for under the general provisions are made on the basis of the oilseed as a whole, except the determination of odor is made on either the basis of the oilseed as a whole or the oilseed when free from dockage. The content of glucosinolates and erucic acid is determined on the basis of the canola sample according to procedures prescribed in FGIS instructions.

§ 810.304 Grades and grade requirements for canola.

GRADES AND GRADE REQUIREMENTS

Grading Factors	Grades U.S. Nos.		
	1	2	3
	Maximum percent limits of:		
Damaged Kernels:			
Heat damaged	0.1	0.5	2.0
Distinctly green	2.0	6.0	20.0

GRADES AND GRADE REQUIREMENTS—Continued

Grading Factors	Grades U.S. Nos.		
	1	2	3
Total	3.0	10.0	20.0
Conspicuous Admixture:			
Ergot	0.05	0.05	0.05
Sclerotinia	0.05	0.10	0.15
Stones	0.10	0.10	0.10
Total	1.0	1.5	2.0
Inconspicuous Admixture	5.0	5.0	5.0
Dockage (Export Only)	2.0	2.0	2.0
	Maximum count limits of:		
Other Material:			
Animal filth	3	3	3
Glass	0	0	0
Unknown foreign substance	1	1	1

U.S. Sample grade
Canola that:
(a) Does not meet the requirements for U.S. Nos 1, 2, 3; or
(b) Has a musty, sour, or commercially objectionable foreign odor; or
(c) Is heating or otherwise of distinctly low quality.

Special Grades and Special Grade Requirements

§ 810.305 Special grades and special grade requirements.

Garlicky canola. Canola that contains more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in a 1,000 gram portion.

Nongrade Requirements

§ 810.306 Nongrade requirements.

Glucosinolates. Content of glucosinolates in canola is determined according to procedures prescribed in FGIS instructions.

Dated: April 1, 1991.

John C. Fottz,

Administrator.

[FR Doc. 91-10454 Filed 5-2-91; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1205

[CN-91-004]

Amendment to the Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Procedure for the Conduct of Referenda in Connection with Cotton Research and Promotion Orders to provide for the participation of importers of cotton and cotton products in referenda. The proposed revision would add regulations for importers to vote in the referenda to the current regulations that apply to cotton producers. The provisions of the Cotton Research and Promotion Act Amendments of 1990 which called for importers to participate in referenda are to be implemented by this amendment to the Procedure for the Conduct of Referenda in Connection with Cotton Research and Promotion Orders. Referenda for cotton producers and cotton importers would be necessary as specified by the Act to implement, continue, suspend, or terminate the order or provisions thereof.

DATES: Written comments concerning the proposed rule must be sent in triplicate and received no later than May 20, 1991.

ADDRESSES: Written comments should be sent to: Ronald H. Read, USDA, AMS, Cotton Division; P.O. Box 96456; room 2641-S; Washington, DC 20090-6456. All comments will be made available for public inspection at the office of the docket clerk during regular business hours. All comments should reference the date and page of the Federal Register publication. In addition, comments concerning the information collection requirements should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention Desk Officer for Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Ronald H. Read, 202-447-2145.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action contained in the order.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this proposed action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 35,000 producers who are presently subject to the Cotton Research and Promotion Order. There are also an estimated 10,000 importers who may become subject to the order. The majority of these producers and importers would be classified as small businesses under the criteria established by the Small Business Administration.

This proposal would amend the Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders to provide for the participation of importers of cotton and cotton containing products in referenda. The proposed revisions would add procedures for importers to vote in the referenda to the current procedures which apply to cotton producers. The inclusion of importers in referenda is in accordance with the Cotton Research and Promotion Act Amendments of 1990. Under this proposal, producers and importers would have an opportunity to submit referendum ballots. The economic impact of this procedure is not expected to be significant.

Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

In compliance with the office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) and section 3504(h) of that Act, the information and paperwork requirements contained in this subpart have been submitted to OMB for review. It is estimated that approximately 35,000 producers and 10,000 importers would be eligible to vote in a referendum. It is estimated that an average of .10 hours will be required to complete each ballot. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Agricultural Marketing Service, USDA.

This proposal would amend the Procedure for the Conduct of Referenda in Connection Wtih Cotton Research and Promotion Orders (7 CFR 1205.200-1205.210) to: (1) Include terminology pertaining to importers of cotton in defintions; (2) set forth the responsibilities of agencies involved in conducting referenda; (3) establish voting eligibility of importers; (4) establish voting procedures for importers; (5) revise procedures for canvassing of ballots; (6) revise procedures for reporting the results or referenda; (7) provide for the disposition of ballots and records; and (8) provide for additional instructions and forms.

The Cotton Research and Promotion Act Amendments of 1990 (subtitle G of title XIX of the Food, Agriculture, Conservation and Trade Act of 1990, Pub. L. 101-624, November 28, 1990)

require the Secretary of Agriculture to conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, and persons who are importers of cotton and who, during a 12 month period ending not later than 90 days prior to the conduct of the referendum imported a quantity of cotton with a value in excess of the de minimis value, if any, established by the Secretary. The referendum is for the purpose of determining if a majority of those voting approve a proposed amendment to the order issued by the Secretary after a notice and opportunity for public comment. The proposal would implement the provisions of the Cotton Research and Promotion Act Amendments of 1990. The Secretary is to announce the results of the referendum within 30 days after the date of such referendum. Such a referendum would be conducted on a date to be announced by the Secretary. Referenda of cotton producers and cotton importers would also be necessary as specified by the Act to implement, continue, suspend, or terminate the order or provisions thereof.

Written comments are requested from interested persons on the proposed and is necessary so that the U.S. Department of Agriculture and the cotton industry may begin planning for a referendum to be held as soon as possible. Referendum planning and procedures take considerable time to complete. Early establishment of any procedures that may be adopted as a result of this rulemaking, should prevent unnecessary delay in conducting the referendum. Also early establishment should prevent from the referendum, thereby assisting in timely implementation of the Act amendments of 1990.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authoritity for part 1205 is revised to read as follows:

Authority: Cotton Research and Promotion Act, as amended; 7 U.S.C. 2101–2118.

2. Section 1205.200 is revised to read as follows:

§ 1205.200 General

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a cotton research and promotion order, or the termination of suspension of such an order, is approved or favored by producers, and importers if subject to an order, and referenda for the purpose of ascertaining whether producers and importers approve or favor the continuance of provisions of the proposed amendment to the order implementing the Cotton Research and Promotion Act Amendments of 1990 shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

3. Section 1205.201 is amended by revising paragraphs (a) and (n) and adding paragraphs (q), (r) and (s) to read as follows:

§ 1205.201 Definitions.

(a) *Act* means the Cotton Research and Promotion Act, as amended (7 U.S.C. 2101–2119; Pub. L. 89–502, 80 Stat. 279, as amended).

* * * * *

(n) *Upland Cotton* means all cultivated varieties of *Gossypium hirsutum L.*

* * * * *

(q) (1) *Importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States.

(2) *Import* means any such entry.

(r) *Cotton* means all Upland cotton harvested in the United States and imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term "cotton" shall not, however, include any entry of imported cotton by an importer which has a value less than the minimis value established by the Secretary and industrial products that are not made readily available to the consumer through normal marketing channels.

(s) *Customs Service* means the United States Customs Service of the United States Department of Treasury.

4. Section 1205.202 is amended by revising paragraphs (a)(2) and (a)(3), and adding paragraphs (a)(5) and (c) to read as follows:

§ 1205.202 Agencies through which a referendum shall be conducted.

(a) * * *

(2) Give producers and importers reasonable notice of the referendum—

(i) By utilizing without advertising expense, available media of public information (including, but not being limited to, press and radio facilities) announcing the dates, places, or methods of voting, and other pertinent information; and

(ii) By such other means as the Administrator may deem advisable.

(3) Provide ballots and related material to be used in the referendum to ASCS. The ballot—

(i) Shall provide for recording essential information for ascertaining whether the person voting is an eligible voter; and

(ii) May provide for recording the total amount of Upland cotton produced by the producer or the total amount of cotton imported by the importer during the appropriate representative period.

* * * * *

(5) Make available to importers through ASCS instructions on voting, an appropriate ballot and, except in the case of a referendum on the termination or suspension of an order, a summary of the terms and conditions of the order. The instructions on voting shall explain the appropriate method to be used in determining the amount of cotton imported during the representative period and shall specify whether such amount is to be entered on the ballot by the voter, subject to the following terms and conditions:

(i) The amount of cotton imported by an importer shall be determined from records of imports made available to the Administrator of AMS from the Customs Service or from another source determined by the Administrator.

(ii) For importer entities in which more than one importer is eligible to vote, the vote cast by each importer shall represent only the amount in weight or value of cotton imported by each eligible voter.

(iii) If an eligible importer is engaged in importation of cotton as more than one importer entity, such voter is entitled to only one vote but any vote cast by such voter shall represent the total amount, in weight or value. of cotton that is the voters share of cotton imported from each such importer entity: Provided, that only the importer entities for which records are maintained by the Customs Service or other source determined by the Administrator shall be considered unless the voter, prior to the expiration of the referendum period, establishes to the satisfaction of the Administrator the voters share, in weight or value, of the imported cotton.

* * * * *

(c) *Customs Service.* The Customs Service provides data to ASCS which identifies importers who import a value of cotton above the de minimis value of cotton established by the Secretary.

5. Section 1205.203 is amended by revising paragraph (a), by redesignating paragraph (b)(1) as paragraph (b)(1)(i),

by designating the undesignated paragraph immediately preceding paragraph (b)(2) as paragraph (b)(1)(ii), and by revising newly designated paragraph (b)(1)(i) to read as follows:

§ 1205.203 Voting eligibility.

(a) *Special eligibility requirements.* Each person who was engaged in the production of Upland cotton during the representative period and each person who was an importer of cotton and who, during a 12-month period ending not later than 90 days prior to the conduct of the referendum, imported a value of cotton in excess of the de minimis value of $220.99 per line item entry shall be eligible to vote in a referendum.

(b) *General eligibility requirements.* (1)(i) A person may qualify as an eligible voter by meeting the eligibility requirements, but no such person shall be entitled to more than one vote regardless of the number of importing entities or Upland cotton farms in which the person is interested or the number of communities, counties, or States in which are located farms in which such person is interested; *Provided, however,* That the individual members of a qualified partnership shall each have one vote, but the partnership as such shall not have a vote and an individual who qualifies as an eligible voter by reason of that individual's separate farming or importing operations will be entitled to one vote even though that person is interested in an organization such as (but not limited to) a corporation which is also eligible as a voter and entitled to one vote. A person who, as a guardian, administrator, executor, or trustee engages in the production of Upland cotton or the importation of cotton will be eligible to vote in such fiduciary capacity if, in such capacity, that person qualifies as an eligible voter.

(ii) * * *

* * * * *

6. Section 1205.204 is revised to read as follows:

§ 1205.204 Voting.

(a) *Place of voting.* The ASCS county office serving the county in which the producer's farm is located shall be the producer's polling place. The U.S. Department of Agriculture, ASCS, Washington, DC 20013 shall be the polling place for all cotton importers.

(b) *Register of eligible voters.* The county committee shall establish a register of known eligible producer voters prior to the referendum. The ASCS Kansas City Management Office shall establish a register of known eligible importer voters prior to the referendum.

(c) *Mailing of ballot to eligible voters.* Ballots shall be mailed by ASCS to all known eligible voters. Ballots may be obtained by producer voters from the appropriate ASCS county office and ballots may be obtained by importers from the U.S. Department of Agriculture, ASCS, attn: CGRD, P.O. Box 2415, Washington, DC 20013.

(d) *returning ballot to polling place.* Each person to whom a ballot is issued by mail or in person shall only be allowed to vote in the referendum by completing and signing the ballot, placing it in an envelope, and delivering or mailing it to the appropriate polling place. In order to be eligible for tabulation, voted ballots must be received at the polling place during the period established for holding the referendum. A ballot shall be considered to have been received during the referendum period if:

(1) In the case of the ballot delivered to the polling place, it was received in the office prior to the close of the work day on the final day of the referendum period; or

(2) In the case of a mailed ballot, it was postmarked not later than midnight of the final day of the referendum period and was received in the polling place prior to the start of canvassing the ballots.

(e) *Placing of ballots in ballot box.* Notwithstanding the fact that a ballot(s) may be later challenged by the county committee or a representative of ASCS, envelopes containing ballots received at the polling place during the referendum period shall remain unopened and shall be placed immediately in a ballot box provided by the county executive director for producers and ASCS office for importers. Such ballot box shall be arranged so that ballots cannot be read or moved without breaking the seal on the container.

7. Section 1205.205 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1205.205 Canvass of ballots.

(a) *Canvassing procedure.* Canvassing of returned ballots shall take place as soon as possible after the opening of the ASCS offices on the fifth day following the close of the referendum period. Such canvassing shall be in the presence of at least one member of the county committee for producer ballots or a representative of ASCS for importer ballots and shall be open to the public. The canvassing and ballots shall be handled in such a manner that no member of the public may see how any person voted in the referendum. The county committee member or representative of the ASCS shall supervise the opening of the sealed ballot box, the opening of the envelopes containing the ballots and a determination as to: The number of eligible voters favoring the order and where necessary, the amount of cotton represented by them; the number of eligible voters disapproving the order and, where necessary, the amount of cotton represented by them; the number of ballots cast by voters found to be ineligible to vote in the referendum; and the number of spoiled ballots. The ballots determined to be spoiled or cast by ineligible voters shall not be considered as approving or disapproving the order, and the persons who cast such ballots shall not be regarded as participating in the referendum.

* * * * *

(c) *Challenge of ballots.* A producer ballot may be challenged by the member of the county committee and the importer ballot may be challenged by the representative of the ASCS. Before a challenged ballot is either counted or declared invalid, a determination shall be made by the county committee member of representative of the ASCS as to the eligibility of the voter to vote in the referendum.

8. Section 1205.206 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 1205.206 Reporting results of referendum.

* * * * *

(c) The Deputy Administrator, state and county operations, ASCS or a designee shall transmit a written summary of ballots showing the results of the referendum of importers to the Director, Cotton Division, Agricultural Marketing Service, Washington, DC 20250 and maintain one copy of the summary where it will be available for public inspection for a period of 5 years following the end of the referendum period.

(d) The Director of the Cotton Division, AMS, shall prepare and submit to the Secretary a report as to the results of the referendum. The Secretary shall announce the results of the referendum within 30 days after the date of such referendum.

9. Section 1205.208 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 1205.208 Disposition of ballots and records.

(a) * * *

(b) The representative of the ASCS shall seal the voted ballots, challenged ballots found to be ineligible, spoiled

ballots, register sheets, and summary sheets for importers in one or more envelopes or packages, plainly marked with the identification of the referendum, and place them under lock and key in a safe place for a period of 45 calendar days after the referendum period. If no notice to the contrary is received by the end of such time, the voted ballots and challenged ballots shall be destroyed, but the registers and summary sheets shall be filed for a period of 5 years.

10. Section 1205.210 is revised to read as follows:

§ 1205.210 Additional instructions and forms.

The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart for the use of State and county committees or ASCS in conducting a referendum. Such additional instructions may include procedures for county and State committees or ASCS to report and announce the results of the preliminary count of the votes.

Dated: April 25, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-10213 Filed 5-2-91; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 108 and 120

Development Companies and Business Loans

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: Ordinarily, concerns primarily engaged in financing investments that are neither related nor essential to their operations are ineligible for SBA financial assistance. Thus, as a general rule, a small business concern applicant for assistance which is engaged in owning and leasing or proposing to own or lease real or personal property (holding company) to an otherwise eligible small business concern (operating company) is ineligible. See 13 CFR 120.101-2(e) and 13 CFR 108.8(d)(4). As an exception that rule SBA instituted an "alter ego rule". The " alter ego rule" presently permits holding companies to be eligible for SBA assistance if several qualifications are met. Among those qualifications is ownership by the same owners in the same proportion of the ownership interest in the holding company and the operating company.

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

DATES: Comments will be reviewed for sixty days following the date of publication of this notice.

ADDRESSES: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC 20416.

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

SUPPLEMENTARY INFORMATION: Ordinarily, concerns primarily engaged in financing investments that are neither related nor essential to their operations are ineligible for SBA financial assistance. Thus, as a general rule, a small business concern applicant for assistance which is engaged in owning and leasing or proposing to own or lease real or personal property (holding company) to an otherwise eligible small business concern (operating company) is ineligible. See 13 CFR 120.101-2(e) and 13 CFR 108.8(d)(4). As an exception to that rule SBA instituted an "alter ego rule". The "alter ego rule" presently permit a holding company to be eligible for SBA assistance if there is identity of ownership by the same owners in the same proportion of the ownership interest in the holding company and the operating company.

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

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

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

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

SBA is therefore proposing to broaden the scope of its interpretation of the statutory exception. Under this proposal SBA would require individual enumerated family members (father, mother, son, daughter, wife, husband, brother or sister) to own no less than 20% of the aggregate ownership interest in the operating concern, and that these enumerated family members own at least 80% of the aggregate ownership of the operating concern. If these requirements are met, any other enumerated family member of those owners could have an ownership interest in the applicant holding company without violating the requirement for identity of ownership. Under this proposal, one or more non-family members could own the remaining 20% interest in the applicant concern only if their ownership in the operating concern was identical and in the same proportion. This latter element of the proposal recognizes the possibility of ownership by key people in an otherwise family-owned business.

Thus, under this proposed rule, as many as five individual people who are related in the manner described in the statute could own as little as 20%

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

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

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

The proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35

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

Lists of Subjects

13 CFR Part 108

Loans to State and Local Development Companies

13 CFR Part 120

Loan programs/businesses; Small businesses.

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

1. The Authority Citation for part 108 would continue to read as follows:

Authority: Sections 308(c), 502, 503, 504, 505, of the Small Business Investment Act, 15 USC 687(c), 695, 696, 697, 697(a), 697(b).

2. The Authority Citation for part 120 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

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

§ 108.8 Borrowers requirements and prohibition.

* * * * *

(d) * * *

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

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

§ 120.101 Applicant business concern.

* * * * *

(e) * * *

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

Dated: April 2, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-10424 Filed 5-2-91; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 121

Small Business Size Standards; Petroleum Refining Industry

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to eliminate the 50,000 barrel per day (BPD) capacity limit as a component of the size standard for petroleum refining. Under this proposal the current requirement that a small petroleum refiner, including all affiliates, have no more than 1,500 employees would remain. The reduction to a single size criteria is compatible to the single size criteria used for all other industries. The single size criteria of 1,500 employees is a realistic size standard considering the structure of this industry, while the 50,000 BPD limitation unrealistically limits small firms in this industry to a level which is equivalent to 400 employees. In addition the elimination of the 50,000 BPD capacity will allow those refining firms now slightly below the capacity limit to expand their facilities without losing small business status, thus offsetting, in part, the economic based trend in recent years of a reduced small business share.

DATES: Comments must be submitted on or before June 3, 1991.

ADDRESSES: Written comments should be sent to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street, NW., 5th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Norman S. Salenger, Economist, Size Standards Staff, (202) 653–6373.

SUPPLEMENTARY INFORMATION: The size standard for the Petroleum Refining Industry, Standard Industrial Classification (SIC) code 2911, was first established by SBA in 1955 at 1,000 employees and refining capacity not in excess of 30,000 barrels per day (BPD). At that time, small refining firms accounted for 7.8 percent of the refining capacity as measured by output of the industry. By 1975, the capacity of the industry's small refining firms fell to 5.1 percent of the industry capacity. In 1975, SBA raised both components of the size standard to, respectively, 1,500 employees and 50,000 BPD capacity, thus restoring the small business share to 7.8 percent of the industry, the same that existed in 1955. By 1989 that share had declined to 6.7 percent. On a comparative basis, the small business share of all manufacturing industries is 20 percent.

In evaluating the appropriateness of a size standard, SBA compares industries to each other using various factors. The primary factors used in evaluating the appropriateness of this size standard were: industry competition, average size of firms, the distributon of firms by size, startup costs for ease of entry into the industry, and the small business market share of Federal procurement.

For manufacturing industries, SBA has adopted a 500-employee size standard as the starting point for analyzing the size standard appropriate for an industry given its industry structure. Five hundred employees is considered the "anchor standard" for manufacturing industries. About 75 percent of industries in the manufacturing industry division have a size standard of 500 employees. SBA adjusts the size standard applied to an industry from this anchor standard based on an analysis of the primary factors discussed above. The highest size standard SBA has is 1,500 employees. Of all industries with SBA size standards, only petroleum has two elements.

For the Petroleum Refining Industry, the highest size standard of 1,500 employees appears to be appropriate based on the following factors: The average size petroleum firm, which includes all affiliates, was approximately 3,000 employees according to the 1987 Census of Manufacturers. This figure is many times larger than the 60-employee average size firm for all of the manufacturing industries and high average firm size argues for a high size standard. The ten largest refining firms, each with over 400,000 BPD capacity, account for 55 percent of the industry's capacity and each has over 5,000 employees. Nine of these top firms are among the largest in the Fortune 500 and each has broad marketing operations supplementing its refinery operations. On the other hand, those refining firms with less than 1,500 employees account for only 6.7 percent of the industry's refining capacity as measured by output, a much smaller share than either the 20 percent figure for all of manufacturing or the 38 percent figure for all industries aggregated together. When the small business percent of sales is very low as in petroleum refining, SBA often considers raising the size standard to achieve a more comparable small business share of industry sales when contrasted with other industries.

The Petroleum Refining Industry is one of predominantly very large firms that have the potential to control output and prices within the industry and in such cases, SBA tends to set relatively high size standards to encourage firms in a broad range of sizes to compete with the very large firms dominating the industry. Additionally, start-up costs for a firm entering the industry run into the millions of dollars, and the higher an industry's start-up costs, the more likely that SBA will set a higher size standard. From a procuring standpoint, the small business share of Federal procurements to petroleum refiners based on direct purchases for FY 1989 was 16.2 percent of all direct awards and an estimated 12 to 13 percent of all awards (including purchases from dealers who, in turn, usually provide products from large petroleum producers). These figures are significantly less than the small business share of 19.5 percent of Federal awards to all industries, suggesting that the present double component size standard could be too restrictive. Reinforcing this observation are a number of factors which have adversely affected small firm participation in the industry over time.

Trends in the Industry Over Time

Between 1979 and 1989 the numbers of refineries in all size classes below 100,000 BPD capacity decreased from 268 refineries to 144, while those of over 100,000 BPD capacity increased from 51 to 55 refineries. This suggests that, in this industry, economies of scale, a desirable size for an establishment to be competitive, is in excess of 100,000 BPD. The three largest refining firms operate, in total, 22 refineries averaging approximately 175,000 BPD capacity per refinery, giving further indication that the economies of scale for a single refinery are close to that level. It takes about 1,400 employees to refine 175,000 BPD, further supporting a 1,500-employee size standard, as well as suggesting a need to remove the current 50,000 BPD limit as part of the size standard. Using an average of 125 BPD per employee in the refining industry, a 50,000 BPD limitation is equivalent to a 400-employee size standard.

Between 1975 and the end of 1989, the smaller refiner share of the industry capacity declined from 7.8 percent to 6.7 percent, reflecting a period where many small refineries simply shut down for economic reasons. In particular, the majority of refineries with under 50,000 BPD ceased operations and the largest percentage lost was refineries of under 10,000 BPD capacity indicating the inefficiency of very small refineries. Table 1 focuses on the change in the industry structure over the 5-year period from the end of 1984 through the end of 1989 by size of firm. This table shows an increase in numbers of the largest firms and a slight increase in the numbers of small firms within the capacity range of 30,001 to 50,000 BPD. However, the number of firms in the zero to 30,000 BPD range declined significantly indicating the inefficiency of very small refineries. In short, the smaller the firm the worse its economic prospects over this period.

TABLE 1.—SIC CODE 2911—PETROLEUM REFINING SUMMARY OF INDUSTRY STRUCTURE 1984 AND 1989

	Dec. 31, 1984	Dec. 31, 1989
Total number of refining firms	116	108
Small refining firms: [1]		
Up to 30,000 BPD capacity	61	47
30,001-50,000 BPD capacity	9	11
Total small firms	70	58
Large refining firms: [2]		
Up to 50,000 BPD capacity [3]	10	8
50,001-250,000 BPD capacity	21	22
over 250,000 BPD capacity	15	20
Total larger firms	46	50
Industry refining capacity:		
Barrels per day (million)—All firms	16.9	15.6
Percent of total capacity—Small firms	7.1	6.7
Percent of total capacity—Larger firms	92.9	93.3
Concentration ratios (capacity share):		
4 largest refining firms in sales	29.1	31.0
8 largest refining firms in sales	49.1	49.1

[1] Defined as firms with 1,500 employees or less and 50,000 BPD or less capacity.
[2] Defined as firms with either more than 1,500 employees or more than 50,000 BDP capacity.
[3] These firms exceed the 1,500 employee limit due to operations other than refining, such as retailing or service activities.

Sources: Petroleum Supply Annual 1989 and Petroleum Supply Monthly, Nov. 1984 (published Jan. 1985), U.S. Dept. of Energy.

Table 2 below contrasts the experience of operable refineries by size of refinery over the 10-year period of 1979–1989. Operable refineries with capacity in excess of 100,000 BPD increased in number from 1979 to 1989, while the numbers of those in small size classes decreased. Over this period, refineries of 10,000 BPD capacity or less decreased in numbers from 102 to 38 due to widespread shutdowns. Of 17 shutdowns in 1988 and 1989, 15 were owned and operated by small firms. Of these 15 firms, one small firm closed one of its two refineries but remained in the industry while the other 14 firms left the industry entirely. This attrition among small firms supports the position that an optimum refining size is above the current size standard of 50,000 BPD. Locational factors, proximity to its market and/or its source of supply, have been factors assisting some small firms to remain in the industry, but their overall prospects clearly are unfavorable.

TABLE 2.—NUMBER OF OPERABLE REFINERIES BY SIZE 1979–1989

Capacity in BPD	Dec. 31, 1979	Dec. 31, 1983	Dec. 31, 1989	Percent change 1979–89
Over 100,000 BPD	51	47	55	+8
50,001 to 100,000 BPD	44	41	37	−16
10,001 to 50,000 BPD	122	96	69	−43
Less than 10,001 BPD	102	63	38	−63
Totals	319	247	199	−38

Source: Petroleum Supply Monthly, April 1984, Petroleum Supply Annual 1989, U.S. Dept. of Energy.

Industry Structure

For SBA purposes the employee count, when used as a size standard, must include the personnel of all affiliated firms, including those in other industries. Based on an analysis of industry data, it takes a firm of about 400 employees to refine 50,000 BPD provided that the firm's operations are basically refining and not activities related to other industries such as wholesale and retail marketing. Widespread marketing activities, which directly supply consumers such as households, business firms, governments and institutions, are not a function of most small petroleum refining firms. Additionally, large refining firms are often affiliated with firms in other industries, while the small refiner usually is independent. At the 1,500-employee limit a refiner could reach the estimated capacity limit for a small refinery of approximately 200,000 BPD, provided it does not have operations other than refining.

Larger refining firms usually operate with a multitude of refineries in widely dispersed geographical locations. Several large firms have no refinery of under 100,000 BPD capacity. Firms with under 50,000 BPD capacity rarely operate more than one refinery. Table 3 reflects the average refinery size and the percentage of national refining capacity by the owning firm's total capacity. Note the strong tendency for firms with over 100,000 BPD capacity to operate multiple refineries whereas firms of under 50,000 BPD capacity operate one refinery. This is a further indication of a minimal acceptable plant size for refineries in excess of 50,000 BPD. On the high side of relevant plant size, very large firms' individual refinery sizes tend to level off in the 175,000 BPD level. Beyond this point, firms tend to increase their number of refineries rather than the size of individual refinery. This suggests that diseconomies of scale occur at plant sizes in excess of 175,000 BPD, and larger firms will usually expand output in that range by increasing numbers of refineries rather than the capacity of individual refineries.

TABLE 3.—REFINING CAPACITY IN BARRELS PER DAY BY SIZE OF OWNING FIRM DECEMBER 31, 1989

Owning firms total capacity in BPD	No. of firms	Small business firms	No. of refineries	Average refineries per firm	Average capacity per refinery BPD	Percent of national capacity
1 million and over	3	0	22	7.3	174,845	24.7
500,001 to 999,999	6	0	29	4.8	148,504	27.7
200,001 to 500,000	12	0	36	3.0	103,569	23.9
100,001 to 200,000	12	0	25	2.1	70,392	11.3
50,001 to 100,000	9	0	13	1.4	50,185	4.2
30,001 to 50,000	15	11	17	1.1	36,619	4.0
30,000 or less	51	47	57	1.1	11,501	4.2
Totals	108	58	199	1.8	78,250	100.0

Source: U.S. Dept. of Energy, Petroleum Supply Annual, 1989.

At the end of 1989 there were eight small refining firms with a production level between 40,001 and 50,000 BPD and only three small refining firms between 30,001 and 40,000 BPD capacity. These firms each had considerably less than 1,500 employees. The clustering of firms close to, but slightly below, the size standard capacity limit of 50,000 BPD suggests a reluctance of these firms to lose their small business status by expansion of output. Similarly, the absence of any refiner with no more than 1,500 employees and a capacity of between 50,000 and 131,000 BPD further

suggests that firms are restricting output to retain their small status. The 50,000 BPD limitation has all the appearance of shaping the industry structure rather than reflecting that structure for smaller firms in the industry, a development which SBA views with some concern since it is not SBA's wish that firms predicate their decisions in order not to exceed a size standard.

Projecting into the future, the Environmental Protection Agency's (EPA) anticipated regulations are likely to impact heavily on small refining firms by requiring the reduction of sulfur in fuel oil and the reduction of volatility in motor fuel products to meet the Clean Air Act guidelines. The exact levels to meet these requirements have not, as yet, been firmly established. However, in order to meet any of the requirements under consideration, virtually all refineries will have to rebuild or modify their facilities. In a report by the General Accounting Office (GAO) released on June 14, 1990, the GAO acknowledges that at all levels under consideration a substantial change in the refining plants will be necessary and that these changes will entail substantial costs. This report also states that trade association officials agree that small refining firms operate on small profit margins and would have difficulty attracting investors necessary to finance the expensive new equipment necessary to meet the EPA regulations. Other reports indicate that independent refiners would have the greatest difficulty meeting regulatory controls, leading to further consolidation in the industry and continued attrition of small refineries and independent refiners. This would reduce the small business share of the industry's refining capacity even further. This expected reduction can be partially offset through removal of the current capacity limit since one existing firm would gain small business status and the cluster of firms presently just below 50,000 BPD in output could expand capacity to a significant extent without losing their small business status.

In summary, the trend of a reduction in both number of small refining firms as well as their share of the industry's refining capacity is expected to continue over the next several years. As environmental requirements are put in place the very smallest of refiners can be expected to have an even higher attrition rate than in the past. These adverse trends in the industry add additional weight to the static analysis suggesting that a 50,000 BPD limitation is unnecessary.

Federal Procurement Patterns

In FY 1989 the Federal government purchased almost $2.5 billion in petroleum refined products. Small refining firms obtained 15 percent of direct Federal procurements and an estimated 12 percent of all Federal petroleum procurements. This represents a higher small business share of Federal procurements than its share of industry sales of 8 percent, but still less than the 20 percent small business share of all Federal procurement. Both the small firm procurement share and its industry sales share are likely to decline further as small firms exit from the industry in the future. Table 4 presents data on Federal procurements.

TABLE 4.—FEDERAL PROCUREMENTS FROM PETROLEUM REFINERS, SIC CODE 2911—FY 1989

Source	Firms with contracts	Contract dollar values (millions)	Percent of all contracts
Small refining firms:			
10,000 or less BPD capacity	9	$78.3	3.2
10,001-30,000 BPD capacity	5	103.4	4.2
30,001-50,000 BPD capacity	5	220.3	8.9
All small refiners	19	402.0	16.2
Large refining firms	23	2,075.0	83.8
Total all refining firms	43	$2,477.0	100.0

Source: Computed from data compiled by the Federal Procurement Data Center (FPDC) Only contracts awarded directly to refiners are included. The source of petroleum products supplied by dealers cannot be ascertained.

Size Standard Options

The relatively low share of industry sales attributable to small refining firms under the present size limitations as well as the lower small business share of Federal procurement than for other industries suggests the need for either of either (1) a higher size standard for the BPD component of the standard, (2) an elimination of the PBD component entirely, or (3) raising the employment component of the size standard. These options are discussed below.

If SBA were to raise the 50,000 BPD capacity limit to 150,000 BPD, it would have the immediate impact of adding only one refining firm as small business. All other firms with over the present 50,000 BPD capacity have over 1,500 employees. Similarly, a removal of the capacity size limitation entirely would directly add only this one firm as a small business refiner. The elimination of the capacity limit, however, would be expected to encourage present small refiners to expand their capacity without loss of small business status, and thus small business share in the industry and Federal procurement likely would increase.

Other alternatives that could lead to an increase of the small business share of petroleum refining were examined. Raising the capacity limit to 75,000 BPD or 100,000 BPD, however, would have no immediate effect since there are no firms with less than 1,500 employees that also have plant capacity in the 50,000 to 100,000 BPD range. Its effect would be limited to the extent that firms now small would be encouraged to expand beyond the present capacity size standard and still retain small business status. Additionally, such a raise would still retain a two component size standard which complicates size determinations and does not exist for any other industry. For these reasons SBA has rejected changes in the BPD limit, choosing to focus on eliminating the 50,000 BPD limitation entirely.

SBA also considered a raise in the employee limit size standard, while retaining the BPD limitation. A raise in the employee limit to 2,000 employees would add one firm and a raise to 2,500 employees add two firms as being small, each having less than a 50,000 BPD capacity. However, such an action would be contrary to SBA's long-

standing policy to limit the highest employee size standard to no more than 1,500 employees. It would also assist firms that were not primarily refiners, and it is the refining share of sales and procurement that SBA wishes to expand; not firms that are more active in other industries.

For these reasons, the SBA rejected other approaches to increasing the small firm share and is proposing the elimination of the capacity limit of 50,000 BPD as part of the size standard for petroleum refining. The impact of eliminating the BPD size limitation was previously explained in detail and is summarized here. If SBA does eliminate the capacity restriction, the small business share of the industry would increase over time from the current low level of 6.7 percent to a somewhat higher level and the rule change is expected to stem, to a somewhat higher level and the rule change is expected to stem, at least in part, the trend of a further decline in small business activity. The rule change is expected to encourage firms concentrated at a capacity slightly below the current 50,000 BPD size standard to expand without losing small business status. Also, this rule change simplifies the size standard to a single criteria, the same that exists for other industries. It also simplifies size determinations by SBA's regional offices.

This rule change is intended to encourage the availability of products refined by small businesses, thus assisting small petroleum product dealers in obtaining set aside procurements and 8(a) program contracts, both requiring delivery from a small business refiner. The current 50,000 BPD capacity limit is considerably below the level where a refiney obtains desirable operating efficiency while at 1,500 employees a refining firm could operate at a level approximating desirable efficiency.

SBA specifically invites comment on the appropriateness of this standard and on alternative standards (either higher or lower). Comments suggesting other standards should address the questions of: (1) The interaction of this size standard with SBA's programs; (2) the relative levels of participation at different size standards; (3) the effect of this proposed size standard or other alternative size standard on the businesses within this industry; and (4) the prospect of significant new entries into these businesses in response to this program.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act (55 U.S.C. 601 et seq.) and the Paperwork Reduction Act (45 U.S.C. 601, Chapter 35.)

SBA has determined that this proposed rule would not constitute a major rule for the purposes of Executive Order 12291 because the annual economic effect would not exceed $100 million. This rule would not change the amount of refined petroleum purchased by the Federal government. Since there is an established market price for these products, total Federal procurement dollars are expected to remain the same as if this rule were not promulgated. This rule may result in a few firms receiving Federal contract awards as a small business that they would not receive otherwise. It is unlikely that the net effect of contract dollars shifted by this rule to redefined small businesses would exceed $100 million dollars, as only one firm will become eligible as small with the elimination of the capacity limitation. There is no expected impact on SBA loan programs from this rule since SBA loan limits of $750,000 are far below the financial needs of firms at the sizes affected by this rule. In both FY 1988 and FY 1989, SBA made less than $1 million in loans to firms in the Petroleum Refining Industry.

SBA certifies that this proposed rule does not warrant the preparation of a Federalism assessment in accordance with Executive Order 12612, nor would it contain recordkeeping or reporting requirements subject to the Paperwork Reduction Act, 44 U.S.C., chapter 35.

For purposes of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* this proposed rule, if promulgated in final form, would not have a significant economic effect on a substantial number of small entities for the same reasons that it was rejected as a major rule. It will only make one firm small.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is proposed to be amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 632(a) and 634(b)(6) and Pub. L. 100-656, (102 Stat. 3853 (1988)).

§ 121.601 [Amended]

2. In § 121.601 the footnotes following the Standard Industrial Classification Table, footnote 5 is revised to read as follows:[5]

[5] SIC code 2911—For purposes of Government procurement, the total product to be delivered in the performance of a contract classified under this SIC must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 91-10425 Filed 5-2-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-91-10]

Petition for Rulemaking Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the inititation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 2, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10) Petition Docket No. 26386, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket

and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Ida Klepper, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9688.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 26, 1991.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26386.

Petitioner: Ernest J. DeSimone.

Regulations Affected: 14 CFR 61.155.

Description of Petition: To amend § 61.155 by replacing the term "flight engineer" with "military or civilian flight engineer or flight navigator."

Petitioner's Reason for the Request: The petitioner believes that safety would be enhanced by supplying the industry with more pilots of a high qualification. Also a higher rate of public economic productivity would be gained from money already spent, at no additional (excluding FAA administrative) cost.

[FR Doc. 91-10485 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1205

[NHTSA Docket No. 81-12; Notice 8]

RIN 2127-AE06

Highway Safety Programs; Determination of Effectiveness

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 206(d) of the Act, amending 23 U.S.C. 402(j), authorizes the Secretary, from time to time, to conduct a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths, and to amend 23 CFR part 1205 accordingly. Pursuant to the Act, those programs judged to be most effective in the Department's final rule are eligible for Federal funding using an expedited process under the State and Community Highway Safety Grant Program (23 U.S.C. 402).

This notice is being issued to solicit public comments on a proposal of the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) to expand the list of "most effective" or National Priority program areas to include Pedestrian and Bicycle Safety.

DATES: All written comments must be received by June 17, 1991.

ADDRESSES: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, room 5109, U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: In NHTSA: Mr. Ronald E. Engle, Chief, Safety Countermeasures Division, Traffic Safety Programs, NTS-23, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-2717.

In FHWA: Ms. Susan Gorcowski, Office of Highway Safety, HHS-22, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-2156.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, was enacted by Congress. Section 206(d) of the Act, amending 23 U.S.C. 402(j), authorizes the Secretary, from time to time, to conduct a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths, and to amend 23 CFR part 1205 accordingly. Pursuant to the Act, those programs judged to be most effective in the Department's final rule will be eligible for Federal funding using an expedited process under the State and Community Highway Safety Grant Program (23 U.S.C. 402).

This process was last completed in 1988. On September 3, 1987, a joint NHTSA and FHWA Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (52 FR 33422), requesting written comments and announcing that public hearings would be held on which highway safety programs are most effective, and should be included on the list of National Priority program areas. On April 1, 1988, the agencies issued a final rule (published in the **Federal Register** on April 6; 53 FR 11255), announcing that they had determined that the National Priority program areas included one FHWA program area, Roadway Safety, and the following NHTSA program areas: (1) Alcohol and Other Drug Countermeasures; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records; (5) Emergency Medical Services; and (6) Motorcycle Safety.

This notice is being issued to solicit public comments on a proposal of NHTSA and FHWA to add Pedestrian and Bicycle Safety to this list. Pedestrian and Bicycle Safety, if added, would be administered jointly by both agencies.

Background

The State and Community Highway Safety Grant Program (the 402 program) was established under the Highway Safety Act of 1966, 23 U.S.C. 402. The Act required the establishment of Uniform Standards for State Highway Safety Programs to assist the States and local communities to organize their highway safety programs.

Until 1976, the 402 program was principally directed towards achieving State and local compliance with the 18 Highway Safety Program Standards, which were considered mandatory requirements with financial sanctions available for noncompliance. Under the Highway Safety Act of 1976, Congress provided for a more flexible implementation of the program so that the Secretary would not have to require State compliance with every uniform standard or with each element of every uniform standard. As a result, the standards became more like guidelines for use by the States. Management of the program then shifted from enforcing standards to one of problem identification, countermeasure development and evaluation, using the standards as a framework for the State programs. This approach was formalized in section 206(a) of the 1987 Act.

The 402 program has been administered at the Federal level by FHWA and NHTSA. NHTSA is responsible for developing and implementing highway safety programs relating to the vehicle and driver. FHWA has similar responsibilities in program areas involving the highway.

In 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, revising the section 402 program. The Act directed the agencies to conduct a rulemaking process to determine those State and local highway safety programs most effective in reducing accidents, injuries, and fatalities.

On April 1, 1982, in accordance with section 1107(d) of the Omnibus Budget Reconciliation Act of 1981, NHTSA and FHWA issued a joint final rule (47 FR 15116) identifying the six program areas which the agencies then considered to be the most effective NHTSA and FHWA highway safety programs. Those program areas were determined to be National Priority program areas, and included one FHWA program area, Safety Construction and Operational Improvements, and the following NHTSA Program Areas: Occupant Protection; Alcohol Countermeasures; Police Traffic Services; Emergency Medical Services; and Traffic Records.

The April 1982 final rule provided that these National Priority program areas continue to be eligible for Federal funding under the 402 program, and established a mechanism by which additional programs identified by a State may be eligible for Federal funding.

The rule provided for an expedited procedure for the funding of National Priority program areas. See, 23 CFR 1205.4. For the funding of other program areas, the rule permits States to select one or both of two procedures: formal decision-making or problem identification. See 23 CFR 1205.5 (a) and (b).

The formal decision-making approach is a method by which States can implement a formal decision-making process for highway safety plan development. The result of this decision-making process is the identification by the State and those program areas that represent priorities within the State. Once a State implements an approved process, the State thereafter can merely list and describe in its Highway Safety Plan those projects identified as the most effective in reducing accidents, injuries and fatalities in that State (through the State's approved process), certify that those projects were identified in accordance with the process, and supply the final decision-making results.

The problem identification approach consists of using the existing procedures for problem identification and countermeasure development, except that the agencies substantively review proposed projects outside of the National Priority program areas with a greater degree of scrutiny. All of the States currently utilize this procedure and are familiar with the review process.

These non-priority program funding mechanisms permit States to support, under section 402, new and innovative programs in any highway safety area and to address problems which are unique to a particular State, provided sufficient justification has been submitted. They also provide an orderly method for assuring that major highway safety problems at the State and local level are being addressed with effective countermeasures. Since 1982, over $9 million in 402 funds have been obligated for projects under these non-priority program funding mechanisms. The agencies are not proposing, in the NPRM, any changes to these funding procedures.

On January 5, 1987, the Department submitted to Congress a legislative proposal to revise 23 U.S.C. 402. The Department's proposal provided for a periodic review of the effectiveness of the various programs eligible for funding under section 402 in reducing accidents, injuries and fatalities. The Department believed the periodic review procedure to be the best method for ensuring the continued relevance of the section 402 program to changing circumstances and traffic safety needs, and for ensuring that Federal funds continue to be used in as cost effective a manner as possible.

The legislative proposal also provided that the terms "standard" and "standards" wherever they appear be replaced with the words "guideline" and "guidelines." The purpose of this amendment was to conform the language of section 402 to the current implementation of the programs. As a result of the 1982 determinations of program effectiveness under section 402(j), the highway safety program standards have been maintained as non-binding guidelines for use by the States in their section 402 programs.

The Department's proposal was enacted by Congress as subsections 206(a) and (d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

1988 Determination

Pursuant to this authority, NHTSA and FHWA conducted a rulemaking action to determine those programs most effective in reducing accidents, injuries and deaths. In the April 1, 1988 final rule, the agencies determined that the National Priority program areas included one FHWA program area, Roadway Safety (formerly, Safety Construction and Operational Improvements), and the following NHTSA program areas: (1) Alcohol and Other Drug Countermeasures; (2) Police Traffic Services; (3) Occupant Protection; (4) Traffic Records; (5) Emergency Medical Services; and (6) Motorcycle Safety. NHTSA and FHWA considered, but decided not to include, pedestrian and bicycle safety on the list of National Priority program areas. That decision was based on a finding that many of the countermeasures that had been proven to be effective in reducing pedestrian and bicycle safety problems could be funded under the existing priority programs. It was based also on a determination that, at the time, sufficient other proven countermeasures to address pedestrian and bicycle safety outside the priority programs had not been demonstrated to exist.

The agencies explained that the Department is not at liberty to determine that the pedestrian and bicycle area should be added to the list of National Priority programs simply on the basis that the area involves a serious problem. The Federal statute directs the agencies to determine under section 402 which programs *are "most effective* in reducing accidents, injuries and deaths [emphasis added]." On this basis, the agencies made the determination that pedestrian and bicycle safety could not properly be included on the list of National Priorities until the countermeasures in these areas have demonstrated to be effective.

To encourage the development and demonstration of effective countermeasures to address this serious problem, in the April 1988 final rule, the agencies revealed a number of activities that they planned to conduct and explained the manner in which States could participate in this effort.

The agencies indicated that to assist in the research and development of effective countermeasures, the agencies would compile and distribute a compendium of projects that appear to be effective in addressing pedestrian and bicycle safety problems. The final rule stated also that NHTSA intended to devote Highway Safety Research and Development funds, under section 403 of the Highway Safety Act of 1966, to identify effective countermeasures in the area of pedestrian safety. In addition, the final rule indicated that if a State is interested in conducting a demonstration project to determine the effectiveness of a particular countermeasure, NHTSA would consider providing section 403 funds for evaluation purposes.

With regard to State activities, the final rule advised that if a State has a

pedestrian safety program which it believes will be effective in reducing crashes and injuries, the State can still make use of section 402 funding, under one of the other priority categories (e.g., enforcement programs can be funded under police traffic services), or under the non-priority funding process to address special local needs. The agencies strongly encouraged the States to use the funding processes for non-emphasis areas to obtain approval for using 402 monies to introduce effective, innovative pedestrian safety countermeasures.

Since 1988

Much activity has taken place in the area of pedestrian and bicycle safety since 1988 when the agencies decided not to include it on the list of National Priority program areas. The agencies now believe the time has come to reevaluate this decision.

In 1989, President Bush declared traffic fatalities to be an issue of national concern, by charging that the national fatality rate be decreased to 2.2 fatalities per 100 million vehicle miles travelled by 1992. One year later, President Bush and Secretary of Transportation Samuel Skinner released the National Transportation Policy (NTP), which also included this goal. Since pedestrians and bicyclists contribute one out of every six traffic fatalities, pedestrian and bicyclist traffic safety improvements can make an important contribution to the President's and the NTP's goal. The NTP also calls on the department to promote alternative modes of transportation, including bicycles and walking; to better accommodate pedestrian and bicycle needs in designing facilities in urban and suburban areas; and to increase pedestrian safety.

In 1990, FHWA sponsored a national symposium on "Effective Highway Accident Countermeasures" in Washington, DC in order to identify the most effective countermeasures that could be implemented in the next two years to reach the President's goal. More than 250 experts and practitioners, representing different highway safety fields (such as engineering, law enforcement, education and research) participated. Pedestrian safety was one of five highway safety areas considered at the symposium. By the symposium's conclusion, countermeasures cutting across the three E's—education, enforcement and engineering—that could be implemented immediately had been identified as effective means to impact the problem. The symposium participants recommended that pedestrian safety be established as a National Priority program area, and indicated that they consider this to be a top priority. These and other recommendations are described in an action plan that has since been developed. A copy of the plan can be obtained from the Federal Highway Administration, Office of Highway Safety, HHS-1, 400 Seventh Street, SW., Washington, DC 20590.

In its 1989 Special Report 222, "Improving School Bus Safety," the National Academy of Sciences (NAS) recommended a number of effective countermeasures to improve school bus safety. Four of these countermeasures addressed pedestrian safety issues. On July 13, 1989, NHTSA issued a notice in the **Federal Register** endorsing NAS's recommendations, and deemed a number of them to be "effective" or "most effective." A number of pedestrian safety measures were determined to be "most effective." In both 1989 and 1990, NHTSA issued **Federal Register** notices announcing the availability of special grant funds, set aside to address school bus safety issues. The sum of $4.5 million was set aside in each year to address those measures deemed to be "effective" and "most effective" in the July 13, 1989 notice. Thirty-five States chose to use either all or part of their set-aside funds in 1989 to addressed pedestrian and bicycle safety issues.

In addition to these Federal activities, there has also been an increase in State and local activity and spending in support of pedestrian and bicycle safety, including an increase in section 402 dollars dedicated to this program area. Several States (including, for example, Florida, Massachusetts, New York, Pennsylvania and Virginia) have devoted considerable resources to include pedestrian and bicycle safety programs within existing National Priority safety programs, while others have supported these activities through the non-priority program funding process.

Nationally, Federal spending for Research and Development in support of pedestrian safety programs has increased dramatically. This spending is being used to support research and development of new materials, programs and countermeasures, as well as development and implementation of comprehensive community-based pedestrian safety programs. It is being used also to update and improve existing materials, programs and countermeasures, and to reevaluate them to confirm their effectiveness. FHWA and NHTSA have also provided sections 402 and 403 grant funds in both FY 1990 and 1991 to help implement community-based pedestrian safety programs, and Federal money has been appropriated in FY 1991 for a National Bicycle and Walking Study.

In addition, in 1990, FHWA initiated a pooled-fund study on "The Effect of Bicycle Accommodations on Bicycle/Motor Vehicle Safety and Traffic Operations;" in which twelve States chose to participate. Together, the States provided $139,000 in State highway planning and research (HPR) funds in support of this effort. Further, the Department's appropriation for FY 1991 specifically directs the Secretary to appoint a bicycle coordinator for DOT. In response to this directive, the Department has decided to create a pedestrian and bicycle coordinator position in the Secretary's office, and FHWA has hired a full time bicycle manager to coordinate the FHWA bicycle safety program.

For these reasons, the agencies believe it is time to reconsider their 1988 decision not to include pedestrian and bicycle safety on the list of National Priority program areas.

Evaluation of Most Effective Program Areas

The agencies are proposing a determination that Pedestrian and Bicycle Safety should be added to the list of "most effective," or National Priority program areas.

Several factors complicate any effort to identify effective programs. A relationship between a crash prevention program and a reduction in crashes or injury levels is often difficult to document. The actual impact and effect of individual elements of a coordinated program may be hard to identify and distinguish from those of other programs.

Another complicating factor in establishing priority areas is that not all States and localities experience similar crash patterns. Crash reduction efforts in highly urbanized areas may not produce similar results when applied to low population rural areas. Because of the differences in problem areas and the difficulty in evaluating program effectiveness, there is a need for flexibility in determining priority programs.

Despite these difficulties, NHTSA and FHWA have reviewed the available data within the Department regarding Pedestrian and Bicycle Safety to determine whether this program area should be considered to be one of the most effective in reducing accidents, injuries and fatalities. Based on this review, the agencies have tentatively

determined that the area of Pedestrian and Bicycle Safety is of national concern, that effective countermeasures have been developed in this area which address this concern, and that State programs in this area appear to be among the most effective in reducing accidents, injuries and fatalities. The agencies seek public comments from interested parties on this tentative determination.

Problem of National Concern

The agencies believe that pedestrian and bicycle safety has been and continues to be an area of national concern. Over 7000 non-occupants (including 6556 pedestrians and 832 pedalcyclists) were killed in motor vehicle crashes in 1989, which represents approximately 16% of all motor vehicle fatalities. Except for other vehicles, non-occupants are the most frequently struck object in fatal crashes.

In some urban areas, non-occupant fatalities represent 40% to 50% of all motor vehicle deaths. While bicycle and pedestrian safety is considered to be largely an urban problem, it is also of concern in many rural areas. The ratio of deaths to injuries, for example, is higher in rural environments. In response to our NPRM published in September 1987, the agencies received data from the public showing that, at least in some States, fatality rates for bicycles and pedestrians in rural regions equal or exceed these rates in urban areas.

Motor vehicle crashes also result in a significant number of non-occupant injuries. The agencies estimate that approximately 119,000 pedestrians and 76,000 pedalcyclists were injured or killed in 1989 in police-reported motor vehicle crashes. (In the final rule issued in April 1988, based on comments we had received, the agencies estimated that bicycle crashes (including those not involving a motor vehicle) result in 500,000 injuries each year which require emergency room treatment). The U.S. Consumer Product Safety Commission ranks bicycle accidents as one of the most common causes of emergency room admissions, and a study conducted in 1985 by the University of Ottawa School of Medicine reported that bicycle accidents are the most significant cause of head injuries in children.

Alcohol is a major factor in non-occupant crashes. Fatal Accident Reporting System (FARS) data indicate that approximately 39 percent of all pedestrians and 19 percent of all bicyclists killed in these crashes were impaired by alcohol.

Children under 15 years of age represent 46% of all pedalcyclists injured or killed in pedalcycle fatalities. There has recently been an increase in injuries and deaths among adult pedalcyclists. At greatest risk in pedestrian accidents are young children and older adults. Children between the ages of 5 and 14 represent 30% of all injured or killed pedestrians and adults over the age of 65 represent 23% of all pedestrian fatalities. Since the elderly is the fastest growing segment of America's population, this problem is likely to get worse, unless appropriate steps are taken to intervene.

Effective Countermeasures

NHTSA and FHWA will not attempt here to identify each and every countermeasure we believe to be effective. Such an exercise is not necessary, nor would it be useful. NHTSA and FHWA do wish, however, to highlight several countermeasures which the agencies believe have been particularly successful.

A comprehensive Corridor Program was effective in reducing fatalities and injuries in an accident-prone corridor in New York City (the Queens Boulevard corridor), which has a high elderly pedestrian concentration. Based on a detailed analysis of fatality and injury data, the community identified site specific countermeasures to implement, which included modifying signal timing to provide increased pedestrian crossing time, refurbishing pavement markings, installing median strips and erecting oversized speed limit signs.The program also included an enforcement component and extensive public information. This project reduced fatal traffic crashes involving elderly pedestrians by 39 percent. In the past two years, additional programs have been implemented in New York City, including a review of pedestrian barriers, implementation of an education program targeting the elderly and a "cross training" program through which older citizens train young children in appropriate pedestrian behaviors.

The City of Seattle first instituted a comprehensive pedestrian and bicycle safety program in the mid-1970's, and has recently improved and expanded its efforts. Since 1986, for example, the city has developed and implemented an aggressive bicycle helmet project that has increased usage from 1% in 1986 to 23% in 1989. According to a study conducted between 1986 and 87 by the Harborview Injury Prevention and Research Center based in Seattle, bicycle safety helmets are effective in reducing the risk of head injury by 85 percent and the risk of brain injury by 88 percent. To address the pedestrian safety problem, the State passed a law in July 1990 requiring drivers to stop for pedestrians in crosswalks, and the Seattle Police Department has aggressively enforced this law, writing up to 1000 citations per month. The Police Department has also joined forces with Harborview Injury Prevention and Research Center to develop and implement a high profile public information campaign designed specifically to target pedestrians. In addition, the city has instituted a "spot" program, which encourages citizens to inform the city about perceived engineering problems. This has resulted in a number of engineering improvements for both pedestrians and bicyclists. Recent indicators show that these and other measures have contributed to a downward trend in pedestrian fatalities.

Since 1989, the Walk Alert Program, which was developed by the National Safety Council, has been implemented in thirteen States. The program offers information on planning and implementing comprehensive community-based pedestrian safety programs. It is designed to reduce pedestrian traffic accidents by teaching individuals to be safer walkers and more attentive drivers and by creating a safer environment for pedestrians. The program is designed to provide appropriate safety messages to all age groups, from pre-schoolers to older adults, by means of education, enforcement and engineering support. It emphasizes the importance of proper search behavior for drivers and pedestrians; improved visibility and conspicuity on the part of pedestrians; the meaning of traffic signs and signals; the enforcement of traffic laws and ordinances; and the role of planners, designers and engineers in creating a safe environment. In addition, the Walk Alert Program is currently being revised to expand its coverage of alcohol and enforcement issues and to include coverage of work zone safety and pedestrians on high speed roadways. Evaluation of this program is still ongoing. However, a preliminary indications seem to show that this program can have a significant payoff. For example, a comprehensive pedestrian safety program conducted in Lexington, KY, based on the Walk Alert Program model, reduced pedestrian fatalities by over 50 percent during the first year of implementation.

The programs that have been discussed above are comprehensive in nature. However, comprehensive programs are made up of education, enforcement and engineering components designed to address

particular local problems. The agencies believe there are countermeasures in each of these three areas that have proved to be effective.

1. *Enforcement*

NHTSA has developed two model ordinances to help States and communities reduce the number of certain types of common pedestrian traffic crashes. The Model Ice Cream Truck Ordinance was designed to address crashes that occur when an individual (usually a child) approaches or leaves an ice cream vending truck and is struck by a passing vehicle. The ordinance requires that passing motor vehicles stop, then proceed if safe to do so, when ice cream vending trucks are displaying a stop arm and flashing red signals. Implementation of this ordinance has reduced crashes among children approaching or leaving these vending trucks by 77 percent. The Bus Stop Ordinance was designed to address crashes that occur when a pedestrian crosses in front of a stopped bus, is screened by the bus from view of oncoming vehicles, and is struck as he or she stops out. The ordinance involves the relocation of bus stop locations from the near side to the far side of intersections. Implementation of this ordinance has reduced pedestrian crashes in several cities across the country by as much as 65 percent.

Having an ordinance in place, of course, may have little effect if it is not fully enforced. To have the greatest impact, enforcement activities should be actively conducted. The District of Columbia Police Department frequently engages in aggressive enforcement of pedestrian regulations which targets both motorists and pedestrians who violate the city's regulations. The department has noted significant decreases in the District's pedestrian fatalities during those periods of intensive enforcement, and increased fatalities during periods of low enforcement activity.

With regard to bicycle safety, States and communities have enacted legislation requiring that bicycle safety helmets be worn. Examples include: New York State; Massachusetts; Howard County, MD and Beachwood, OH. The use of bicycle safety helmets is the single most effective countermeasure in reducing head injuries and preventing serious head trauma. As mentioned earlier, a study conducted in 1986–87 by the Harborview Injury Prevention and Research Center found that bicycle safety helmets are effective in reducing the risk of head injury by 85 percent and the risk of brain injury by 88 percent. Only about 5% of all bicyclists currently wear helmets nationwide.

2. *Education.*

The Walk Alert Program contains a number of examples of educational activities that can be conducted to reduce pedestrian accidents and promote pedestrian safety. Other programs have also been used and found to be effective. The Willy Whistle pedestrian safety program, for example, teaches basic pedestrian safety skills to children ages 5–9. The program includes two video tapes, a teacher's guide and television PSA's. Through field-testing, the program has been found to reduce "dart-out" type crashes among elementary school-age children by approximately 20 percent. For children ages 9–12, a pedestrian safety education film entitled "And Keep on Looking" teaches more advanced pedestrian safety skills. Use of the film was found to decrease pedestrian crashes among 9–12 year olds by more than 20 percent.

Bicycle Safety Rodeos have become a popular method for teaching bicycle safety and riding skills to children. These programs typically include training, practice session and skill testing. Educational programs in both the pedestrian and bicycle safety areas should emphasize the importance of conspicuity in the prevention of traffic accidents. When individuals wear light-colored clothing during the day and use retro-reflective materials, lights and reflectors at night, it greatly improves the ability of drivers to see and avoid a collision with pedestrians and bicyclists by increasing the detection distance.

3. *Engineering*

Chains, fences or similar devices can be used to separate pedestrian and vehicular traffic, to channel and direct pedestrians to safe crossings, or to prevent pedestrians from crossing at hazardous locations. Barriers are also effective in directing and controlling bicycle traffic. Depending on the type of barrier installed, instances of mid-block crossings, running into the roadway, or pedestrians darting into the roadway from between parked cars can be reduced. It has been estimated that 14 percent of all freeway pedestrian accidents could be prevented with more appropriate barriers.

Exclusively timed pedestrian signals were associated with a 50% reduction in pedestrian accidents in a study conducted in 1982. Exclusive timing provides a separate signal interval during which traffic is stopped in all directions and pedestrians can cross in any direction.

Lighting involves the improved illumination of roads, sidewalks, and crosswalks. Improved lighting may reduce nighttime pedestrians accidents by nearly 50 percent. Other engineering countermeasures include the use of safety islands and facilities for the handicapped and older adults and the improvement of pavement markings and traffic signs.

Most Effective in Reducing Accidents, Injuries and Fatalities

As stated earlier in this document, pedestrian and bicycle fatalities, which account for approximately 16 percent of all fatalities, represent a serious national problem. The magnitude of the problem and the identification of effective countermeasures indicate this problem should be designated as a National Priority.

Based on experience, NHTSA and FHWA believe that there is a metodology for planning and designing a comprehensive program, and that there are particular programs that address individual components of the problem. Experience indicates that, to have the greatest potential for long-term change, communities should identify the nature and extent of the problem and then design a comprehensive program to solve that problem using specially selected education, enforcement and engineering components. We believe programs implemented in isolation are far less likely to succeed. An individual countermeasure, for example, while proven effective on its own, will be enhanced when combined with other efforts. Additionally, these programs can become institutionalized by incoporating them into local master transportation plans.

The agencies have highlighted, in this NPRM, both comprehensive efforts and individual countermeasures that are already being implemented in States and communities. We believe these efforts and countermeasures have proved their effectiveness.

Based on the data and information currently available to NHTSA and FHWA, the agencies have made a preliminary finding that the Pedestrian and Bicycle Safety program area is most effective in reducing accidents, injuries and fatalities. On this basis, we are proposing in this notice to add Pedestrian and Bicycle Safety to the list of National Priority program areas. The agencies believe that adding Pedestrian and Bicycle Safety to the list of National Priority programs would provide States increased flexibility to allocate section 402 funds more easily to these areas if they are needed. It also would encourage the development of additional countermeasures needed to address particular aspects of the problem. We are requesting written comment regarding this proposal.

Written Comments

NHTSA and FHWA seek public comment on their proposal to add Pedestrian and Bicycle Safety to the list of National Priority Program areas. Section 206(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 requires, "any rule under this subsection shall be promulgated taking into account consideration of the States having a major role in establishing programs [most effective in reducing accidents, injuries and deaths]." Accordingly, the agencies encourage States to provide comments to this notice. Specifically, we encourage States or communities in which pedestrian and bicycle safety programs are being or have been conducted to provide their comments. We also encourage others involved in establishing or conducting pedestrian or bicycle safety programs or who are affected by these programs to respond. The agencies are especially interested in receiving data that States, communities and others may have regarding the effectiveness of these programs.

Interested persons are invited to submit comments on this proposal. It is requested but not required that 10 copies be submitted.

Written comments to the public docket must be received by June 17, 1991. In order to expedite the submission of comments, simultaneous with the issuance of this notice, copies will be mailed to all Governors, Governors' Representatives for Highway Safety and State highway agencies.

Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on the comment closing dates indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. The agencies will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written comments and statements will be placed in Docket 81-12; Notice 8 of the Docket Section in room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Impact Analyses

A. Economic Impacts

The agencies have analyzed the effect of this action and determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. The rulemaking would not affect the level of funding available in the highway safety program, or otherwise have a significant economic impact, so that neither a Preliminary Regulatory Impact Analysis nor a Preliminary Regulatory Evaluation is required. Although not required to do so, the agencies prepared an Evaluation in 1982 to assist them in the rulemaking process. In the course of the agencies' 1987-88 rulemaking action, the Evaluation was reviewed and an Addendum was prepared. These documents are available for inspection through NHTSA's Docket Section, room 5109. Also in association with the 1982 rulemaking process, the agencies prepared and submitted in the public docket. Effectiveness and Efficiency Papers regarding the programs then being considered to be national priority program areas. These documents are also available in the public docket, room 5109, Docket Number 81-12, General Reference Section.

B. Impacts on Small Entities

In compliance with the Regulatory Flexibility Act, the agencies have evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action would not have a significant economic impact on a substantial number of small entities. States would be recipients of any funds awarded under the regulation and, accordingly, the preparation of an Initial Regulatory Flexibility Analysis is unnecessary.

C. Environmental Impacts

The agencies have also analyzed this action for the purpose of the National Environmental Policy Act. The agencies have determined that this action would not have any effect on the human environment.

D. Federalism Assessment

The agency has analyzed this action under the principles and criteria of Executive Order 12612 and has determined that the rule would not have any federalism implications. The agencies' proposal to add Pedestrian and Bicycle Safety to the list of National Priority program areas would not require that States spend their section 402 funds on that program. Rather, the proposal would provide increased flexibility by enabling States to support the area of Pedestrian and Bicycle Safety more easily if they wish to do so.

E. Paperwork Reduction Act

The requirement relating to this proposal, that each State must submit a highway safety plan to receive section 402 grant funds, is considered to be an information collection requirement, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. This requirement has already been approved by OMB, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq). It has been approved through April 30, 1992; OMB 2127-0003. This NPRM would establish no new information collection requirement, as that term is defined by the OMB in 5 CFR part 1320.

List of Subjects in 23 CFR Part 1205

Grant programs, Highway safety.

In accordance with the foregoing, NHTSA and FHWA propose to amend part 1205 of title 23 of the Code of Federal Regulations, as set forth below.

PART 1205—[AMENDED]

1. The authority citation for part 1205 would continue to read as follows:

Authority: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

2. In § 1205.3, paragraph (c) would be added to read as follows:

§ 1205.3 Identification of National Priority Program Areas.

* * * * *

(c) Under statutory provisions jointly administered by NHTSA and FHWA, the following highway safety program area, jointly administered by NHTSA and FHWA, has been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. The program developed in this area is eligible for Federal funding, pursuant to provisions of 23 U.S.C. 402(g), guidelines issued by NHTSA and FHWA and the review procedures set forth in § 1205.4: Pedestrian and Bicycle Safety.

Issued on April 29, 1991.

Jerry Ralph Curry,

Administrator, National Highway Traffic Safety Administration.

Thomas D. Larson,

Administrator, Federal Highway Administration.

[FR Doc. 91-10448 Filed 4-29-91; 4:09 pm]

BILLING CODE 4910-59-M

Coast Guard

33 CFR Part 100

[CGD1 91-018]

Special Local Regulation; Biennial Marblehead to Halifax Ocean Race, Marblehead, MA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent special local regulation for the biennial (every two years) Marblehead to Halifax Ocean Race. The event, sponsored by the Boston Yacht Club, is a 27' to 80' monohull and multihull sailboat race. During the first day of the five day event, the regulations would place operating restrictions on watercraft operating in that portion of water in a 1000 yard radius surrounding Tinker's Ledge Gong Buoy, off of Marblehead, MA. The potential hazards to participants, spectators and transiting vessels are such that, each year, in the interest of safety of life on the navigable waters of the United States, the Coast Guard District Commander has issued special local regulations governing the conduct of the regatta. By adopting permanent regulations, the Coast Guard will continue to provide the same level of public safety at reduced administrative cost. Public notice of the exact dates will be published each year in a **Federal Register** Notice and in the Coast Guard Local Notice to Mariners.

DATES: Comments must be received June 17, 1991.

ADDRESSES: Comments should be mailed to Commander (bb), First Coast Guard District, 408 Atlantic Ave., Boston, MA 02110. The comments and other materials referenced in this notice will be available for inspection and copying at 408 Atlantic Avenue, Room 48, Boston, Massachusetts. Normal Office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) E.G. Westerberg, Chief, Boating Safety Affairs Branch (617) 223-8310.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1 91-018) and the specific section of the proposal to which their comments apply, and give reasons for each comment. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held in written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of these regulations are Lt(jg) E.G. Westerberg, project officer, First Coast Guard District Boating Safety Affairs Branch, and Lt. R.E. Korroch, project attorney, First Coast Guard District Legal Division.

Discussion of Proposed Regulations

The Marblehead to Halifax Ocean Race is a 27' to 80' monohull and multihull race, sponsored by the Boston Yacht Club, of Marblehead MA, that will involve up to 100 sailboats. The starting line will be located 250 yds off of Tinker's Rock Gong Buoy, MA in a direction southsoutheast, with all racers moving in a easterly direction. Spectating vessels will not be allowed in the regulated area surrounding the starting line. This regulation also prohibits the sponsor from locating any portion of the race course within Marblehead Channel, Salem Sound or any of the Boston main entrance channels.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Because this regulation excludes vessels associated with the Marblehead/Halifax race from obstructing Marblehead Channel, Salem Sound or any of the Boston main entrance channels in any way, no interference with commercial traffic is anticipated.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

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

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

2. Section 100.110 is added to read as follows:

§ 100.110 Marblehead to Halifax Ocean Race.

(a) *Regulated area.* The regulated area is a rectangular area roughly bounded as follows: Center point 300 years SSE of Tinker's Ledge Gong Buoy, North/South legs 1900 yds long 500 yds above and below the center point, and East/West legs 1000 yds long 950 yds to the right & left of the center point. The specific coordinates of the regulated area are:

(1) *Northeast Corner*; by Tinker's Ledge at 42-29-08 North; 070-48-18 West

(2) *Southeast Corner*; approximately 1400 yds southeast of Tinker's Ledge Gong Buoy at 42-28-43 North; 070-47-58 West

(3) *Southwest Corner*; approximately 1100 yds southwest of Tinker's Ledge Gong Buoy at 42-28-27 North; 070-49-12 West

(4) *Northwest Corner*; by Tinker's Island at 42-28-53 North 070-49-32 West

(b) *Special local regulations.*—(1) The race course and starting line shall be designed such that no part of the race course is in the Marblehead Channel area north of Tinker's Ledge, and shall not be located in any of the Boston main entrance channels.

(2) No person or vessel may transit through the regulated area during the effective period of regulation unless participating in the event or as authorized by the sponsor or Coast Guard patrol commander. The patrol commander will be monitoring channel 16 VHF.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S.

Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* These regulations are effective from 11 a.m. through 3 p.m. on July 7th, 1991 and biennially thereafter from 11 a.m. through 3 p.m. on the first Sunday following the Fourth of July.

Dated: April 22, 1991.

R.I. Rybacki,

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

[FR Doc. 91-10512 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE99

Headstone Allowance; Temporary Program of Vocational Training

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning reimbursement for the cost of a headstone or marker and eligibility for the temporary program of vocational training available to certain pension beneficiaries. These proposed changes are based on recently enacted legislation. The intended effect of these change is to expand and extend benefit eligibility.

DATES: Comments must be received on or before June 3, 1991. Comments will be available for public inspection until June 12, 1991. The proposed changes due to be effective December 18, 1989, the date the legislation was signed into law.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until June 12, 1991.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Section 114 of the Veterans' Benefits Amendments of 1989, Public Law 101-237, 103 STAT. 2062 (1989), amended 38 U.S.C. 524 to lower from 50 years to 45 years the maximum age at which veterans awarded a nonservice-connected disability pension must undergo an evaluation to determine whether achievement of a vocational goal is reasonably feasible through a program of vocational training. 38 U.S.C. 524 was also amended to protect the permanent and total evaluation of a veteran, who secures employment within the scope of the vocational goal identified by his or her vocational rehabilitation plan, from termination by reason of employability, until the veteran has maintained this employment for not less than 12 consecutive months. The employment may be in a related field which requires reasonably developed skills and the use of some or all of the training or services furnished the veteran under that plan. VA proposes to amend 38 CFR 3.342(c) to implement these changes.

Section 501 of Public Law 101-237 amended 38 U.S.C. 906(d) to authorize payment of the monetary allowance in lieu of furnishing a headstone or marker at Government expense when the headstone or marker is purchased prior to the veteran's death. Since this benefit is available when the headstone was purchased prior to the veteran's death, VA proposes to discontinue making reimbursement for the cost of adding the veteran's identifying information to an existing headstone or marker if death occurred or or after December 18, 1989. We propose to amend 38 CFR 3.1612 (b)(3), (c), (e)(1) and (e)(2)(i) to implement these changes. It should be noted that section 8041 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, eliminated the payment of the monetary allowance in lieu of VA-provided headstone or marker for deaths occurring on or after November 1, 1990.

The Secretary hereby certifies that these proposed regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these proposed regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101 and 64.104.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: March 26, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is proposed to be amended as follows:

1. In § 3.342, in paragraphs (c)(1) and (c)(2) remove the words "age 50" where they appear and add, in their place, the words "age 45"; the authority citation at the end of paragraph (c)(2) is removed; and a new paragraph (c)(3) and a new authority citation are added to read as follows:

§ § 3.342 Permanent and total disability ratings for pension purposes.

* * * * *

(c) * * *

(3) If a veteran secures employment within the scope of a vocational goal identified in his or her individualized written vocational rehabilitation plan, or in a related field which requires reasonably developed skills and the use of some or all of the training or services furnished the veteran under such plan, not later than one year after eligibility to counseling under § 21.6040(b)(1) of this chapter expires, the veteran's permanent and total evaluation for pension purposes shall not be terminated by reason of the veteran's capacity to engage in such employment until the veteran has maintained that employment for a period of not less than 12 consecutive months.

(Authority: 38 U.S.C. 524(c))

2. In § 3.1612, paragraph (e)(3) is redesignated as paragraph (e)(4), and paragraph (e)(2)(iii) is redesignated as paragraph (e)(3); paragraphs (b)(3), (c), (e)(1) and (e)(2)(i) are revised and new authority citations are added at the end of those paragraphs to read as follows:

§ 3.1612 Monetary Allowance in Lieu of a Government-furnished Headstone or Marker.

* * * * *

(b) * * *

(3) The headstone or marker was purchased to mark the otherwise unmarked grave of the deceased veteran or to memorialize the deceased veteran or, if death occurred prior to December 18, 1989, the veteran's identifying information was added to an existing headstone or marker.

(Authority: 38 U.S.C. 906(d))

* * * * *

(c) *Person entitled to request a Government-furnished headstone or marker.* For purposes of this monetary allowance, the term "person entitled to request a headstone or marker" includes, but is not limited to, the person who purchased the headstone or marker (or if death occurred prior to December 18, 1989, the person who paid for adding the veteran's identifying information to an existing headstone or marker), or the executor, administrator or person representing the deceased's estate.

(Authority: 38 U.S.C. 906(d))

* * * * *

(e) *Payment and amount of the allowance.* (1) The monetary allowance is payable as reimbursement to the person entitled to request a Government-furnished headstone or marker. If funds of the deceased's estate were used to purchase the headstone or marker or, if death occurred prior to December 18, 1989, to have the deceased's identifying information added to an existing headstone or marker, and no executor or administrator has been appointed, payment may be made to a person who will make a distribution of this monetary allowance to the person or persons entitled under the laws governing the distribution of intestate estates in the State of the decedents' personal domicile.

(Authority: 38 U.S.C. 906(d))

(2) * * *

(i) Actual cost of acquiring a non-Government headstone or marker or, if death occurred prior to December 18, 1989, the actual cost of adding the veteran's identifying information to an existing headstone or marker; or

(Authority: 38 U.S.C. 906(d))

* * * * *

[FR Doc. 91-10037 Filed 5-2-91; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 4

RIN 2900-AF08

Total Disability Ratings For Pension Based On Unemployability and Age of the Individual

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs is proposing to amend its rating schedule regarding disability requirements for pension applicants. The change regarding deletion of presumption of pension entitlement at age 65 is necessary to implement provisions of the recently enacted Omnibus Budget Reconciliation Act of 1990. The intended effect of this change is to remove presumption of pension entitlement at age 65, and to revise the age and disability requirements.

DATES: Comments must be received on or before June 3, 1991. Comments will be available for public inspection until June 12, 1991. This change is proposed to be effective 30 days after the date of publication of the final rules.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 132, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until June 12, 1991.

FOR FURTHER INFORMATION CONTACT: Bob Seavey, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration (202) 233-3005.

SUPPLEMENTARY INFORMATION: Under current VA regulations, the minimum level of disability required to warrant a permanent and total rating for pension purposes changes with the age of the veteran claimant. Under the age of 55, either a single disability rated at 60 percent of a combined evaluation of 70 percent, with one disability ratable at 40 percent or higher, is required. At age 55, the percentage requirement is reduced to 60 percent for one or more disabilities, and at age 60 to a 50 percent evaluation for one or more disabilities. Permanent and total disability is presumed by law (38 U.S.C. 502(a)) at age 65.

The Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, sec. 8002, eliminated the statutory presumption of permanent and total disability at age 65, and VA proposes to amend 38 CFR 4.17 to reflect that change. We further propose to amend § 4.17 to require for all veterans, regardless of age, a single disability rated as 60 percent or a combined evaluation of 70 percent, with one disability ratable at 40 percent or higher. This change will emphasize the element of unemployability in the pension program by making the disability requirements for that program conform more closely to the requirements for total disability ratings for compensation based on unemployability which are contained in 38 CFR 4.16(a).

Public Law 101-508 eliminated the presumption of pension eligibility at age 65 for all claims filed after October 31, 1990. The changes regarding percentage requirements will be effective 30 days after the date of publication of the final rule. If pension entitlement is terminated for any reason, eligibility must be determined under the new criteria upon receipt of a reopened claim.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual impact on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance number is 64.104.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: March 19, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 4—[AMENDED]

38 CFR part 4, Adjudication, is proposed to be amended as follows:

In § 4.17, the third, fourth, and fifth sentences of the introductory text are removed; in the sixth sentence, the word "reduced" is removed; and an authority citation is added at the end of the section to reads as follows:

§ 4.17 Total disability ratings for pension based on unemployability and age of the individual.

* * * * *

(Authority: Sec. 8002, Pub. L. 101-508; 38 U.S.C. 355)

[FR Doc. 91-10038 Filed 5-2-91; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[General Docket No. 91-119; FCC 91-122]

Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: Congress recently amended the Administrative Procedure Act through enactment of the Administrative Dispute Resolution Act (ADR) and the Negotiated Rulemaking Act (NRA). The purpose of this Notice of Inquiry is to gather information from the public to assist in implementing these statutory provisions. The Commission is seeking comments at this time so that the affected public, including members of the communications bar and industry, may be involved at the outset in the development of policies and procedures to implement both the ADR and the NRA. The Commission asks that all comments contain a full explanation as to why a particular area or type of Commission proceeding appears to be appropriate (or inappropriate) for handling under either alternative dispute resolution or negotiated rulemaking.

DATES: Comments are due on or before June 17, 1991 and Reply Comments are due on or before July 2, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley, Office of General Counsel (202) 632-6990.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Inquiry, General Docket 91-119 adopted April 12, 1991, and released April 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Inquiry

1. Congress recently amended the Administrative Procedure Act through enactment of the Administrative Dispute Resolution Act (ADR) and the Negotiated Rulemaking Act (NRA). The ADR and NRA authorize administrative agencies to use arbitration, mediation, settlement negotiation, negotiated rulemaking, and other consensual methods of dispute resolution. This Notice of Inquiry commences an initial inquiry into the use of alternative dispute resolution procedures in Commission proceedings and proceedings in which the Commission is a party (*e.g.*, litigation brought by or against the Commission).

2. The ADR specifically requires the FCC to adopt a policy statement that addresses the use of alternative means of dispute resolution in the following areas: (a) Formal and informal adjudications; (b) rulemaking; (c) enforcement actions; (d) issuing and revoking licenses or permits; (e) contract administration; (f) litigation brought by or against the agency; and (g) other agency actions. The NRA sets forth procedures for the establishment of negotiated rulemaking committees, whose purpose is to develop consensus positions among parties affected by controversial regulations and policies.

3. The primary objective of this notice is to determine the types of FCC activities in which consensual dispute resolution and negotiated rulemaking are appropriate. This notice also solicits recommendations on amendments to the Commission's rules of practice that might be required to implement these procedures.

4. *It is ordered,* Pursuant to § § 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, that all interested parties may file comments on the matters discussed in this notice and on the proposed rules contained below. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting documents. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-10443 Filed 5-2-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-21; Notice 1]

RIN 2127-AD34

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems and Air Brake Systems; Automatic Brake Adjusters

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 121, Air Brake Systems, to require automatic brake adjusters and adjustment indicators on vehicles with air brake systems. In addition, NHTSA proposes to amend Standard No. 105, Hydraulic Brake Systems, to require automatic brake adjusters on vehicles with hydraulic brake systems. NHTSA is not proposing to require adjustment indicators on hydraulically-braked vehicles because there do not appear to be significant problems with checking the adjustment of automatic brake adjusters for such vehicles.

DATES: Comment closing date: Comments on this notice must be received on or before June 17, 1991.

Proposed effective date: If adopted, these amendments would be effective two years after the publication of the final rule.

ADDRESS: All comments on this notice should refer to Docket No. 91-21; Notice-1 and be submitted to the following: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. It is requested that 10 copies be submitted. The Docket

is open from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard C. Carter, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5274).

SUPPLEMENTARY INFORMATION:

I. Background

Proper brake adjustment is critical for maintaining safe stopping performance. Automatic brake adjusters have been developed as one approach to improve brake adjustment. The purpose of these devices is to maintain proper brake adjustment automatically, reducing or eliminating the need for frequent inspection and manual adjustment of the brakes. Automatic brake adjusters have been used on passenger cars and light trucks since the early 1960's and have been standard equipment on all such vehicles sold in recent years in the United States. In addition, all or almost all medium and heavy duty vehicles with hydraulic brake systems have automatic brake adjusters. Automatic brake adjusters were introduced for use on heavy duty air-braked vehicles in the early 1960's and are widely used today. The installation rates of automatic brake adjusters by manufacturers of heavy duty air-braked vehicles range from 40 to 100 percent of their fleets.

II. Safety Need and Practicability

While proper brake adjustment is critical for maintaining safe stopping performance, numerous studies have shown that proper brake adjustment is not being maintained on medium and heavy duty vehicles equipped with air brakes. This may result in failure to stop on time and in "runaways" on steep mountain grades. With air brakes, drivers often do not receive a warning of poor brake adjustment. Unlike hydraulic brakes, air brakes give the driver little feedback on the condition of brake adjustment. Often, by the time the driver of an air-braked vehicle receives a subjective warning of improper brake adjustment, there is little braking ability remaining.

The Office of Technology Assessment (OTA), in their September 1988 report Gearing Up for Safety, started that defective brakes were the most common equipment violation cited in Motor Carrier Safety Accident Reports. The OTA further stated that brake system failures were the single largest group of causes cited for large truck accidents associated with mechanical defects, constituting 31 percent of the total. Similarly, NHTSA estimated in the March 1987 Heavy Truck Safety Study Report to Congress that as many as one-third of all heavy truck accidents could involve brake problems or deficiencies.

Out-of-adjustment brakes on heavy vehicles are a major causal factor in many motor vehicle accidents and a recurring safety deficiency found at State roadside inspections. For example, out-of-adjustment brakes were cited as a causal factor in 27 out of 97 serious heavy truck accidents investigated from 1969 to 1981 by the National Transportation Safety Board (NTSB). Further, a study by the Federal Highway Administration found that 30 percent of heavy truck brakes were out of adjustment when vehicles were checked at various roadside inspections. (All combination unit trucks and nearly all other heavy trucks are equipped with air brakes.) A study by the Oregon Public Utility Commission found that defective equipment was listed as the cause of 6.8. percent of all medium and heavy truck accidents. Of the accidents caused by defective equipment, 31 percent involved defective brakes. Sixty percent of these defective brakes were simply out of adjustment.

The National Transportation Safety Board has recommended that NHTSA develop a Federal Motor Vehicle Safety Standard requiring all newly manufactured commercial vehicles to have equipment that would ensure that brakes are in proper adjustment at all times. One was to improve brake adjustment is through use of automatic brake adjusters, which maintain proper brake adjustment. Automatic brake adjusters are now used on about 60 percent of new medium and heavy duty vehicles with air brakes. However, one major, and a number of smaller vehicle manufacturers, do not provide automatic brake adjusters as standard equipment and many purchasers do not order them as optional equipment. The use of automatic brake adjusters has begun to stabilize and NHTSA believes that the equipment would be used on no more than about 70 percent of new medium and heavy duty vehicles unless their use is mandated.

Many early automatic adjusters for air-brake systems were not well received by vehicle operators because the adjusters did not reliably maintain proper brake adjustment. When under-adjustment occurs, stopping ability is reduced and the probability of an accident is increased. When over-adjustment occurs on a heated and expanded brake drum, excessive lining wear, wheel lock, or brake drum cracking occurs when the system cools down. This increases maintenance costs and the possibility of an accident.

Manufacturers of automatic brake adjusters have redesigned and improved their units. While some vehicle operators still report the same problems that occurred with earlier designs, a larger number of operators have been satisfied with the current automatic brake adjusters.

Because of the continuing reports of problems, NHTSA conducted a large-scale fleet evaluation to assess the performance and reliability of automatic brake adjusters, as compared to manual adjusters on heavy commercial vehicle S-cam air brakes. NHTSA collected brake adjustment data from several hundred fleet vehicles equipped with automatic and manual brake adjusters. The data was collected over approximately five years (i.e., two years for the orignal fleet test and three years of follow-up data from selected fleets). The performance and reliability of approximately 1,800 brake adjusters were monitored, based on over 50 million miles of travel. Nearly 20,000 measurements of brake stroke length were taken. The principal conclusions of the fleet evaluation are listed below:

- In most field test applications, automatic brake adjusters effectively maintained brake adjustments within the appropriate limit. The median percentage of out-of-adjustment brakes for the fleet applications was about four percent. This represents a far lower out-of-adjustment rate than is commonly found in roadside check studies of brake adjustment for manually-adjusted air brakes.
- In the most successful applications, automatic brake adjusters consistently exhibited out-of-adjustment percentages of less than one percent. Thus, automatic brake adjusters demonstrated the potential for very effective performance levels.
- Automatic brake adjusters were significantly more effective than manual brake adjusters in similar applications. For example, in one fleet where four different automatic brake adjuster models were tested against manually-adjused brakes, three of the four automatic brake adjuster models test performed better than the manually-adjusted brakes. The one automatic brake adjuster model which did not perform better than the manually-adjusted brakes has been replaced by a new design. The aggregate out-of-adjustment percentage for the automatically-adjusted brakes was 2.6 percent versus 4.7 percent for the annually-adjusted brakes. The percentage of grossly out-of-adjustment brakes (i.e., 0.25 inch or more above the normal pushrod stoke limit) was 0.6

percent for the automatically-adjusted brakes versus 1.9 percent for the manually-adjusted brakes.

• The test fleet noted above had a rigorous, well-organized maintenance program. The out-of-adjustment percentage for manually-adjusted brakes for this fleet (i.e., 4.7 percent) was much lower than the industry average found in roadside checks. The data from this fleet likely understated the advantage of automatic brake adjusters, since the adjustment levels of automatically-adjusted brakes are much less sensitive to the quality of fleet maintenance provided than are those of manually-adjusted brakes.

• Carefully-maintained manually-adjusted brakes can hold brake adjustments levels within tolerances at rates comparable to, or even superior to, those of automaitc brake adjusters. Indeed, the adjustment status of manually-adjusted brakes is limited only by the diligence of vehicle operators and maintainers in monitoring and adjusting brakes. However, this is often a critical shortfall because of competing fleet operational and maintenance exigencies. Much greater maintenance effort and management control is necessary for commerical vehicle fleets to maintain manually-adjusted brakes than automatically-adjusted brakes.

• The incidence of brake over-adjustment with automatically-adjusted brakes was low. In the fleet test, there was no case of an automatic brake adjuster over adjusting a brake enough to cause brake over-heating, wheel lockup, or excessive brake lining wear.

• All brands of automatic brake adjusters tested exhibited high structural and mechanical reliability. Failure rates were sufficiently small to have a negligible influence on performance. Less than one percent of the automatic brake adjusters in the program failed. Most of these failures occurred when the automatic brake adjusters had been in service for more than 250,000 miles. Moreover, several of the models that did fail have either been replaced by new models with improved components or modified with new components that are expected to extend service lives.

• In spite of the demonstrated effectiveness of automatic brake adjusters, the study showed that brake adjustment levels still need to be monitored. Thus, there is a need for brake adjustment indicators, whether brake adjustments are maintained manually or automatically.

Automatic brake adjusters are available for all types of air brake systems. About 95 percent of American air brake systems use S-cam actuators to engage the brake shoes. Two major types of automatic brake adjusters are available for S-cam systems, one that adjusts on the basis of actual shoe-to-drum clearance and one that adjusts on the basis of the air chamber push rod stroke. The key to maintaining drum clearance is the adjuster's ability to complete brake adjustment early during any brake application and to cease adjustment as resistance to brake cam rotation (push rod travel) begins to increase. This prevents over-adjustment. Some of the adjusters even have the capability of backing off any over-adjustment.

About three percent of American air brake systems use wedge type actuators. All wedge type air brake systems offered for sale in the United States have an internal automaitc adjustment mechanism.

Disc brakes represent about two percent of American air brake systems. Some air disc brake systems have internal self-adjusting mechanisms, while others have external adjustment features. NHTSA is not aware of any complaints of brake adjustment problems with the internally-self-adjusting type of air disc brake system. The external adjustment mechansim of an air disc brake system operates similarly to those on S-cam brakes.

Brake adjustment indicators are another method to improve brake adjustment. Such devices make it far more convenient to check whether brakes are out of adjustment and whether the automatic brake adjusters are properly functioning. Without a brake adjustment indicator, persons must use a laborious and time-consuming process to measure brake adjustment at each wheel on the vehicle. The manual adjustment procedure for most air brake systems requires the push rod length to be measured before and during brake application. Many of the brake chambers are located at positions under the vehicle that are difficult to reach and measure the change of stroke length. Also, some manufacturers have slightly different stroke lengths for the same size chamber. Therefore, a person checking brake adjustment must know the specific adjustment data for each chamber. It is often difficult to identify the make and model of the chamber when it is covered with road dirt and corrosion.

NHTSA believes that this laborious and time-consuming process has contributed to brakes being out of adjustment. NHTSA further believes that use of an adjustment indicator is necessary to ensure that any significant problems with brake adjustment can be easily detected.

Some brake adjustment indicators are currently commercially available. Two major companies have begun selling air brake chambers with paint markings on the push rod that extends from the brake chamber. Thus, when the stroke becomes too long and the brake system is under adjusted, the paint marking shows. As the brake becomes increasingly under-adjusted, more paint becomes visible. Agency discussions with these two air brake chamber manufacturers indicated it would also be possible to mark the fully adjusted position on the push rod. Such a full adjustment mark would be just visible at the edge of the air chamber when fully adjusted brakes were applied. Thus, if the brakes were over-adjusted, the mark would be inside the air chamber and not visible. NHTSA believes that such a push rod marking system would work well for many air brake systems. However, NHTSA realizes that such markings may not be useful in certain applications (e.g., with wedge brakes when the push rod is enclosed in a sleeve and with S-cam brakes having push rods with protective rubber boots). Therefore, NHTSA has considered the feasibility of other types of adjustment indicators.

Another type of brake adjustment indicator has been developed and marketed, which has the potential to indicate adjustment problems even when protective boots or mounting tubes would prevent viewing marks on the push rod. The device is installed by inserting a guide arm and sliding stem assembly into a small hole in the air booster can. A marker washer if used to indicate brake adjustment relative to the guide arm. Under-adjustment is indicated when the marker washer approaches the end of the guide arm. NHTSA believes that this advice, with minor modifications, could also be used to indicate over-adjustment. This could be accomplished by attaching the sliding stem to the booster plate and placing appropriate adjustment marks on the stem.

Another method of indicating brake adjustment is practiced by some fleet mechanics. They attach a stainless steel hose clamp to the air chamber push rod to mark the fully adjusted brake position relative to the air chamber housing. To check the brake adjustment, the space between the air chamber housing and hose clamp is compared with a bar gauge. Thus, if the hose clamp goes beyond the outboard mark on the bar gauge when the brakes are applied, this indicates that the brakes are under-

adjusted. If the hose clamp does not reach the inboard mark on the bar gauge when the brakes are applied, this indicates that the brakes are over-adjusted. NHTSA believes that this methodology can be further refined and developed into a low cost brake adjustment indicator that is capable of indicating both under and over-adjustment on exposed and partially enclosed push rods. This could be accomplished by designing the bar gauge as a permanent part of the air chamber and designing recessed grooves in the exposed part of the push rod, so that a reference collar could be placed in an appropriate groove to indicate the fully adjusted brake position. This technique would still allow air chamber manufacturers to install a rubber boot as part of the push rod. Similar techniques could also be used to mark the push rod position relative to the mounting tube in wedge air brake systems.

III. Details Concerning the Proposal

NHTSA proposes to amend section S5.1.8 of Standard No. 121, which covers trucks and buses with air brakes; section S5.2.2. of Standard No. 121, which covers trailers with air brakes; and section S5.1 of Standard No. 105, which covers vehicles with hydraulic brakes. Under the proposal, all vehicles with air brakes would be required to have automatic brake adjusters and adjustment indicators. All vehicles with hydraulic brakes would be required to have automatic brake adjusters, but adjustment indicators would not be required. NHTSA believes that there are no significant problems with automatic brake adjusters for hydraulically-braked vehicles or with checking the adjustment of such systems. However, NHTSA requests comment on whether adjustment indicators should be required on certain types of vehicles with hydraulic brakes.

As stated above, all new passenger cars sold in the United States have been produced with automatic brake adjusters for a number of years. NHTSA has proposed to require automatic brake adjusters in passenger cars as part of the proposed Standard No. 135, Passenger Car Brake Systems. The supplemental notice of proposed rulemaking for Standard No. 135 was published in the **Federal Register** on January 14, 1987 (52 FR 1474). When Standard No. 135 becomes effective, that Standard, instead of Standard No. 105, would apply to passenger cars with hydraulic brakes. NHTSA considered not proposing to require automatic brake adjusters in passenger cars as part of the amendment to Standard No. 105 since all new passenger cars already are produced with such a device. However, since NHTSA has already proposed to require automatic brake adjusters in Standard No. 135, NHTSA tentatively decided to require them in the amendment to Standard No. 105. NHTSA specifically requests comment on whether passenger cars should be coved by this amendment to Standard No. 105. Further, since most, if not all, vehicles with hydraulic brakes are produced with automatic brake adjusters, NHTSA also requests comment on whether Standard No. 105 should be amended as part of this rulemaking.

The proposed regulatory text for the amendments is somewhat general. For example, the proposed amendment to Standard No. 105 reads:

Each vehicle shall be equipped with a service brake acting on all wheels. Wear of the service brake shall be compensated for by means of a system of automatic adjustment, which maintains brake adjustment within the manufacturer's recommended adjustment limits.

The proposed language is almost identical to section S5.1 of the proposed Standard No. 135 on which NHTSA has already received comment. The only change is the addition here of the words "which maintains brake adjustment within the manufacturer's recommended adjustment limits." However, NHTSA specifically requests comment on possible changes to the proposed regulatory text to establish more specific performance requirements.

As discussed in the Preliminary Regulatory Evaluation, NHTSA tentatively concludes that automatic brake adjusters should have the capability of correcting for both under and over-adjustment to within the manufacturer's recommended adjustment limits. NHTSA also tentatively concludes that brake adjustment indicators must be capable of indicating when the brakes are under and over-adjusted. Further, NHTSA believes that the indicator markings should be readable from at least eight feet away, using an ordinary flashlight equipped with two D-cell batteries. This would allow a person to check adjustment without crawling under the vehicle. NHTSA requests comment on whether the above performance features are feasible and whether they should be specified in the final regulatory text.

NHTSA proposes to make these amendments effective two years after promulgation of the final rule. Most truck and bus manufacturers already offer automatic brake adjusters as standard equipment. The only major truck and bus manufacturer that does not offer automatic brake adjusters as standard equipment nevertheless adds them to approximately 40 percent of its vehicles in response to customer orders. While most truck trailer manufacturers do not offer automatic brake adjusters as standard equipment, about 50 percent of all new trailers are ordered with automatic brake adjusters. NHTSA estimates that about 63 percent of all new medium and heavy trucks, buses, and trailers already have automatic brake adjusters. NHTSA believes that a switch from manual to automatic brake adjusters would not require major redesigns in more than a few, if any, vehicles. Automatic brake adjusters are already available for most vehicles with manual adjusters and the overall brake system is about the same size, with or without automatic adjusters. Further, NHTSA believes that manufacturers of automatic brake adjusters could easily increase production and supply enough adjusters to equip all new air-braked trucks, buses, and trailers within two years.

NHTSA also believes that two years is sufficient leadtime for requiring brake adjustment indicators. Two major air brake manufacturers, with over 75 percent of the market, already mark there push rods with a visual indicator for under adjustment. NHTSA believes that other manufacturers should be able to "tool up" within two years. NHTSA believes that brake system manufacturers would spend some engineering and development time to accommodate marking the fully adjusted position on exposed push rods of providing adjustment indicators for non-exposed push rods and other enclosed systems. NHTSA believes that this could be accomplished within two years. However, NHTSA requests comment on the adequacy of the leadtime generally and specifically for any particular types of vehicles or brake systems which would require extensive redesign. If commenters identify types of vehicles or brake systems which require additional leadtime and supply convincing supporting information, NHTSA may provide more leadtime for such vehicles or brake systems in the final rule. In addition, NHTSA requests comment on whether less than two years leadtime should be provided for vehicles with hydraulic brakes since most, if not all, such vehicles are currently produced with automatic brake adjusters.

IV. Regulatory Impacts

A. Executive Order 12291

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. NHTSA estimates that the proposed amendment, if adopted, would cost about $29.2 million yearly. NHTSA derived this estimate as follows. For air-braked vehicles, a typical list price for automatic brake adjusters is $135 per axle, compared to a typical list price for manual brake adjusters of $55 per axle. Based on this price differential, NHTSA estimates that the yearly cost would be about $26 million if automatic brake adjusters were required on all new air-braked vehicles. The distribution of this yearly cost would be about $11 million for air-braked trucks and buses, and $15 million for air-braked trailers. If brake adjustment indicators were required for all air-braked vehicles, NHTSA estimates that the yearly cost of installing them would be about $3.2 million.

NHTSA estimates that this proposed rule, if promulgated, has the potential to avoid at least 12 fatalities per year and to eliminate or reduce the severity of at least 870 accidents per year that are caused by out-of-adjustment air brakes. This estimate is based on data generally reporting the causes of all heavy vehicle accidents. However, using data that report the causes and contributing factors of more serious heavy vehicle accidents, NHTSA would estimate that this proposed rule, if promulgated, could avoid several times the 12 fatalities estimated based on the other data. A Preliminary Regulatory Evaluation discussing these costs and benefits in more detail is available in the docket.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Therefore, NHTSA has not prepared a regulatory flexibility analysis.

While all medium and heavy duty vehicle manufacturers and their suppliers of brake parts will be affected by NHTSA's proposal, any economic impact is not expected to be significant. The added cost of automatic brake adjusters is small in comparison to the cost of the entire brake system, and very small in comparison to the overall cost of the vehicle. Therefore, NHTSA does not believe that this additional equipment would affect purchasing decisions by small entities acquiring such vehicles.

C. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this proposed rule. The agency has determined that this proposed rule, if promulgated, would not have a significant impact on the quality of the human environment. While there will be an increase of up to one pound vehicle weight per automatic brake adjuster, NHTSA does not believe that such a small weight increase would have any significant impact on fuel consumption. It addition, NHTSA does not believe that production and disposal processes connected with the production of automatic brake adjusters would have any significant harmful impact on the environment.

D. Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. No state laws would be affected.

V. Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent poossible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.105 [Amended]

2. S5.1 of § 571.105 would be amended by adding the following after the current heading:

Each vehicle shall be equipped with a service brake acting on all wheels. Wear of the service brake shall be compensated for by means of a system of automatic adjustment, which maintains brake adjustment within the manufacturer's recommended adjustment limits.

* * * * *

§ 571.121 [Amended]

3. S5.1.8 of § 571.121 would be revised to read as follows:

S5.1.8 *Brake distribution.* Each vehicle shall be equipped with a service brake system acting on all wheels. Wear of the service brakes shall be compensated for by means of a system of automatic adjustment, which maintains brake adjustment within the manufacturer's recommended adjustment limits. The condition of service brake adjustment shall be provided by a brake adjustment indicator, that is discernable when viewed with 20/40 vision, using an

ordinary flashlight with two D-cell batteries from a position 8 feet away on the adjacent pavement surface. The brake adjustment indicator shall be capable of displaying the service brake adjustment conditions of: under-adjustment, over-adjustment, and fully adjusted within the manufacturer's specified limits.

4. S5.2.2 of § 571.121 would be revised to read as follows:

S5.2.2 *Brake distribution.* Each vehicle shall be equipped with a service brake system acting on all wheels. Wear of the service brakes shall be compensated for by means of a system of automatic adjustment, which maintains brake adjustment within the manufacturer's recommended adjustment limits. The condition of service brake adjustment shall be provided by a brake adjustment indicator, that is discernible when viewed with 20/40 vision, using an ordinary flashlight with two D-cell batteries from a position 8 feet away on the adjacent pavement surface. The brake adjustment indicator shall be capable of displaying the service brake adjustment conditions of: under-adjustment, over-adjustment, and fully adjusted within the manufacturer's specified limits.

Issued on April 29, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-10446 Filed 5-2-91; 8:45 am]

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49 CFR Part 571

[Docket No. 88-18; Notice 2]

RIN 2127-AC80

Federal Motor Vehicle Safety Standards; Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes two alternative amendments to the requirements of Standard No. 121, Air Brake Systems, concerning electrical power sources for trailer antilock brake systems. The standard currently requires trailer antilock systems to be powered from the stop lamp circuit. NHTSA is concerned that this requirement inhibits use of some state-of-the art trailer antilock systems that have more performance features, but also have higher power requirements. Although the two alternatives differ widely in their approach, each would facilitate introduction of this technology. Under the first alternative being considered, trailer antilock systems would be required to be powered by a separate electrical circuit, with the stop lamp circuit being used as a source of backup power. New requirements would also be established for an antilock warning signal circuit. Under the second alternative, the agency would rescind the existing requirement that trailer antilock systems be powered from the stop lamp circuit.

DATES: Comments must be received on or before July 2, 1991.

For the first alternative, which would require trailer antilock systems to be powered by a separate electrical circuit, NHTSA is proposing an effective date of one after publication of a final rule in the **Federal Register**. Optional compliance would be permitted effective 30 days after publication. For the second alternative, under which the agency would rescind the existing requirement that trailer antilock systems be powered from the stop lamp circuit, NHTSA is proposing an effective date of 30 days after publication of a final rule.

ADDRESSES: Comments should refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5892.

SUPPLEMENTARY INFORMATION: Since the 1970's, Standard No. 121, Air Brake Systems, has required trailer antilock brake systems (ABS) to be powered from the trailer stop lamp circuit. The stop lamp circuit is powered through one of the pins on a seven-pin electrical connector which is used between tractors and trailers, and has been standardized within the U.S. trucking industry since the early 1950's. One of the seven pins is for the stop lamp circuit; the others are for a ground return to the towing vehicle and other circuits such as those for turn signals.

The purpose of requiring trailer ABS to be powered from the stop lamp circuit was to ensure that the trailer ABS could be powered by all tractors, old and new. The stop lamp circuit was chosen as the source of power since it is the only circuit that is always energized when the brakes are applied.

Standard No. 121 permits additional circuits to be used to obtain "redundant" sources of electrical power. NHTSA stated in 1972 that it believed that the stop lamp circuit has adequate power for single trailer applications (for the antilock systems being used at that time), but that employing complementary systems for multiple trailers may be necessary. See 37 FR 12496, June 24, 1972.

Since the late 1970's, there has been very little use in the United States of ABS on heavy vehicles. However, during that time, a new generation of ABS has been developed. These systems have been used in Europe for the past several years and are the subject of increased interest in the United States. One difference between the earlier ABS used in the United States and the newer systems used in Europe is that the newer systems, when used on trailers, are powered through a separate electrical circuit, incorporating a separate connector, instead of through the stop lamp circuit. A number of other systems are also under development for use in the United States.

On October 12, 1988, NHTSA published in the **Federal Register** (53 FR 39751) a request for comments about possible amendments to Standard No. 121's requirement that trailer ABS be powered from the stop lamp circuit. The request for comments followed the agency's granting of a petition for rulemaking submitted by WABCO Automotive Products Group, a manufacturer of antilock brake systems.

WABCO requested in its petition that Standard No. 121 be amended to permit the use of a separate electrical circuit for powering trailer ABS. The petitioner noted that the current Standard No. 121 requirement that trailer ABS be powered through the stop lamp circuit means that there is no power to the ABS until the brake pedal is depressed and the stop lamp circuit is energized. Also, the driver has no warning, other than during a brake application, as to whether or not the ABS is operational. WABCO stated that a separate electrical circuit would provide for continuous power to the ABS, which it believes is more desirable for safe and reliable ABS performance. Also, with the installation of ABS status lights in the vehicle cab, the driver could be provided continuous warning in the event of ABS failure. An additional reason cited by the petitioner for using a separate electrical circuit is the need for having adequate power available should all solenoid control valves be activated simultaneously on more complex antilock systems, particularly on double and triple trailer combinations.

WABCO recommended the use of a separate electrical circuit, which

incorporates a separate connector between a tractor and trailer. That connector has been standardized by the International Organization for Standardization (ISO) and is described in ISO Standard 7638, Road Vehicles—Brake Anti-Lock Device Connector. The petitioner stated that it has used this separate electrical circuit in Europe since 1981. WABCO recommended amendatory language that would permit trailer antilock systems to be powered from either the stop lamp circuit or "a separate electrical circuit specifically provided to power the trailer antilock system."

WABCO noted that it is aware that it is common in the United States for individual trucks and tractors to pull a variety of trailers, and that there is consequently a possibility that tractors or trucks without a separate electrical circuit could be scheduled to operate with WABCO antilock equipped trailers. WABCO stated that it would provide a relay in the circuitry that would enable use of the separate electrical circuit if the towing vehicle is equipped with a separate connector, but that would accept power through the stop lamp circuit if the towing vehicle is not equipped with the separate electrical connector. According to the petitioner, this feature would allow compatibility among all non-antilock equipped towing units and trailers equipped with antilock.

NHTSA granted WABCO's petition in a letter dated March 17, 1988, stating that the granting of the petition signified that the agency believed that a further review of the issues raised in the petition appeared to be warranted. The October 1988 notice requested comments on a number of issues related to possible amendments concerning trailer antilock power requirements.

NHTSA received comments from a number of truck manufacturers, trailer manufacturers, brake manufacturers, and motor carriers. Truck manufacturer commenters included Ford, PACCAR, Freightliner, Volvo GM, and Navistar, as well as the Motor Vehicle Manufacturers Association (MVMA). Trailer manufacturer commenters included Corpac and the Truck Trailer Manufacturers Association (TTMA). Brake manufacturer commenters included Midland, Rockwell International, and Bendix, as well as the Heavy Duty Manufacturers Association. The American Trucking Associations (ATA) submitted a comment representing trucking companies. NHTSA also received comments from the Anti-Lock Brake/Stability System Task Force of the Maintenance Council, ATA, and from Mr. James M. Lewis, a private individual. The agency also held meetings with a number of brake manufacturers, including Rockwell International, Bosch, WABCO, Bendix, and Midland. Summaries of the meetings were placed in the docket.

Subjects addressed by commenters include possible advantages offered by separate electrical circuits; the types of circuits and connectors that could be used to obtain those advantages; the need for compatibility among different tractors and trailers; the impacts on users that could occur from using different circuits and connectors; and the appropriate role for NHTSA in this area, including whether rulemaking is needed at this time.

A number of commenters supported optional use of separate electrical circuits to power trailer antilock systems. Freightliner, which currently offers WABCO tractor antilock braking systems as an option, stated that it supports WABCO's proposal to amend Standard No. 121 so that alternatives to the stop lamp circuit can be used to power trailer ABS systems. Freightliner stated that the standard should not be design restrictive but should allow market forces and voluntary standards to provide for proper trailer ABS operation. That company argued that a separate circuit is the best means to ensure proper operation of trailer antilock systems, citing greater power capacity, improved reliability, and provision for other system circuits. Freightliner also supported the use of in-cab displays to provide antilock information to the driver.

Rockwell argued that a separate circuit and connector should be allowed but not required. That company stated that it believes WABCO's arguments that a separate electrical circuit will allow for better antilock performance, reliability and failure indication are valid, although it believes that adequate performance could be obtained from the stop lamp circuit for at least single trailers. Rockwell emphasized the importance of compatibility and urged that in the event that power through the separate circuit is unavailable, the ABS system should be capable of basic function through the use of the stop lamp circuit. Rockwell also commented that compatibility on all trailers will require that any new, separate electrical circuit connectors be standardized and university applied. It suggested that a study be initiated of possible separate electrical circuits, and a careful choice made of a standardized system to be required on triples, possibly on doubles, and long-term on all trailers.

Volvo GM recommended that NHTSA allow the optional use of a dedicated power supply and not attempt at this time to control the form, fit or function of the components. That company argued that commercial events will bring reliable and compatible products to the market place, and that it would be premature and possibly disruptive for the agency to issue detailed requirements in this area.

Ford suggested that Standard No. 121 already permits additional (redundant) circuits as contemplated by WABCO and questioned the purpose of that company's petition. Ford argued that if the WABCO system can be powered through the stop lamp circuit and without requiring a separate electrical circuit, the WABCO system is apparently compatible with the present Standard No. 121 requirements.

Ford also disagreed with a number of the advantages cited for separate electrical circuits. That company stated that while it is possible that a separate electrical circuit could supply more power than present stop lamp circuits, there is no reason why stop lamp circuits could not be designed to provide additional power. That company also stated that while continuous power to the trailer antilock brake system could be used to provide warning of a fault, it believes that suppliers of antilock brake systems will be able to provide such continuous monitoring without the use of a separate connector through multiplexing of the truck tractor electrical distribution system. (Multiplexing is an electronic technique for passing a number of different signals through a single wire lead, using different frequencies for the signals.)

Some commenters opposed permitting optional use of separate electrical circuits to power trailer antilock systems. ATA argued that permitting separate electrical circuits would condemn large numbers of existing tractors, which are not equipped with the separate circuits, to being unable to fully use antilock on certain future trailers. That commenter stated that the provision of a relay to enable use of the separate electrical circuit would be just another component to fail, and suggested that safety would not be enhanced by adding additional componentry when the power can go through the stop lamp circuit anyway. ATA also stated that trucking companies involved in day-to-day maintenance of present over-the-road heavy duty truck equipment are not in favor of adding more electrical circuits with an additional cable and connector, citing increased maintenance costs.

ATA also expressed concern that adding warning lights for multiple trailers could result in a plethora of lights in the cab, at a time when concern is growing about overloading drivers with too much information.

Corpac also opposed allowing a separate electrical circuit to power the trailer's antilock braking system, stating that another circuit is unlikely to enhance safety and reliability and would cause compatibility problems and introduce another potential failure point at the connection between tractor and trailer. That commenter stated that if WABCO feels it needs a redundant power source to insure that its particular antilock circuitry functions properly, it can do this under the existing regulation, as long as it utilizes the stop lamp circuit as the primary power source.

TTMA stated that it recommends that power for trailer antilock systems continue to be furnished through the brake lamp circuit. That commenter stated that a separate electrical connection would not eliminate the need for antilock power through the stop lamp circuit, and would add complexity in connecting antilock equipped trailers, particularly in doubles and triples combinations.

A number of commenters argued that any regulation should continue to permit use of the stop lamp circuit for trailer antilock power, often citing the need for compatibility.

MVMA stated that it believes any new regulation should not interfere with the option of manufacturers of trailer antilock brake systems to design and produce ABS systems that will operate with existing seven-way connector plugs and with existing tractor/truck wiring circuitry or other technology.

Summary of Proposal

After considering the comments, NHTSA has tentatively concluded that Standard No. 121's electrical power source requirements for trailer ABS systems should be amended to reflect the changes in circumstances since the requirements were issued. These changes include the development and increasing use in Europe of a new generation of trailer ABS systems, using separate electrical circuits, and increasing use in the United States of doubles and triples combinations.

NHTSA is concerned that the existing requirement inhibits use of some state-of-the-art trailer antilock systems that have more performance features, but also have higher power requirements. The agency does not agree with Ford's suggestion that systems such as that produced by WABCO are already contemplated by the current requirements. As indicated above, Ford argued that if the WABCO system can be powered through the stop lamp circuit and without requiring a separate electrical circuit, the WABCO system is apparently compatible with the present Standard No. 121 requirements.

Section S5.5.2, *Antilock System Power—Trailers,* reads as follows: On a trailer equipped with an antilock system that requires electrical power for operation, the power shall be obtained from the stop lamp circuit. Additional circuits may also be used to obtain redundant sources of electrical power.

While section S5.5.2 requires trailer ABS power to be obtained from the stop lamp circuit, the WABCO system ordinarily obtains power from a separate circuit. The agency notes that while section S5.5.2 permits additional circuits to be used to obtain "redundant" sources of power, the WABCO system uses the separate circuit as the primary source of power. Furthermore, while WABCO would provide a relay that would allow use of the stop lamp circuit for compatibility purposes, under some circumstances (e.g., all solenoids firing simultaneously), its more complex systems could require more power than is available from existing stop lamp circuits.

While NHTSA has tentatively concluded that Standard No. 121's existing electrical power source requirements for trailer ABS systems should be revised, the agency believes that the selection of new requirements is a difficult decision. On the one hand, NHTSA is concerned that the existing requirements inhibit use of the best safety technology that is currently available for trailer ABS systems. As discussed below, however, the agency recognizes that any amendment that permits use of that technology can result in compatibility problems. The selection of new requirements therefore necessitates balancing of a number of factors. After careful consideration, NHTSA has decided to propose two alternative amendments.

Under the first alternative, trailer antilock systems would be required to be powered by a separate electrical circuit, with the stop lamp circuit being used as a source of backup power. New requirements would also be established for an antilock warning signal circuit.

Among other things, the first alternative reflects the fact that additional circuits appear to be necessary, with current technology, to obtain the best antilock performance, i.e., multiple channel systems, in-cab warning capability, etc. Moreover, additional circuits are necessary, again with current technology, to provide even the most basic antilock performance for double and triple combinations.

Under the second alternative, NHTSA would rescind the existing requirement that trailer antilock systems be powered from the stop lamp circuit. Under this alternative, the agency would, at least for the time being, leave the selection of trailer ABS power sources to market forces.

While the two alternatives are quite different, one significant factor they have in common is that neither would prohibit trailer antilock systems that are powered by separate electrical circuits. The agency believes that both alternatives would be responsive to WABCO's petition. Since NHTSA believes that trailer ABS systems powered by separate electrical circuits can offer safety benefits over those powered by the stop lamp circuit, it has tentatively concluded that, at the least, Standard No. 121 should not prohibit such systems. The agency does not want its safety standards to stand in the way of innovation in safety technology.

A more complete description of each alternative and their rationales are provided below.

Alternative One—Mandatory Separate Circuits

A. Description of Proposed Requirements

Under the first alternative, all trailers (including trailer converter dollies) equipped with an antilock system would be required to have a dedicated electrical circuit capable of providing full-time power to the antilock system. A dedicated ground would also be required for this circuit. The peak current capacity of the circuit would be required to be sufficient to provide at least 30 amperes to the modulator valve, and at least 2 amperes to the electronic control unit. The antilock system would be required to automatically receive backup power from the stop lamp circuit in the event that the dedicated electrical circuit did not receive electrical power.

For all ABS-equipped trailers, the dedicated electrical power circuit and dedicated ground would be required to have a means for electrical connection at the front of the trailer.

For ABS-equipped trailers equipped to tow other trailers, the dedicated electrical circuit would also be required to be capable of providing full-time power to the antilock systems of additional trailers in the combination, and, for this purpose, have a means for electrical connection at the rear of the trailer. Similarly, the dedicated ground for this circuit would be required to

have the means for connection at the rear of the trailer.

All ABS-equipped trailers (including trailer converter dollies) would also be required to have a dedicated electrical circuit that is capable of signaling an electrical malfunction in the trailer antilock system to a towing vehicle. The ground for this circuit would not be required to be dedicated.

For all ABS-equipped trailers, the dedicated electrical circuit for antilock warning and ground for this circuit would be required to have the means for electrical connection at the front of the trailer.

For ABS-equipped trailers equipped to tow other trailers, the dedicated electrical circuit for antilock warning would also be required to be capable of transmitting a failure warning signal from the antilock systems of additional trailers in the combination, and, for this purpose, have a means for electrical connection at the rear of the trailer. The ground for this circuit would also be required to have the means for connection at the rear of the trailer.

B. Rationale for Alternative One

This proposed alternative represents a balancing of several considerations. First, the agency believes that the use of additional electrical circuits is a better method of powering trailer antilock systems than use of the stop lamp circuit.

Additional electrical circuits can provide more power than the existing stop lamp circuit. Greater power than is available from the stop lamp circuit appears to be necessary, given current technology, for the higher capability antilock systems, i.e., multiple channel systems. With multiple channels, axle-by-axle, side-to-side, or individual wheel control can be provided. Moreover, additional power appears to be needed, again given current technology, to provide even the most basic antilock performance for double and triple combinations.

Additional electrical circuits can also provide continuous power. This offers the potential for faster reaction time for the antilock brake system, because there is no need for the system to go through its self-diagnostic check every time the brakes are applied, as is the case with systems powered through the stop lamp circuit.

Continuous power can also enable manufacturers to provide a continuous and automatic in-cab warning of trailer antilock brake failure. NHTSA believes it is desirable for drivers to know about a failure in the antilock system as soon as possible, to enable them to adjust their driving, as appropriate, and to obtain more rapid servicing of the vehicle's brakes.

An in-cab warning system would also facilitate identification and repair of non-operative systems by carrier maintenance personnel and roadside inspection officials. This capability may be especially important, since the agency's experience during the 1970's with earlier antilock systems, which did not incorporate an in-cab trailer antilock failure warning feature, indicate that inoperative systems often went unrepaired because of lack of awareness of the failure.

In 1977, a joint NHTSA/Bureau of Motor Carrier Safety roadside survey of 500 antilock equipped was conducted at five locations across the country. This survey was part of NHTSA's overall evaluation of Standard No. 121. See Technical Assessment of FMVSS 121—Air Brake Systems, February 24, 1978, Docket 75–16–GR–038. All systems were checked for failure warning indicator operation and for any physical evidence of disconnection or failure. Of 249 antilock equipped trailers inspected, three percent had been intentionally disconnected. However, 45 percent were definitely not operational, and only 35 percent were fully operational. For the remaining 20 percent, it could not be determined whether or not they were operational. This latter category included vehicles which had no failure warning light bulb and vehicles which had trailer antilock systems that were incompatible with the trailer function tester being used for the inspections. Only five percent of the interviewed drivers knew how to check for a trailer antilock failure.

Some commenters suggested that the burden should be on antilock manufacturers to design systems that are compatible with existing hardware and wiring. While NHTSA appreciates that view, and particularly the desirability of maintaining compatibility with existing vehicles, the agency is also concerned that a 1950's vintage connector not stand in the way of vehicle manufacturers being able to use the best current technology in their brake systems.

While it was suggested in some comments that some of the cited benefits could be obtained through improving the existing seven-pin connector without adding circuits, e.g., by increasing the power capacity of the stop lamp circuit and through multiplexing, not enough information was provided to support the practicability of such an option. Therefore, the agency requests specific information about the wiring and hardware changes that would be needed under such an approach, the costs of such changes, and how compatibility with existing tractors and trailers could be maintained. Also, the agency requests specific information on how trailer lighting systems and other trailer components could be redesigned to use substantially less power, with the result that more power would be available for antilock systems. That information should include the changes that would be needed, the costs, and the relative compatibility when these new units would be towed in combination with old units.

It was also suggested that in-cab warnings for multiple trailers could result in a plethora of lamps in the cab. NHTSA is unaware of and reason why multiple warning lamps would cause confusion, assuming they are properly labeled. In any event, the agency only contemplates that a single warning lamp would be provided in the cab to warn of any trailer or dolly antilock failure.

NHTSA agrees with the commenters that compatibility of all tractors any trailers should be considered. Partial compatibility would be ensured under the agency's proposal because all trailer antilock brake systems would be required to operate from the stop lamp circuit in the event that the dedicated electrical circuit did not receive electrical power, e.g., in situations where the ABS-equipped trailer is pulled by a towing vehicle that is not equipped with separate electrical circuits.

The agency believes that the stop lamp circuit would provide sufficient power for basic antilock performance in most single trailer applications, and the comments support that belief. The agency also believes that benefits could result from requiring trailers primarily used in multiple combinations to be capable of obtaining antilock power from the stop lamp circuit. Such trailers would have sufficient power for basic antilock performance if used singly, but probably would not have sufficient power for basic antilock performance when used in double and triple combinations.

NHTSA recognizes any alternative that permits use of separate circuits will not fully resolve compatibility concerns. Under this first alternative, in some situations, a single trailer might have an ABS system that required greater power than is available from the stop lamp circuit. Similarly, trailers used in doubles and triples combinations might require greater power than is available from the stop lamp circuit.

NHTSA has considered the safety consequences that could result in such situations. The agency believes that

there are two possible areas of concern: braking performance and performance of other vehicle systems, especially lighting, that are dependent on electrical power.

Commenters indicated that manufacturers of antilock systems design the electronic control unit to shut the system down if there is inadequate power, with the result that a trailer reverts to non-antilock braking. Thus, if a trailer obtains inadequate power from the stop lamp circuit, the braking performance would be essentially the same as if it were receiving no power, i.e., the same situation as if the antilock system was not capable of operating from the stop lamp circuit. With the antilock system shut down, other vehicle systems that are dependent on electrical power would continue to function normally.

Under this first alternative, it is thus possible that an ABS-equipped trailer might be driven with the antilock system shut down. It is possible that an ABS system might operate intermittently, i.e., work some of the time and shut down some of the time.

It is obviously not an ideal situation for an ABS-equipped trailer to be driven with the antilock system shut down. NHTSA notes, however, that ABS-equipped trailers are designed to be driven safely with an inoperative antilock system. Moreover, the possibility that an ABS-equipped trailer might be driven with the antilock system shut down must be balanced against the overall safety benefits from antilock, both when used with a separate circuit (which would provide adequate power all of the time) and when used with the stop lamp circuit (which would provide adequate power much of the time). NHTSA specifically requests comments on whether any negative safety consequences could occur from requiring either multiple combination trailers or single trailers to obtain antilock power from the stop lamp circuit, e.g., poorer braking or lighting performance, and if so, whether and how such consequences could be averted.

NHTSA believes that this alternative could result in other benefits related to compatability, especially in the long run. For compatibility purposes, it would be desirable for all ABS-equipped trailers to be powered in the same manner. Since it appears to be necessary to power some such trailers with separate circuits, there could be compatability benefits to powering all ABS-equipped trailers with separate circuits. It it also desirable that all trailers provide a warning of antilock failure in the same manner, to avoid driver confusion. However, in the absence of multiplexing, an in-cab warning can only be provided if separate circuits are used.

While NHTSA believes that the connectors for additional electric circuits should ultimately be standardized for maximum compatibility, it is not proposing to require a standardized connector at this time. Commenters indicated that several connectors are being considered by the U.S. industry, including the ISO connector and a "seven-plus" connector, i.e., a connector which is interchangeable with the current seven-pin connector but which includes additional circuits in an outer ring of additional contracts.

There are various advantages and disadvantages to the connectors under consideration by the industry. For example, while the separate ISO connector is already developed and in use in Europe, users must take the time to attach two connectors between a tractor and a trailer instead of one connector. If an appropriate "seven-plus" connector could be developed, users would only have to attach one connector. The agency notes that one challenge in developing a "seven-plus" connector is how to keep the additional contacts clean/protected when they are not in use.

With more than one connector under consideration by the industry at this time, each having possible advantages and disadvantages and some still under development, NHTSA believes that it is premature to propose requiring a standardized connector at this time. Moreover, the agency believes that some compatibility can be ensured even if different connectors are used for an interim period. As discussed above, some compatibility would be ensured because all trailer antilock brake systems would be required to operate from the stop lamp circuit in the event that the dedicated electrical circuit did not receive electrical power. This would cover situations where connectors for the dedicated electrical circuit were incompatible as well as situations where the tractor did not have any connector. In addition, adapter plugs could be used to mate otherwise incompatible connectors.

As manufacturers continue with their plans to develop a new generation of antilock equipped trailers for the United States, NHTSA believes that the industry will settle on a standardized connector. If the industry fails to do so and there is a proliferation of incompatible connectors, the agency could then consider rulemaking to standardize the connector.

NHTSA is also proposing to require that the peak current capacity of the circuit providing trailer antilock power to be sufficient to provide at least 30 amperes to the modulator valve, and at least 2 amperes to the electronic control unit. This is consistent with the specifications developed by the ISO for its connector, and would ensure that the circuits have sufficient power for available antilock systems.

The agency is also proposing to require that a dedicated ground be provided for the circuit providing trailer antilock power. Since trailer antilock systems may require a relatively large amount of power, the agency believes a separate ground would ensure the best antilock performance. This is also consistent with the specifications developed by the ISO for its connector. NHTSA notes that the ground on the current seven-pin connector limits the power available for the stop lamp circuit. The agency is not proposing to require a separate ground for the antilock warning signal, since it requires little power.

NHTSA believes that the main advantages of this first alternative can be summarized as follows:

1. Would facilitate use of the higher capability trailer antilock systems;
2. Would provide sufficient power for multiple trailer combinations that are equipped with a separate circuit;
3. Would ensure at least partial compatibility, both in the short run and long run;
4. Would help accelerate industry efforts to either develop a new multi-pin connector, or to standardize on a separate connector;
5. Would ensure that an antilock warning signal is sent to the tractor (or other towing unit) on those combinations that are equipped with a separate circuit.

The proposed amendments under the first alternative would become effective one year after publication of a final rule in the **Federal Register.** The agency believes that a one-year period of time would enable manufacturers to make any necessary changes in planned trailer antilock systems to meet the proposed requirements. Optional compliance would be permitted effective 30 days after publication.

Alternative Two—Recision of Current Requirement

While the first alternative reflects current ABS designs and existing technology, NHTSA appreciates the views of some commenters that it may be possible to develop new designs that can provide adequate ABS performance,

even for double and triple combinations, with much lower power requirements. As indicated above, commenters also argued that it may be possible to redesign the stop lamp circuit to provide greater power, and to provide in-cab warnings by means of multiplexing.

Given the extremely small number of ABS-equipped trailers that are currently being produced and substantial uncertainty concerning the nature of new ABS systems that may be designed for the U.S. market and the power requirements of such systems, NHTSA believes that it may be appropriate to simply rescind Standard No. 121's existing requirement that trailer antilock systems be powered from the stop lamp circuit.

Another relevant consideration is the fact that trailer antilock systems are not required by Standard No. 121 but are instead a safety device that can be voluntarily provided by manufacturers. One concern about any requirement in this area is that it may provide a disincentive for manufacturers to provide devices that can result in safety benefits. For example, to the extent that the first alternative has the effect of increasing the cost of trailer antilock systems, it may discourage manufacturers from providing any such systems. Moreover, the first alternative could have the effect of removing any incentive manufacturers have for developing new low-power ABS systems that can operate effectively from the stop lamp circuit.

Under this second alternative, NHTSA would, at least for the time being, leave the selection of trailer ABS power sources to market forces. Manufacturers could thus sell trailer antilock systems that are powered by a separate electrical circuit or by the stop lamp circuit.

NHTSA recognizes that an alternative that permits powering only by a separate circuit, without the capability of receiving power from the stop lamp circuit, raises the possibility of compatibility problems. The purpose of the existing requirement was to ensure that all trailer ABS systems could be powered by all tractors, old and new. Unfortunately, as discussed above, the requirement that was meant to ensure this degree of compatibility (stop lamp circuit powering) does not appear to allow optimum performance with the best antilock systems that are currently available for single trailers, or with any current antilock systems for double and triple combination, since the stop lamp circuit does not provide sufficient power for such applications. NHTSA does not believe that the best solution to the compatibility problem is for the government to prohibit the use of the best available safety technology. Instead, manufacturers and users can work together to minimize the problem and its consequences.

Should compatibility problems arise, however, the agency could then consider whether rulemaking is necessary. At that time, NHTSA would have considerably more information on which to base a regulatory decision. Under this alternative, the agency would also leave to the future the issue of whether requirements should be established for an antilock warning signal circuit. NHTSA also notes that, should it later conduct rulemaking to require antilock braking capability on trailers, it could consider these issues as part of that rulemaking.

For this second alternative, NHTSA is proposing an effective date of 30 days after publication of a final rule in the **Federal Register**. Should the agency decide to adopt this alternative, it believes there would be good cause for an effective date of 30 days after publication. The alternative would impose no new requirements, but would instead relieve a restriction on manufacturers.

Additional Considerations/Questions

NHTSA recognizes that there are advantages and disadvantages to both alternatives. The agency believes that the first alternative could provide a foundation for effective and reliable antilock brake systems. On the other hand, the agency does not want its safety standards to stand in the way of innovation in safety technology and is, therefore, proposing the second alternative. Another reason for proposing two alternatives is that there are many unanswered questions concerning the overall direction of the industry in this area, and how it would respond to alternative requirements.

The agency believes that permitting market forces to shape the outcome of this issue, while facilitating innovation, could result in different approaches to powering trailer antilock systems for different vehicle configurations. There is a likelihood that stop lamp powering would evolve for single trailer combinations, while separate circuit powering would prove necessary for multiple trailer combinations.

The truck user industry has indicated a strong preference for the stop lamp powering approach, for the obvious reason of preserving compatibility between existing and future vehicles. In the absence of a requirement for antilock, the market for ABS that does exist for trailer systems would likely focus on single trailers, which constitute 95–98 percent of the current truck trailer fleet. If simple (one modulator valve) antilock systems are used on single trailer combinations, sufficient power will likely be available to operate the system from the stop lamp circuit. The agency believes that this is the most likely approach the industry would adopt.

NHTSA notes, however, that the results of a recent agency study raise doubt that stop lamp circuit powering would be adequate for the more complex (multiple modulator valve) single trailer systems, or, as was the case in the 1970's, for multiple trailer combinations. The agency recently completed a survey of 561 trailers at four locations throughout the country (DOT Report HS 807 545, "Photometric and Electrical Performance Characteristics of Rear Lighting Systems on In-Service Truck Trailers," February 1990). Stop lamp circuit voltages were measured at the rear of the trailer, or the rear of the rearmost trailer in the case of double and triple trailer combinations. The average voltages found, on this nominal 12 V circuit, were: single trailers, 11.53 V; double trailers, 9.84 V; triple trailers, 8.45 V. More significantly, the minimum voltages noted were: single trailers, 7.93 V; double trailers, 6.03 V; triple trailers, 5.50 V. No antilock was present on any of these trailers. Therefore, these values would be reduced even further if such a system was present and functioning. Antilock systems require a minimum of 6–9 V to operate, or they automatically shut down.

The above values reflect the range of voltages that could be expected with typical in-service trailers, assuming that nothing additional is done to upgrade the design of trailer and/or tractor electrical systems. The low voltage readings could be due to losses occurring in the trailers' wiring systems, drops occurring at electrical connection points, or low source voltage at the tractor. At a minimum, these findings seem to indicate that a general upgrading of trailer and/or tractor electrical systems appears warranted to ensure that voltages closer to the nominal 12 V can be maintained. These values also indicate that stop lamp circuit powering would likely be adequate for simple single trailer antilock systems, but would probably not be adequate for doubles, and would definitely be inadequate for triple combinations.

Due to their multiple articulation points, NHTSA believes these latter configurations of combination unit trucks would likely benefit most from

the stability-enhancing performance that antilock systems afford. While the agency is not proposing to require antilock systems on trailers at this time, it has indicated that it will consider doing so if the results of its ongoing field study of the reliability of antilock systems are positive. If regulations are promulgated at some point, double and triple trailer combinations may be required to be equipped with antilock.

Based on available data, stop lamp powering may not be an acceptable means of powering the antilock systems on multiple trailer combinations. Also, its use does not appear to enable a very effective way of determining the functional status of trailer antilock systems, regardless of the number of trailers in the combination. It also appears that, if separate circuit powering is used for multiple trailer combinations, incompatibility would result since stop lamp powering will likely become the standardized powering approach for single trailers.

Given this scenario, it can be argued that an advantage of Alternative One is that it would encourage industry to begin the process of developing a standardized separate circuit powering approach for all trailers. However, no best standardized approach is evident at this time. Also added costs are associated with this alternative, and the agency does not wish to discourage trailer antilock use.

In order to help clarify these issues, NHTSA specifical requests comments on the following questions:

1.(a) If Alternative Two is adopted, would two approaches to powering trailer antilock systems likely evolve, stop lamp powering for single trailers and separate circuit powering for multiple trailer combinations?

(b) If this happened, how do commenters believe industry would handle the compatibility issue?

(c) If the trucker user industry moved toward stop lamp circuit powering, what approach would be appropriate for equipping multiple trailer combinations with antilock systems?

(d) What configurations of antilock systems are recommended for multiple unit combinations? Do such configurations now exist?

(e) Would industry equip all trailer and converter dolly axles of multiple trailer combinations with antilock?

2.(a) Is there any need to upgrade trailer electrical systems to accommodate the potential availability of trailer antilock systems?

(b) What plans do trailer manufacturers have in this area?

(c) Is there a need to increase the amount of tractor electrical power output available at the tractor/trailer connector?

(d) What plans do tractor manufacturers have in this area?

3.(a) Is there any work going on within industry to develop a new multiple tractor/trailer electrical connector?

(b) Are current industry efforts within the Society of Automotive Engineers to upgrade the present seven-pin connector likely to yield a revised seven-pin connector that will be suitable for powering the antilock systems of multiple trailer combinations through the stop lamp circuit?

(c) If a separate connector is thought to be necessary or desirable, which connector is most likely to be used?

4.(a) Is it important to develop a standardized trailer antilock failure warning signal?

(b) Are there any plans within industry for achieving uniformity in this regard?

(c) How would uniformity be accomplished for trailer antilock failure warning signal if the use of the stop lamp circuit evolves as the industry standard method for powering trailer antilock systems?

Other Alternatives

While NHTSA is proposing two specific alternatives, it also invites comments on other alternatives. The agency notes that other alternatives might include portions of, or variations on, the first alternative. For purposes of developing a possible final rule based on this notice, the agency may adopt portions of the first alternative or variations on that alternative.

Regulatory Impacts

The agency has considered the cost and other impacts of this proposal and determined that the proposal is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory procedures. A preliminary regulatory evaluation describing those effects is available in the docket.

The proposed requirements would only have a cost impact on trailers equipped with antilock brake systems. A negligible number of such trailers are currently being produced, although a larger number is likely to be produced in the future.

For the first alternative the agency estimates that the consumer costs for the more basic antilock systems are: single, non-towing trailer—$180 to $216; towing trailer—$54; converter dolly—$36. The consumer costs for the higher capability antilock systems are: single, non-towing trailer—$180 to $215; towing trailer—$114; converter dolly—$54. These costs include those associated with modifying the electronic control unit to be capable of operating on either a separate circuit or the backup stop lamp circuit, providing the ability to transmit a failure warning signal; additional circuit wiring; and a means for electrical connection.

The second alternative would not impose any new requirements, but would instead relieve a restriction. Thus, no direct costs would be attributable to this alternative.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. The proposed requirements would only affect trailers equipped with antilock brake systems, few of which are currently produced, and would require, at most, only relatively simple design changes. Also, the potential cost impacts would not significantly affect the purchase price of an antilock equipped trailer. Thus, neither manufacturers of motor vehicles, nor small businesses, small organizations, and small governmental units which purchase motor vehicles, would be significantly affected by the amendments.

The agency has also considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

Finally, this proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No state laws would be affected.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received to late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 would be amended in accordance with one of the following alternatives.

Alternative 1

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. In §571.121, S5.2.3 would be added to read as follows:

S5.2.3 *Antilock warning signal circuit.* Each trailer (including a trailer converter dolly) equippped with an antilock system shall have an electrical circuit that is capable of signalling an electrical malfunction in the trailer antilock system to a towing vehicle. The circuit shall not be used for any purpose other than signalling a malfunction in the trailer's antilock system or the antilock system of any other trailer in the combination; however, a ground common with other circuits may be used. A trailer that is not designed to tow another vehicle equipped with air brakes shall have means for connection of the antilock warning signal circuit and ground at the front of the trailer. A trailer designed to tow another vehicle equipped with air brakes shall be capable to transmitting a failure warning signal from the antilock systems of additional trailers in a combination and shall have means for connection of the antilock warning signal circuit and ground at both the front and rear of the trailer.

3. In § 571.121, S5.5.2 would be revised to read as follows:

* * * * *

S5.5.2 *Antilock system power—trailers.* Each trailer (including a trailer converter dolly) equipped with an antilock system shall have an electrical circuit capable of providing full-time power to the antilock systems. In the event that the antilock power circuit does not receive electrical power, the antilock system shall automatically receive backup power from the stop lamp circuit. The peaked current capacity of any antilock power circuit shall be sufficient to provide at least 30 amperes to the modulator valve, and at least 2 amperes to the electronic control unit. An antilock power circuit shall not be used for any purpose other than providing power to the antilock system of that or other trailers in a combination, and the ground for the antilock power circuit shall not be common to any circuit not providing antilock power. A trailer that is not designed to tow another vehicle equipped with air brakes shall have means for connection of any antilock power circuit and ground at the front of the trailer. A trailer designed to tow another vehicle equipped with air brakes shall be capable, when connected to a power source, of providing full-time time power to the antilock system of additional trailers in a combination and shall have means for connection of any antilock power circuit and ground at both the front and rear of the trailer.

Alternative 2

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. In § 571.121, S5.5.2 would be removed.

Issued on April 29, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-10447 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 89-04; Notice 02]

RIN 2127-AC89

Bus Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Termination of rulemaking.

SUMMARY: On March 30, 1989, NHTSA published an advance notice of proposed rulemaking (ANPRM) which discussed a number of possible changes to Federal Motor Vehicle Safety Standard No. 301, Fuel System Integrity, 54 FR 13082. Among the options under consideration was the possibility of proposing to extend the standard to non-school buses with a gross vehicle weight rating (GVWR) greater than 10,000 pounds. After considering comments on the ANPRM and other available information, NHTSA has decided to terminate that portion of the rulemaking concerning extension of the standard to non-school buses over 10,000 pounds GVWR. NHTSA has concluded that there does not appear to be a sufficient safety need for an extension of the standard to these non-school buses.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cohen, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone (202) 366-2264.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 301, Fuel System Integrity, limits the amount of fuel spillage that can occur from a vehicle's fuel system during and for 30 minutes after front, rear, and lateral barrier impact tests. Briefly, these limits are (1) from impact, until the vehicle has ceased motion, spillage must not exceed one ounce by weight; (2) for the five-minute period following cessation of motion, fuel spillage must not exceed a total of five ounces by weight; and (3) for the following 25-minute period, fuel spillage during any one-minute interval must not exceed one ounce by weight. The standard is intended to reduce deaths and injuries occurring from fires

that result from fuel spillage during and after motor vehicle crashes. The standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses (including school buses) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, and to school buses with a GVWR greater than 10,000 pounds.

On March 30, 1989, NHTSA published an advance notice of proposed rulemaking (ANPRM) which discussed a number of possible changes to Standard No. 301. 54 FR 13082. Among the options under consideration was the possibility of proposing to extend the standard to non-school buses with a GVWR over 10,000 pounds. In the notice, NHTSA requested responses to the following questions relating to the above option:

1. Should the agency extend Standard No. 301 to large buses that are currently excluded from the standard. If yes, what would be the benefits of such an extension? If no, why not?

2. What are the costs of fuel system guards currently used on school buses over 10,000 pounds GVWR? Would those same types of guards be effective on non-school buses for Standard No. 301 compliance? Would costs be the same?

3. Do any large transit or inter-city buses currently meet any of Standard No. 301's requirements (i.e., those for either large school buses or for small buses)? Where are the fuel tanks on large transit or inter-city buses located? What steps have been taken by manufacturers to protect fuel systems on these vehicles? What makes and models of buses have their fuel tanks located inside the chassis frame rails?

Below, NHTSA briefly summarizes comments received on the ANPRM concerning these topics? Sixteen commenters supported the extension of the standard to non-school buses with a GVWR of over 10,000 pounds, while 12 commenters opposed it. Commenters favoring extension of the standard stated that non-school buses and school buses are exposed to similar traffick hazards and should be subject to the same fuel system integrity requirements. Commenters opposing the extension, including Gillig Corporation, a manufacturer of both school buses and city-transit buses, asserted that there are major differences between school buses and large non-school buses. They further asserted that, because of these differences, there is less need to apply Standard No. 301 to large non-school buses. These commenters asserted that large non-school buses are much stronger structurally than school buses, have floors that generally are lower than school bus floors, and, unlike school buses, generally have a floor structure that is integrated structurally within the chassis and vehicle side frame.

NHTSA also received comments concerning the costs and effectiveness of installing on non-school buses with a GVWR over 10,000 pounds the same type of fuel system guards currently used on school buses over 10,000 pounds GVWR. Three commenters submitted cost estimates, with the estimated costs ranging from $200 to $315. A number of commenters asserted that sufficient safeguards and protections are currently built into the fuel systems of non-school buses. Some commenters stated that guards used on school buses would not be effective on many non-school buses because of significant design differences. For example, they asserted that exterior tank shields would not be effective if a bus has a fuel tank mounted between the frame rails.

NHTSA also received comments on the steps taken by manufacturers to protect fuel systems in non-school buses. Some manufacturers stated that their large transit or inter-city buses meet the requirements of Standard No. 301 applicable to large school buses. Commenters also stated that fuel tanks are generally positioned between the front and rear axles. This makes the tanks less susceptible to rupture from a collision.

After considering comments on the ANPRM and other available information, NHTSA has decided to terminate that portion of the rulemaking concerning extension of the standard to non-school buses over 10,000 pounds GVWR. NHTSA has concluded that there is not a sufficient safety need for an extension of the standard to such non-school buses. The basis for the agency's decision is discussed below.

After the ANPRM, NHTSA analyzed data from the Fatal Accident Reporting System (FARS) as part of its analysis of the possible safety need for extending Standard No. 301 to non-school buses over 10,000 GVWR. NHTSA compared the fire-related fatalities in school buses, which are subject to the requirements of Standard No. 301, to those in non-school buses. From 1977 to 1989, there were 37 occupant fatalities in crashes involving school bus body type vehicles where fires occurred, as compared to 7 occupant fatalities in such crashes involving non-school buses. (There are approximately 390,000 school buses and approximately 235,000 non-school buses in use.) However, fire was determined to be the "most harmful event" in 27 of the fatalities in school bus body type vehicles (all in one crash of a church bus in Carrollton, Kentucky) as compared to only one of the non-school bus fatalities. (The other 10 fatalities in a school bus body type vehicle occurred in a crash in Essex, Montana. While a fire occurred after that crash, the 10 fatalities resulted from trauma-induced injuries. In addition, the source of the fire was from the tractor-trailer that struck the school but, not the school bus itself.)

While there have been more fatalities in school bus body type vehicles than in non-school buses, the number of actual crashes where fire was the "most harmful event" is limited for both categories of vehicles (i.e., one for school bus body type vehicles and one for non-school buses). This seems to indicate that fire risk in all buses is quite low. These "real world" crash data alone do not provide justification to increase the fuel system integrity of either of the categories of buses. However, because of the special importance placed by Congress and the public on the safety of school children, NHTSA continues to believe that it is appropriate to require school buses to meet higher levels of safety performance than other vehicles.

NHTSA also compared the structural characteristics of non-school buses to those of school buses. NHTSA agrees with commenters that there are differences between school buses over 10,000 pounds GVWR, which currently are covered by Standard No. 301, and many non-school buses over 10,000 pounds GVWR. As pointed out by commenters, non-school buses generally have a floor structure that is integrated structurally within the chassis and vehicle side frame and which is generally lower than school buses. As also pointed out by commenters, fuel tanks on non-school buses are generally positioned between the front and rear axles and between the frame rails, and thus less susceptible to rupture from a collision. The fuel tanks on large transit vehicles are generally protected by the structure of the vehicle. The structure of the transit buses performs a similar function as the tank guards (cages), which are used on some school buses. NHTSA concludes that, because of the structural differences discussed above, there is less need to apply the requirements of Standard No. 301 to non-school buses.

In the ANPRM, NHTSA estimated that the modifications necessary to meet the requirements of Standard No. 301 would cost in the range of $90 to $210 per non-school bus that would need modification, with the cost dependent on fuel tank size. These estimates were based on responses by school bus manufacturers to previous inquiries by NHTSA. In response to the ANPRM,

three commenters provided cost estimates on fuel system guards for school buses. Two commenters indicated that the cost would be approximately $200 per vehicle and one commenter estimated a cost of $315 per vehicle. NHTSA does not know how many non-school buses over 10,000 pounds GVWR manufactured yearly would need modification to comply with an extension of Standard No. 301. NHTSA estimates that the cost of modifying any buses that do not meet the requirements of the standard would range from $150 to $250. The costs of compliance testing are not included in the above estimate of costs.

The Federal Highway Administration (FHWA) has regulations concerning fuel systems for most buses and trucks over 10,000 pounds GVWR (49 CFR 393.65 and 393.67). The FHWA regulations cover fuel tank location, fuel lines, joints, fittings, valves, safety venting systems and tests, and require drop tests for the fuel tank component. The current low risk of fire for large buses can be attributed, in part, to the FHWA regulations.

NHTSA has concluded that the relatively minor safety benefit of extending Standard No. 301 to non-school buses over 10,000 pounds GVWR is not justified in view of the low risk of fire in such buses and the FHWA regulations covering the fuel systems of most such vehicles. Therefore, NHTSA has decided to terminate the rulemaking that would extend Standard No. 301 to those larger non-school buses. However, NHTSA is still considering the other options for rulemaking discussed in the March 30, 1989 ANPRM.

Issued on: April 30, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-10504 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 910379—107]

RIN 0648-AD90

Endangered and Threatened Species; Proposed Endangered Status for Snake River Sockeye Salmon

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

ACTION: Proposed rule; Public hearings and change of previously announced times.

SUMMARY: NMFS published a proposed determination to list the Snake River sockeye salmon (*Oncorhynchus nerka*) as endangered (56 FR 14055, April 5, 1991). In that document, NMFS announced three public hearings. These hearings will occur on the dates and places announced, but the times of the hearings have changed. Each hearing will be held from 7 p.m. to 9:30 p.m., rather than as previously announced. The reason for having evening hearings is to assure that the public has ample opportunity to comment. In addition, a fourth public hearing is scheduled. NMFS reminds commenters that the decision on whether to list the Snake River sockeye salmon under the Endangered Species Act will be based solely on the best scientific and commercial data available, without reference to possible economic or other impacts of a listing.

DATES: The public hearings are scheduled as follows; .

1. May 8, 1991, from 7 p.m. to 9:30 p.m., Seattle, Washington.

2. May 9, 1991, from 7 p.m. to 9:30 p.m., Portland, Oregon.

3. May 10, 1991, from 7 p.m. to 9:30 p.m., Boise, Idaho.

4. May 15, 1991, from 7 p.m. to 9:30 p.m., Richland, Washington.

ADDRESSES: The hearings will be held at the following locations:

1. Western Administrative Support Center, Building 9, 7600 Sand Point Way, NE, Seattle, Washington.

2. 1st Floor West Side, Federal Complex, 911 NE 11th Ave., Portland, Oregon.

3. Boise Interagency Fire Center, 3905 Vista Ave., Boise, Idaho.

4. Federal Building, 825 Jadwin Ave., Richland, Washington.

FOR FURTHER INFORMATION CONTACT: Tracey Vriens, Environmental and Technical Services Division, NMFS, Portland, Oregon, (503) 230-5420 or FTS 429-5420.

Dated: April 29, 1991.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 91-10455 Filed 5-2-91; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Chapter VI

Shark Fishery of the Atlantic Ocean (Including the Gulf of Mexico and the Caribbean Sea)

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

ACTION: Notice of availability of a revised draft fishery management plan, notice of scheduled public hearings on the plan, and request for comments.

SUMMARY: NOAA issues this notice that NMFS, acting on behalf of the Secretary of Commerce (Secretary), has prepared a revised draft Fishery Management Plan for the Shark Fishery of the Atlantic Ocean (FMP) and will hold public hearings and invite public comment on the revised draft FMP

DATES: Written comments will be accepted until June 7, 1991. See "Supplementary Information" for dates, times, and locations of the hearings.

ADDRESSES: Oral and written statements will be taken at the hearings. Additional comments should be sent to Paul J. Leach, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Mark envelope "Shark Plan". Copies of the revised draft FMP may be obtained from NMFS at this address.

FOR FURTHER INFORMATION CONTACT: Paul J. Leach (813) 893-3141.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) provides under section 304(c) for the preparation of a fishery management plan by the Secretary when a fishery requires conservation and management and the appropriate Regional Fishery Management Council(s) cannot prepare a plan in a reasonable period of time. In 1989, the five Councils covering the east coast, Gulf of Mexico, and the Caribbean areas requested the Secretary to prepare the FMP because of the identified need for immediate management measures to protect shark resources and their acknowledgement of the significant amount of time required for preparing a Council plan. On November 28, 1990, the President signed into law amendments to the Magnuson Act (the 1990 Amendments, Pub. L. 101-627) which transferred to the Secretary the regulatory authority for highly migratory species in the Atlantic, Gulf of Mexico, and Caribbean; these highly migratory species include oceanic sharks. The 1990 Amendments direct the Secretary to prepare, amend (as necessary), and implement a fishery management plan for oceanic sharks (Magnuson Act, 16 U.S.C. 1854 (f)).

The National Marine Fisheries Service prepared the first draft FMP in 1989 and conducted 22 public hearings coastwide on it during November and December of 1989. Subsequently, NMFS reviewed the public hearing comments and the views of the five Councils and identified the need to make certain changes in the FMP. These changes included (1) the need for a better definition of overfishing, (2) the inclusion of a stock rebuilding program for those shark resources overfished, (3) the need for further review of existing scientific information concerning the status of stocks and the estimate of maximum sustainable yield (MSY), and (4) additional assessment of the effects of the shark fishery and the proposed management measures on marine mammals and endangered species. NMFS has completed this work and prepared a revised draft FMP.

NMFS is now conducting public hearings on the revised draft FMP, which includes a draft regulatory impact review and a draft environmental impact statement. Public comments are requested at the hearings in written or oral form. Additional public comments may be submitted in writing to the address indicated above. NMFS will consider the public views on the revised draft FMP, make necessary changes, and prepare a final FMP along with revised proposed implementing regulations. It is NMFS's intention (1) to make the final FMP and proposed regulations available for public and Council comment for a 60-day period, (2) to provide a 45-day public comment period on the draft EIS, and (3) to consider all such comments received before implementation of the FMP and in preparing the final EIS.

Shark resources are valuable to many user groups—including consumers of shark meat in the United States, consumers of sharkfin soup in Asia, recreational fishermen who enjoy catching sharks on rod and reel, commercial fishermen whose income is dependent to varying degrees on a shark fishery, and medical researchers using shark-derived substances to study cancer. Shark resources need conservation and management primarily because of a combination of the unique biology of sharks and intense fishing pressure. Sharks, unlike most fish, are generally slow-growing, take many years to reach maturity, and produce few young (2–25 pups) after long gestation periods (1–2 years). Many species of sharks are highly magratory, ranging extensively across wide ocean areas and crossing State and national jurisdictional boundaries. Stocks of shark are fished by many nations.

The maximum sustainable yield (MSY) is U.S. waters (the Exclusive Economic Zone and state waters) covering the U.S. East Coast, Gulf of Mexico, and Caribbean, is estimated to be 9,800 metric tons (mt) annually for the three resource groups combined, which are identified in the FMP (i.e., large coastal species, small coastal species, and pelagic species groups). The large coastal species, targeted principally by the directed shark fishery, are being overexploited. Sharks of this species group have been overfished since 1987, with yearly catches exceeding the MSY (MSY = 3,400 mt per year for the large coastal species group). As a result, stock abundance of the large coastal species group has been severely reduced; the east coast and Gulf of Mexico shark fisheries could collapse, as has occurred in other overexploited shark fisheries, if the intense fishing pressure on the large coastal group is not controlled. If a fishery collapse occurs, it can take decades before the shark resources involved can recover to healthy levels capable of sustaining recreational and commercial fisheries. Insufficient information exists to adequately assess the condition of pelagic species stocks. However, it is known that they are heavily exploited. Small coastal species are currently believed to be under-exploited, but may be nearly fully exploited.

FMP management measures are proposed to achieve four major objectives: (1) Prevent overfishing; (2) encourage management of shark stocks throughout their ranges; (3) establish a data collection, research, and monitoring program; and (4) optimize the benefits to the United States from shark resources while minimizing resource waste. The FMP is intented to stop overfishing, rebuild depressed shark populations, and increase understanding of the condition of shark resources and the shark fishery.

The revised draft FMP proposes management measures to: (1) Establish a fishing year from July 1–June 30; (2) bring 39 shark species under management; (3) divide managed species into three distinct groups consisting of "large coastal", "Small coastal", and "pelagic" shark species; (4) establish a commercial shark fishery landings quota of 3,050 mt for the 1992–93 fishing year—1,450 mt for large coastals and 1,600 mt for pelagics, with no quota restrictions on the small coastals; (5) establish recreational bag limits of two large coastals or pelagics combined per vessel per trip, and five small coastals per person per day; (6) establish a regulatory procedure for annual adjustments of commercial quotas, bag limits, MSY estimates, the management unit (managed species), composition of species groups, and permitting and reporting requirements; (7) prohibit "finning" by requiring that fins be landed attached to carcasses, except for caudal fin, which may be severed; (8) prohibit the storing of fins aboard fishing vessels after the first point of landing; (9) prohibit the sale of shark or shark products by recreational fishermen; (10) require annual permits for commercial fishermen and dealers; (11) prohibit permitted fishermen from selling (and permitted dealers from buying from fishermen) shark fins 30 days or more after (5 days or more after for meat) the applicable commercial quota has been reached and the commercial fishery closed; (12) require reporting of specified information by persons conducting shark fishing tournaments and by permitted fishermen and dealers; and (13) require selected fishermen to accommodate observers on board.

NMFS will hold eight public hearings on the revised draft FMP to obtain public comments. The dates, times, and locations are scheduled as follows:

May 16, 1991, 7:30 p.m., City Hall, Maderia Beach, Florida.

May 20, 1991, 7 p.m., New Orleans Airport Holiday Inn, Kenner, Louisiana.

May 21, 1991, 7 p.m., New Administration Building Commission Chambers, Fort Pierce, Florida.

May 21, 1991, 7:30 p.m., Airport Holiday Inn, Ronkonkoma, New York.

May 22, 1991, 7 p.m., South Wall Township Firehouse, Wall, New Jersey.

May 23, 1991, 7 p.m., The Dunes Manor, Ocean City, Maryland.

May 29, 1991, 7 p.m., Sheraton Hotel and Marina, New Bern, North Carolina.

May 28, 1991, 2 p.m., Hotel Villa Parguera, La Parguera, Puerto Rico.

Dated: April 29, 1991.

Richard H. Schaefer,

Director of Office of Fisheries, Conservatio. and Management, National Marine Fisheries Service.

[FR Doc. 91-10464 Filed 5-2-91; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 86
Friday, May 3, 1991

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

DEPARTMENT OF AGRICULTURE

Meeting of the President's Council on Rural America

AGENCY: Department of Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Under Secretary for Small Community and Rural Development, Department of Agriculture, is announcing a meeting of the President's Council on Rural America. The meeting is open to the public.

DATES: Meeting on Tuesday, May 28, 9 a.m. to 5 p.m., and Wednesday, May 29, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at Winrock International & Winrock Farms, R.R. #3, Morrilton, Arkansas 72110.

Directions: From Morrilton, South on Highway #9 to Oppelo. Turn West on Highway #154 and proceed to Winrock Farms, which is about 9 miles west of Morrilton.

FOR FURTHER INFORMATION CONTACT: Jeanne Kling, coordinator for Council activities, Farmers Home Administration, room 5028 South Agriculture Building, Washington, DC 20250, (202) 447-4439.

SUPPLEMENTARY INFORMATION: The President's Council on Rural America was established by Executive Order on July 16, 1990. Members are appointed by the President and include representatives from the private sector and from State and local governments. The Council is reviewing and assessing the Federal Government's rural economic development policy and will advise the President and the EPC on how the Federal Government can improve its rural development policy. The upcoming meeting will be a planning session.

Dated: April 26, 1991.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 91-10441 Filed 5-2-91; 8:45 am]-

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Industrial Reports—Wave II (Voluntary).

Form Number(s): MQ33F.

Agency Approval Number: 0607-0206.

Type of Request: Revision of a currently approved collection.

Burden: 9,042 hours.

Number of Respondents: 2,012.

Avg Hours Per Response: 30 minutes.

Needs and Uses: In December 1990, the Census Bureau discontinued a survey on nonferrous castings from the Current Industrial Reports (CIR) program due to budgetary constraints. Because of renewed funding from the Aluminum Association, we are reestablishing that part of the survey dealing with aluminum castings. We will collect only one data item on aluminum castings quarterly broken out by two categories, for sale and for own use. The data gathered in the CIR's are used by such government agencies as the International Trade Administration for their U.S. Industrial Outlook Report and their export promotion activities and the Federal Reserve Board for their Index of Industrial Production.

Affected Public: Businesses or other for-profit organizations.

Frequency: Monthly and Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 23, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-10029 Filed 5-2-91; 8:45 am]

BILLING CODE 3510-07-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing the blind or other severely handicapped.

EFFECTIVE DATE: June 3, 1991.

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

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

SUPPLEMENTARY INFORMATION: On February 8, March 1 and 8, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 5197, 5197, 8750 and 9941) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

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

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

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

Commodities

Harness, Carrying
1660-00-571-2239
Kit, Repair
2590-01-114-7396
Folder, File
7530-00-926-2122
7530-00-926-2123
Label, Pressure-Sensitive
7530-00-01R-1357
7530-00-02R-1357
Box, Wood
8115-00-L00-1525 123½"x39½"
8115-00-L00-1526 147½"x39½"
8115-00-L00-1527 123½"x51½"
8115-00-L00-1528 147½"x51½"
8115-00-L00-1780 147½"x63½"
8115-00-L00-1532 99½"x39½"
8115-00-L00-1649 99½"x51½"
(Requirements of the Defense Industrial Plant Equipment Center, Memphis, TN only)

Services

Janitorial/Custodial, Federal Archives and Record Center, Buildings 12 and 22, Military Ocean Terminal, Bayonne, New Jersey.
Janitorial/Custodial, Federal Building and U.S. Post Office, 256 Warner Milne Road, Oregon City, Oregon.
Janitorial/Custodial, U.S. Army Reserve Center, Orangeburg, South Carolina.
Janitorial/Custodial, Federal Building, 695 South Main Street, Colville, Washington.
Operation of the Base Information Transfer Center, Keesler Air Force Base, Mississippi.
Operation of the Postal Service Center, Keesler Air Force Base, Mississippi.

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

Beverly L. Milkman,
Executive Director.

[FR Doc. 91-10539 Filed 5-2-91; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a commodity to be furnished by nonprofit agencies employing the blind or other severely handicapped.

EFFECTIVE DATES: June 3, 1991.

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

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

SUPPLEMENTARY INFORMATION: On February 22, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (56 FR 7346) of proposed additions to the Procurement List. Comments were received from a trade association representing the domestic pencil industry. The association strongly objected to expansion of the portion of the Government's requirements for stationery products being provided by nonprofit agencies employing persons who are blind or have other severe disabilities under the Javits-Wagner-O'Day (JWOD) Program. The association cited two recent additions to the Procurement List of office supply items and a 1983 addition of fine-line pencils. It noted that two of four companies affected by the 1983 addition have been merged into other companies.

When it approves an addition to the Procurement List, the Committee is required to determine that the addition will not have a serious adverse impact on the current contractor for the item. The current contractor for the eraser is the nonprofit agency which will provide it under the JWOD Program.

The association has provided no evidence that the merger of the two companies was caused by the 1983 addition to the Procurement List. Given the size of the overall market for stationery products, it is unlikely that addition to the Procurement list of the small Government requirement for this eraser could constitute serious adverse impact on one or more stationery products manufacturers, even if the impact of previous additions were to be considered. The association has not identified any business enterprise that would be affected by this addition. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

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

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to the Procurement List:

Refill, Eraser
7510-01-317-4222

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

Beverly L. Milkman,
Executive Director.

[FR Doc. 91-10540 Filed 5-2-91; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing the blind or other severely handicapped.

EFFECTIVE DATE: June 3, 1991.

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

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

SUPPLEMENTARY INFORMATION: On March 1, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (56 FR 8750) of proposed additions to the Procurement List.

Comments were received from the current contractor for this garrison cap and from another manufacturer of military headware. The current contractor, a large business producing a variety of military clothing items, noted that its sales had diminished due to a combination of decreased Government orders and diversion of some Government business to small business

setasides and other socio-economic programs. It claimed that loss of its garrison cap business would cost the jobs of 22 workers from an economically disadvantaged group operating in a labor surplus area. The other commenter claimed that because of a reduction in military clothing purchases from 1989 levels, it would be hurt badly by any further reduction in the number of items purchased from industry.

The current contract for the garrison cap that is proposed to be added to the Procurement List represents and extremely small portion of the current contractor's total sales and very small portion of its sales of garrison caps. The Committee does not consider a sales loss of this size to constitute serious adverse impact. The Committee considers that any job loss that may result from the loss of this small portion of the contractor's garrison cap business is outweighed by the creation of jobs for persons with servere disabilities, a group which has traditionally had an extremely high unemployment rate.

Because the other commenter is not a current or most recent contractor, its objection to a reduction in the number of items available for purchase from industry must be considered an objection to losing the opportunity to bid on future procurements of this garrison cap. Under the competitive bidding system, no bidder is guaranteed that it will receive a contract. Accordingly, the Committee does not consider loss of the opportunity to bid on future procurements to constitute serious adverse impact.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities at a fair market price and impact of the addition on the current or most recent contractors, and Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

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

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

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

Cap, Garrison
8405–01–232–5330 thru 8405–01–232–5342

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

Beverly L. Milkman,
Executive Director.

[FR Doc. 91–10541 Filed 5–2–91; 8:45 am]

BILLING CODE 6820–33–M

Procurement List Proposed Additions

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

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has receive proposals to add to the Procurement List commodities to be produced by nonprofit agencies employing the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 3, 1991.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonmprofit agencies employing the blind or other severely handicapped. It is proposed to add the following commidities to the Procurement List:

Net, Laundry
3510–00–841–8376
3510–00–841–8384

Bandage, Elastic
6510–00–935–5823
(45 percent of the Government's requirement)

Tunic, Woman's
8410–01–277–3610
8410–01–277–3650
(65% of Government's requirement)

Paper, Toilet Tissue
8540–00–530–3770
(Requirements for GSA Zone 4 only)

Beverly L. Milkman,
Executive Director.

[FR Doc. 91–10542 Filed 5–2–91; 8:45 am]

BILLING CODE 6820–33–M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 91–1–89SCD]

1989 Satellite Carrier Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of declaratory ruling.

SUMMARY: The Program Suppliers requested the Tribunal to declare whether copyright owners of network programs are entitled to share in the satellite carrier copyright royalty fund. The Tribunal has determined that network program owners are entitled to share in the satellite carrier royalty fund, based on the unambiguous reading of section 119 of the Copyright Act.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washigton, DC 20009 (202–673–5400).

SUPPLEMENTARY INFORMATION: On December 28, 1990, the Program Suppliers, a group of approximately 100 producers and/or syndicators of televisions series, specials and movies, filed a motion with the Tribunal seeking a ruling that copyright owners of network programs are not entitled to share in the satellite carrier royalty fees.

The Tribunal published notice of Program Suppliers' motion in the **Federal Register** and requested comments by February 25 and reply comments by March 11. 56 FR 2757 (January 24, 1991).

The Tribunal received direct comments from ABC, CBS and NBC (the Networks), the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), Major League Baseball (MLB), the National Basketball Association (NBA), the National Hockey League (NHL), the National Collegiate Athletic Association (NCAA), the Public Broadcasting Service (PBS), SESAC, Inc. (SESAC) and the U.S. Commercial Television Broadcast Claimant Group (Broadcast Claimants).

The Tribunal received reply comments from ASCAP, BMI, the Broadcast Claimants, the Networks, and the Program Suppliers.

Background

In 1988, Congress created a new compulsory copyright license, the

satellite carrier license, which permitted satellite carriers to retransmit broadcast signals to home satellite dish owners, so long as the carriers paid a royalty to the Copyright Office for eventual distribution to the proper copyright owners by the Copyright Royalty Tribunal. The royalty rate set by Congress in section 119 of the Copyright Act was 12 cents per signal per subscriber per month for superstations (independent stations) and 3 cents per signal per subscriber per month for network stations.

Section 119 went into effect in 1989, and copyright owners filed their first claims in July 1990. Program Suppliers asked the Tribunal to declare whether copyright owners of network programs are entitled to share in the satellite carrier royalty fund as a threshold question before distributing the first fund collected under section 119.

Much of section 119 is modeled directly on section 111, the section establishing the cable compulsory license. However, section 111(d)(3) states that cable royalties shall be distributed to those copyright owners who own works "included in a secondary transmission made by a cable system of a *nonnetwork television program*", while section 119(b)(3) states that satellite carrier royalties shall be distributed "to those copyright owners whose works were included in a secondary transmission for private home viewing made by a satellite carrier." No exclusion of net work programs is mentioned in section 119(b)(3).

Program Suppliers' Argument

The Program Suppliers believe that the network program owners are not entitled to share in the satellite royalty fund. The Program Suppliers are supported in their contention by ASCAP, BMI, the Broadcast Claimants, and SESAC.

The Program Suppliers argue that section 119 is ambiguous, because there exists, according to the Program Suppliers, a conflict between the language of section 119(b)(3) which does not exclude network programs owners from receiving royalties, and section 119(b)(1) which establishes the royalty rate.

As mentioned above, the royalty rate is 12 cents for superstations (independent stations) and 3 cents for network stations. The Program Suppliers argue that this four-to-one ratio is modeled directly after section 111 which states that independent stations are paid for on the basis of one distant signal, while network stations are paid for on the basis of one-quarter distant signal.

The reason for this four-to-one ratio, according to the Program Suppliers, is that Congress did not intend to compensate network programs in cable nor in satellite carrier, because copyright owners of network programs are already compensated for nationwide coverage by the networks.

The Program Suppliers find support for this in two statements in the House Energy and Commerce Committee's Report on the Satellite Home Viewer Act of 1988. First, the Committee stated that the setting of the rate for network stations at one-fourth the rate for superstations was because, " 'the viewing of non-network programs on network stations is considered to approximate 25 percent.' " H.R. Rep. No. 887 (II), 100th Cong. 2d Sess. 22–23. Second, the Committee went on to say,

> The copyright owners of * * * non-network programs would be entitled to receive compensation * * * . Owners of copyright in network programs would not be entitled to compensation for such retransmissions, since those coyright owners are compensated for national distribution by the networks when the programming is acquired. *Id.*

The Broadcast Claimants in their comments states that the networks had disavowed any interest in additional compensation for reaching unserved areas of the nation in testimony before the House Judiciary Committee.

ASCAP states that a finding that network program owners are entitled to participate would lead to an illogical conclusion-that a one-hour program on a network station would be compensated at one-fourth the rate as the same one-hour program on a superstation.

Network Copyright Owners' Argument

The Networks, (ABC, CBS and NBC) and Major League Baseball (supported by the NBA, NCAA, and NHL) identified themselves as copyright owners of network programs, and argued that the Tribunal should declare that they are entitled to share in satellite carrier royalties.

The Networks and Major League Baseball argue first that section 119(b)(3) is unambiguous, and therefore, no resort to legislative history is justified.

The Networks further argue that the very reason the Satellite Home Viewer Act was passed was in response to a court decision that a satellite carrier was not eligible under section 111 for a compulsory license to retransmit a network broadcast signal, a suit in which NBC was a plaintiff. BMI's reply to this argument is that Congress responded to this case in ways other than giving remuneration to the networks, namely, restricting retransmissions to areas unserved by the networks and instructing the FCC to investigate the possibility of syndicated exclusivity protection.

The Networks next argue that copyright owners of network programs are not already fully compensated, because satellite carrier transmissions are intended only for "white areas," those area that cannot receive a network signal by ordinary antenna. The homes receiving such transmissions have been, up to now, outside of the nationwide coverage for which the copyright owner was compensated.

The Networks and Major League Baseball disagree with the Program Suppliers that the disparity in the rates between superstations and network stations was intended to exclude network copyright owners from sharing in the fund. It was intended, they argue, to maintain comparability between the level of payments satellite carriers pay with the level of payments cable systems pay. Whether this would lead to illogical distributions is possible, but not relevant, because that's a decision Congress made. In the cable license, there exists other disparities, because the pay-in does not correlate by statute to the pay-out.

The Networks point to specific language in the House Judiciary Committee report that in their view recognizes their entitlement, "the [Satellite Home Viewer Act] takes affirmative steps to treat similarly the measure of copyright protection accorded to television programming distributed by national television networks and nonnetwork programming distributed by independent television stations." H.R. Rep. No. 887 (I), 14–15.

Finally, the Networks deny that they disavowed their interest in compensation before Congress, having limited their remarks to free marketplace arrangements only, and not to a statutory license that Congress might pass.

Major League Baseball argues that resort to the legislative history is improper, but if the Tribunal does look at the legislative history, the Tribunal should follow the language of the House Judiciary Committee's Report which has jurisdiction over copyright, and not the House Energy and Commerce Committee's Report. The Judiciary Committee's Report, MLB points out, states that those entitled to share in the satellite carrier fund are those copyright owners identified in section 119(b)(3).

Discussion

Section 119 instructs the Tribunal to distribute satellite carrier royalties to those copyright owners whose works were retransmitted by satellite carriers to home dish owners. It is Tribunal's belief that section 119 is clear and unambiguous. Supporting this view is that section 111, by contrast, very clearly instructs the Tribunal to distribute cable royalties to copyright owners of nonnetwork programs only. As Major League Baseball has noted, the Supreme Court has held that " 'where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' " *Russello* v. *United States*, 464 U.S. 16, 23 (1983) (quoting *United States* v. *Wong Kim Bo*, 472 F. 2d 720, 722 (5th Cir. 1972).

The Program Suppliers have argued that an ambiguity is created by the language in section 119(b)(1) establishing the different rates for superstations and network stations. But the language of 119(b)(1) is not in and of itself conflicting with 119(b)(3), and the Tribunal believes that sections of a statute should be read as harmonious whenever such a reading is justified. As the Networks and Major League Baseball have pointed out, the disparity in rates can be attributed to the desire of Congress to establish the same payment level for satellite carrier as for cable, thereby avoiding unfair interindustry competition. Similarly, the policy underlying the disparity in rates for cable, that network programs have already been compensated for nationwide coverage, does not apply for satellite carriers, because they are retransmitting network signals to "white areas" only.

Having concluded that no ambiguity appears in the statute, should the Tribunal nonetheless take notice of the plain and clear language of the House Energy and Commerce Committee Report which states that network program owners shall not be eligible for satellite carrier royalty fees?

The Supreme Court recently held, "The best evidence of [the] purpose is the statutory text adopted by both Houses of Congress and submitted to the President. Where that contains a phrase that is unambiguous—that has a clearly accepted meaning in both legislative and judicial practice—we do not permit it to be expanded or contracted by the statements of individual legislators or committees during the course of the enactment process." *West Virginia University Hospitals, Inc.* v. *Casey*, No. 89-994, Slip op. at 15 (decided March 19, 1991).

Similarly, as cited by Major League Baseball, the D.C. Circuit Court of Appeals has ruled, "[E]ven if the pertinent passage from the House Report is seen as speaking with complete clarity, the fact remains that committee reports are now law." *American Civil Liberties Union* v. *FCC*, 823 F. 2d 1554 (DC Cir. 1987). Accordingly, the Tribunal interprets Section 119 as clear on its face, and declares that copyright owners of network programs are entitled to participate and prove their entitlement in the distribution of the satellite carrier royalty fund.

Dated: April 30, 1991.

Mario F. Aguero,

Chairman.

[FR Doc. 91-10534 Filed 5-2-91; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare an Environmental Impact Statement on Air Force Actions in Idaho

The United States Air Force in cooperation with the State of Idaho and several other federal agencies, intends to begin preparing an Environmental Impact Statement (EIS) on implementing recommendations to the Defense Base Closure and Realignment Commission concerning Mountain Home AFB, Idaho. The Air Force is beginning the EIS in anticipation that the Defense Base Closure and Realignment Commission will decide to act favorably on the Department of Defense and Air Force proposal submitted on April 12, 1991. The EIS will evaluate the potential impacts of establishing a Composite Air Wing at Mountain Home AFB. Additionally, the EIS will assess at a programmatic level the potential impacts of implementing the proposal offered by the Governor of Idaho to aggregate state lands for the establishment of an air-to-ground range. Finally, the EIS will assess the impacts of several airspace modifications to accommodate the State range proposal and to the boundaries of existing special use airspace. As part of the analysis in the EIS, and Air Force will take into account the cumulatve impacts of the expected movement of F-4G aircraft to Boise International Airport (Gowen Field), Idaho, and of the expected removal of the EF-111s currently stationed at Mountain Home AFB.

The Air Force will be the lead agency for the EIS and the State of Idaho will be a cooperating agency. The Federal Aviation Administration (FAA) and the Department of the Interior (Bureau of Land Management—BLM) are being invited to be cooperating agencies.

The Air Force and the State of Idaho are planning to conduct scoping meetings to determine the issues and concerns that should be addressed in the EIS. Notice of time and place of the planned scoping meetings will be made to public officials and announced in the news media in areas where the scoping meetings will be held.

To assure there will be sufficient time to consider public inputs on issues to be included in developing the EIS when attendance at the scoping meetings is not possible, comments should be forwarded to the addressee below by July 1, 1991. Comments will be accepted any time during the environmental impact analysis process.

For further information contact: Lt. Colonel Tom Bartol, Director of Environmental Programs, AFRCE-BMS/DEV, Building 520, room 131, Norton AFB, California 92409-6884, telephone: (714) 382-3804.

[FR Doc. 91-10524 Filed 5-2-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 17 May 91 from 8 a.m. to 5 p.m. at Human Systems Division, Brooks AFB, Texas 18235-5000.

The purpose of this meeting is to receive presentations of Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) Thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Grace T. Rowe,

Alternate Air Force Federal Register, Liaison Officer.

[FR Doc. 91-10452 Filed 5-2-91; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Opening Meeting

In accordance with section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 16-17 May 1991.

Time: 0800-1600.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) 1991 Summer Study on Army Simulation Strategy will meet for discussions focused on technical and programmatic subjects as regards simulation and modeling. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 91-10570 Filed 5-2-91; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings for the Proposed Expansion of the Strategic Petroleum Reserve

AGENCY: U.S. Department of energy (DOE).

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS).

SUMMARY: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed expansion of the Strategic Petroleum Reserve (SPR) from 750 million barrels to one billion barrels. The SPR is designed to provide the United States with sufficient petroleum reserves to reduce the impacts of any future oil supply interruption and to carry out the obligations of the United States under the International Energy Program. The proposed action is to develop a total of 250 million barrels of crude oil storage capacity at two separate salt domes on the Texas and Louisiana coast. A 150-million-barrel storage facility is proposed for one of four candidate salt domes in southeast Louisiana and a 100-million-barrel storage facility is proposed for one of four candidate salt domes in Texas.

The proposed Louisiana storage facility would be pipeline-connected to DOE's St. James marine terminal on the Mississippi River in St. James Parish and to the Clovelly salt dome pipeline terminal of the Louisiana Offshore Oil Port (LOOP) in Lafourche Parish.

The proposed Texas storage facility would be pipeline-connected to either the proposed Seaway pipeline terminal in Brazoria County or to common carrier pipeline and/or marine terminals of East Houston, the Houston Ship Channel or Texas City in Harris and Galveston Counties.

For each of the two salt dome groupings, the EIS will assess each candidate as an alternative to the other three candidate sites of the group. The assessment of each alternative site will include consideration of ancillary offsite facilities and alternative pipeline routes to crude oil transportation and distribution centers.

Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500-1508), and the DOE NEPA guidelines (52 FR 47662, December 15, 1987).

INVITATION TO COMMENT AND DATES: To ensure that the significant issues related to this proposal are adequately addressed, DOE invites public comment on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in indentifying significant environmental issues and the appropriate scope of the EIS will be considered in preparing the implementation plan and draft EIS, and should be postmarked by June 17, 1991. Written comments postmarked after that date will be considered to the degree practicable.

Oral comments and suggestions are invited by DOE at public scoping meetings to which agencies, organizations, and the general public are invited. The location, date, and time for the scoping meetings are provided in the section of this Notice entitled SCOPING MEETINGS. Written and oral comments will be given equal weight and will be considered in determining the scope of the Draft EIS. The Draft EIS availability will be announced in the **Federal Register** along with dates for public hearings soliciting comments on it. Comments on the Draft EIS will be considered in preparing the Final EIS.

ADDRESSES: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meetings, questions concerning the project, or requests to be put on the mailing list for the Draft EIS should be directed to: Mr. Hal Delaplane, Strategic Petroleum Reserve (FE-421), U.S. Department of Energy 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586-4730.

Envelopes should be labeled "Scoping for SPR EIS."

FURTHER INFORMATION: For further information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586-4600.

SUPPLEMENTARY INFORMATION:

Background and Need for the Proposed Action

The SPR is designed to provide the United States with sufficient petroleum reserves to reduce the impacts of any future oil supply interruption and to carry out the obligations of the United States under the International Energy Program. The SPR currently consists of six underground oil storage facilities: four in Louisiana and two in Texas; a marine terminal on the Mississippi River at St. James, Louisiana; and an administrative facility in New Orleans. One facility, Weeks Island, was a conventional room-and-pillar salt mine in a salt dome before DOE converted it to use for oil storage. At the other five storage facilities (Bayou Choctaw, Big Hill, Bryan Mound, Sulphur Mines, and West Hackberry), crude oil is stored in caverns constructed by solution mining of salt domes. The six SPR facilities had a total crude inventory of approximately 580 million barrels as of March 1991. All major surface construction at the six SPR facilities is completed, and cavern development is in progress to achieve a storage capacity of 750 million barrels. Current plans provide for the decommissioning of Sulphur Mines, with replacement capacity to be developed by the on-going enlargement of the caverns at Bayou Choctaw and Big Hill.

Creation of the SPR was mandated by Congress in title I, part B, of the Energy Policy and Conservation Act of 1975. In this Act, Congress authorized the United States Government to provide for the storage of up to one billion barrels of crude oil and petroleum products. The policies for implementing the SPR program were expressed in the SPR Plan that was approved by Congress and became effective on April 8, 1977. In accordance with this plan, 500 million barrels of oil were to have been in storage by December 1982.

Site-specific EISs were prepared between 1976 and 1981 which supported the selection of the present crude oil

storage facilities and pipelines. The development of the initial 248 million barrels of storage capacity resulted in the selection of five salt dome sites: West Hackberry, Bayou Choctaw, Weeks Island, and Sulphur Mines in Louisiana, and Bryan Mound in Texas.

Three site-specific EISs were published in 1978 to assess the impacts of increasing the crude oil storage capacity to 538 million barrels. Each EIS addressed a complex of sites which were grouped according to the major interstate common carrier pipeline to which they would connect as follows: (1) The Capline Group, located in eastern Louisiana; (2) the Texoma Group, located in western Louisiana and eastern Texas; and (3) the Seaway Group, located in Texas. The selected alternative was the expansion of three existing sites: West Hackberry, Bryan Mound, and Bayou Choctaw.

For the expansion of the SPR from 538 million barrels to 750 million barrels, an EIS was published in 1981 which focused on maximizing early oil fill, as directed by Congress. First consideration, therefore, was given to expanding the existing SPR sites; additional candidates were to be among those considered in the 1978 site-specific EISs. This resulted in the expansion of the West Hackberry and Bryan Mound sites in Louisiana and the development of the Big Hill site in Texas.

In addition, an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) published in January 1990 evaluated the impacts of decommissioning the Sulphur Mines storage facility and increasing the storage capacity of the Big Hill facility.

During 1990, Congress enacted two bills requiring DOE to undertake planning activities associated with the expansion of the SPR to one billion barrels: The Energy Policy and Conservation Act Amendments and the Department of Interior and Related Agencies' Appropriations Act for Fiscal Year 1991. The Appropriations Act requested that DOE report to the Committees on Appropriations regarding recommended storage sites, the proposed methods of storage, a conceptual plan for storage and distribution facilities, and preliminary construction cost estimates. In March 1991, DOE published *Report to the Congress on Candidate Sites for Expansion of the Strategic Petroleum Reserve to One Billion Barrels*, which fulfilled this request. DOE's 1989 Report to the Congress entitled *Report to Congress on Expansion of the Strategic Petroleum Reserve to One Billion Barrels* provides background and a point of departure for the more recent report.

The SPR expansion and distribution plans are based on forecasts of U.S. petroleum demand and supply in the year 2000. Projections for the next ten years include: (1) U.S. oil consumption will increase slowly; (2) domestic oil production will decline significantly; (3) petroleum imports, particularly crude oil, will increase greatly to meet the Nation's net petroleum supply requirements. The crude oil pipeline infrastructure from the Gulf Coast to the Midwest and Midcontinent is projected to increase capacity as inland demands for Gulf Coast imports increase. DOE expects that all increases in pipeline capacity to meet inland crude oil demands will originate in the Houston and Freeport areas of Texas which are currently served by the SPR's Seaway System. Within the Gulf Coast, the Capline and Seaway areas stand out as the largest centers of projected demand and distribution potential.

In the 1989 Report to Congress, DOE discussed the possibility of a 100-million-barrel site on the East Coast utilizing an inground concrete storage technology as an alternative to a second Gulf Coast location. Since then, several studies have been performed to further assess the East Coast storage concept. Although the development of such a facility was found to be technically feasible, the East Coast site development would be roughly double the cost of a Gulf Coast site, and, environmentally, the project would likely encounter significant problems. Therefore, DOE concluded that inground concrete tank storage is not a reasonable alternative at this time and East Coast siting was deleted from the SPR's candidate site list in the 1991 Report.

Based on an analysis of refinery demand and the related SPR distribution infrastructure, the 1991 report concludes that a 250-million-barrel expansion of the SPR would logically be concentrated in the Seaway and Capline complexes. Developing a larger proportion of storage at the Capline site would be more desirable for two reasons. First, the Capline Complex is projected to have a larger distribution potential than the Seaway Complex and is also expected to be the dominant import carrier to the Midwest due to its more direct route and lower tariffs. Secondly, because the Capline Complex was never developed to the level of storage capacity envisioned in the original SPR Plan, the SPR's storage in the Capline area is only 20 percent of the current Reserve and is insufficient to sustain a 150 to 180-day drawdown at design rates. Therefore, the most desirable expansion configuration for the one billion barrel program would be (1) a 150-million-barrel storage site in the Capline Complex connected to the LOOP Clovelly terminal for distribution; and (2) a 100-million-barrel storage site in the Seaway Complex connected to the Seaway Pipeline Terminal or Houston Pipeline terminals serving the Midcontinent and Midwest.

A prototype 150-million-barrel SPR facility in the Capline Complex in Louisiana would include fifteen 10-million-barrel caverns on a 300-acre site. The caverns would be created in rock salt from 2,000 to 5,000 feet below ground by solution-mining, or leaching, with fresh or salt water using from one to three wells per cavern. Leaching 150 million barrels of storage space would create between 1.0 and 1.2 billion barrels of concentrated brine that would require disposal either by pipeline and diffuser into the Gulf of Mexico or by an array of offsite underground injection wells.

To provide the water, a raw water intake structure would be constructed offsite in a source surface water body. The principal operating systems would be the raw water leaching/drawdown system, a brine setting and disposal system, a crude oil injection/distribution system, a fixed fire protection system, and a central control system. Major surface buildings and structures would include an electrical substation, a control center, an administration building, security operations buildings, communications, covered laydown, fire house, and a storage and maintenance warehouse. The water and brine systems would be sized for leaching caverns at a rate of one million barrels per day and the crude oil system would be designed for drawdown at 900,000 barrels per day.

The facility would be connected by crude oil pipelines to the distribution terminals at LOOP's Clovelly salt dome in Lafourche Parish and DOE's St. James Terminal in St. James Parish.

A prototype 100-million-barrel SPR facility in the Seaway Complex in Texas would consist of ten 10-million-barrel caverns on a 200-acre site with the similar systems and structures as described above for the Capline site. Water and brine systems would be sized for leaching caverns at a rate of approximately one million barrels per day; the crude oil system would be designed for drawdown at 600,000 barrels per day. The facility will be pipeline-connected to either the Houston/Texas City distribution centers

on the Seaway Pipeline terminus at the Jones Creek Tank Farm in Brazoria County.

In accordance with NEPA, DOE has completed a Supplement Analysis (SA) of the 1976 SPR Programmatic EIS and its 1979 Supplement. The Programmatic EIS considered the impacts of the overall program as well as several alternative storage facilities (e.g., existing solution—mined cavities in salt dome formations, existing conventional mines, development of new solution-mined cavities in salt dome formations, existing and new surface tankage, and surplus tanker ships) and recommended the development of new solution-mined cavities in salt formations along the Gulf Coast. After the SPR Plan was revised by Amendment 2 in June 1978 to increase the SPR to one billion barrels, DOE published a Supplement to the Programmatic EIS in 1979 that addressed this expansion at the programmatic level. Based on the detailed review of the Programmatic EIS and its Supplement in the SA, DOE determined that no supplement to the Programmatic EIS is required to support the proposed expansion. A Strategic Petroleum Reserve Plan Amendment will be submitted at the completion of the NEPA process which will provide final recommendations regarding the storage sites to be developed.

Proposed Action

The proposed action is to develop 250 million barrels of crude oil storage capacity at two salt domes on the Texas and Louisiana coast. A 150-million-barrel storage facility is proposed for one of four candidate salt domes in southeast Louisiana and a 100-million-barrel storage facility is proposed for one of four candidate salt domes in Texas.

Eight Gulf Coast salt domes have been identified as candidate sites in the March 1991 *Report to Congress on Candidate Sites for Expansion of the Strategic Petroleum Reserve to One Billion Barrels*: Chacahoula, Cote Blanche, Napoleonville, and Weeks Island in Louisiana are candidates for a 150-million-barrel storage facility in the Capline Complex; and Boling, Big Hill, Hawkinsville, and Stratton Ridge in Texas are candidates for a 100-million-barrel storage facility in the Seaway Complex. Together, these eight candidate sites represent the alternatives to be assessed under NEPA; however, the scoping process may identify additional alternatives for assessment in the EIS.

The proposed Louisiana storage facility would be pipeline-connected to DOE's St. James marine terminal on the Mississippi River in St. James Parish and to the Clovelly salt dome pipeline terminal of the Louisiana Offshore Oil Port (LOOP) in Lafourche Parish.

The proposed Texas storage facility would be pipeline-connected to either the proposed Seaway pipeline terminal in Brazoria County or to common carrier pipeline and/or marine terminals of East Houston, the Houston Ship Channel or Texas City in Harris and Galveston Counties.

Alternatives

The Department's preferred alternative is to develop a 150-million-barrel storage facility in the Capline Complex and a 100-million-barrel storage facility in the Seaway Complex. Alternatives to be evaluated include (1) no action; (2) the selection of a different distribution system and/or location of storage facilities for each of the Capline and Seaway Complexes. For each of the two salt dome groupings, the EIS will assess each candidate salt dome as an alternative to the other three candidates in the group. The assessment of each alternative site will include consideration of ancillary offsite facilities and alternative pipeline routes to crude oil transportation and distribution centers.

Identification of Environmental Issues

The following issues associated with the proposed expansion of the SPR will be considered by DOE during its evaluation of candidate storage locations. This list is neither intended to be all inclusive, nor is it a predetermination of potential impacts. Additions to or deletions from this list may occur as a result of the scoping process.

(1) Air Quality Impacts: The effects of construction and operation of SPR facilities at the candidate sites on air quality within the surrounding region.

(2) Water Resources and Water Quality Impacts: The qualitative and quantitative effects on water quality of potential oil, brine, or other types of spills, waste disposal (including brine disposal), and water usage during site development and operations.

(3) Involvement of Sensitive Environments and Ecological Impacts: The potential environmental impacts of construction and operation of SPR facilities on local ecology and wetlands, as well as the potential disturbance or destruction of threatened or endangered flora and fauna.

(4) Land Use Impacts: Potential effects of allocating land resources in the area to storage capacity development rather than other uses (e.g., agricultural, commercial, recreational) and potential aesthetic or visual impacts.

(5) Geological Impacts: Potential impacts on the geology in the vicinity of the sites, including halokinesis or cavern "creep", subsidence, increased potential for flooding, and soil impacts.

(6) Socioeconomic Impacts: Potential impacts of (1) economic dislocations on co-located industries and their employees and the local tax base, and (2) increased development on communities located near the candidate sites, including increased traffic, effects on labor patterns, and increased demand for services such as police, fire, and medical services.

(7) Impacts on Cultural Resources: Potential effects on historical, archaeological, scientific, or culturally important sites.

Issues will be discussed in sufficient detail to clarify and distinguish among alternatives.

Mitigation Measures

The projected environmental impacts from the expansion of the SPR at the candidate sites will depend on the level of SPR operations and the mitigation measures that are recommended for each potential impact. Mitigation measures will be discussed in the EIS and will relate specifically to the potential impacts identified.

NEPA and the Scoping Process

DOE will comply with the NEPA process as outlined in the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508) and DOE's Guidelines for Compliance with the National Environmental Policy Act (52 FR 47662, December 15, 1987).

Scoping, an integral part of the NEPA process, solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) the Draft EIS is thorough and balanced; and (3) delays occasioned by an inadequate Draft EIS are avoided. The scoping process will involve all interested agencies (Federal, State, and local), organizations, and members of the public.

Issues to be addressed in the Draft EIS, in addition to those already listed, will be determined from comments submitted by mail, or presented orally or in writing at the public scoping meetings. All comments will be given equal weight by DOE. The preliminary identification of reasonable alternatives and environmental issues is not meant to be exhaustive or final. Alternatives other than those outlined above may warrant examination, and new issues may be identified for evaluation. The results of scoping will be incorporated into a document called an Implementation Plan (IP) which provides guidance for the preparation of an EIS. The IP will be available for public distribution at the conclusion of scoping.

Scoping Meetings

Public scoping meetings, held at the locations on the date and at the time indicated below, will be informal. A presiding officer designated by DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To request time to speak at the public scoping meetings, persons should submit a written request to Hal Delaplane using the address listed in the **ADDRESSES AND FURTHER INFORMATION** section of this notice. The meetings are scheduled as follows:

Date: Tuesday, June 4, 1991
Time: 7:00 p.m.
Place: Center for Arts and Sciences, 400 College Drive, Lake Jackson, Texas

Date: Thursday, June 6, 1991
Time: 7:00 p.m.
Place: Goaux Hall, Madewood Drive, Nicholls State University, Thibodaux, Louisiana

To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker who signs up before the meeting begins. Depending on the number of persons requesting to be heard, DOE may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify that organization when they sign up to speak. Persons who have not submitted a written request to speak in advance may register to speak at the scoping meetings. They will be called upon to present their comments as time permits.

A complete transcript of the public scoping meetings will be retained by DOE and made available for inspection during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, and at the Department of Energy SPR Project Management Office (c/o Mike Farley), 900 Commerce Road East, New Orleans, LA 70123, telephone (504) 734-4374. Additional copies of the public scoping meetings transcripts also will be made available during normal business hours at the following locations:

Brazoria County Library, 401 East Cedar, Angleton, Texas 77515, Contact: Steve Brown, (409) 849-5711 ext. 1505

Beaumont Public Library, 801 Pearl Street, Beaumont, Texas 77701, Contact: Naomi Paul, (409) 838-6606

Allen J. Ellender Memorial Library, Leighton Drive, Nicholls State University, Thibodaux, Louisiana 70310 Contact: Peter Kaatrud, (504) 448-4652

Dupre Library, 302 East St. Mary Blvd., U. of Southwestern Louisiana, Lafayette, Louisiana 70504, Contact: Sandy Himel or Barbara Flynn, (318) 231-6030.

In addition, copies of the public scoping meeting transcripts will be made available for purchase. Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Implementation Plan and/or the Draft EIS, should notify Hal Delaplane at the address given in the **ADDRESSES AND FURTHER INFORMATION** section of this Notice.

Related Documentation

The following documents related to the proposed action are available from Mr. Hal Delaplane, Office of Strategic Petroleum Reserve (FE-421), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586-4730:

"Strategic Petroleum Reserve Phase III Expansion; Record of Decision". **Federal Register**, 47 FR 9730, March 5, 1982.

Report to the Congress on Candidate Sites for Expansion of the Strategic Petroleum Reserve to One Billion Barrels. U.S. Department of Energy, March 1991. DOE/FE-0221P.

Supplement Analysis for the Programmatic Environmental Impact Statement of the Strategic Petroleum Reserve. U.S. Department of Energy, Office of Strategic Petroleum Reserve, March 1991.

The following documents are available in microfiche form from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. To obtain copies, contact the NTIS Sales Desk at (703) 487-4650. The Sales Desk representative will also provide information on document prices and the availability of the document as a printed, bound copy.

Report to the Congress on Expansion of the Strategic Petroleum Reserve to One Billion Barrels. U.S. Department of Energy, April 1989. DOE/FE-0126.

Strategic Petroleum Reserve Phase III Expansion: Texoma and Seaway Group Salt Domes (West Hackberry and Bryan Mound Expansion, Big Hill Development, Final Environmental Impact Statement. U.S. Department of Energy, October 1981. DOE/EIS-0075 (NTIS No. DE 84017132).

Strategic Petroleum Reserve, Expansion of the Reserve, Final Environmental Impact Statement. U.S. Department of Energy, January 1979. DOE/EIS-0034.

Strategic Petroleum Reserve Final Environmental Impact Statement. Federal Energy Administration, December 1976. 2 vols. FEA/S-76/487 and FEA/S-76/488 (NTIS Nos. PB261799 and PB 261800).

Signed in Washington, DC, this 26th day of April 1991, for the United States Department of Energy.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 91-10510 Filed 5-2-91; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Forms EIA-23, 23P and 64A, "Oil and Gas Reserves Surveys"

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of Proposed Extension of the forms EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," EIA-23P, "Oil and Gas Well Operator List Update Report," and EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reducation Act of 1980, Public Law No. 96-511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with the opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are cleary understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed extension of the forms EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," EIA-23P, "Oil and Gas Well Operator List Update Report," and EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production." Under the EIA budget proposal for FY 1992, the Oil and Gas Reserves program will remain a major part of EIA's effort with annual estimates of oil and gas reserves published every other year.

DATES: Written comments must be submitted, on or before June 3, 1991. If

you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Mr. Paul Chapman, Energy Information Administration, Dallas Field Office, 1114 Commerce Street, room 804, Dallas, Texas 75242-2899, Telephone (214) 767-2200.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the forms and instructions should be directed to Mr. Paul Chapman at the address above.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Current Actions.
III. Request for Comments.

I. Background

In order to fulfill its responsibilities under the Federal Energy Adminsitration Act of 1974 (Pub. L. No. 93-275) and the Department of Energy Organization Act (Pub. L. No. 95-91), the Energy Information Adminsitration is obliged to carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, and disseminate data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near- and longer-term for the Nation's economic and social needs.

Operators of crude oil and natural gas well(s) are the target respondents of the Form EIA-23, and operators of natural gas plant(s) are the target respondents of the Form EIA-64A. The amount of crude oil, associated-dissolved and nonassociated natural gas, and lease condensate production and reserves by field are requested of major oil and gas well operators. In addition, a selected sample of small operators provides production and reserves of crude oil, natural gas and lease condensate at a State level on the Form EIA-23. The amount of natural gas processed, natural gas liquids produced, the resultant shrinkage of the natural gas, and the amount of natural gas used in processing are requested of natural gas plant operators. These data are essential to the development, implementation, and evaluation of energy policy and legislation. Data will be used directly in the publication, *U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves,* and incorporated into a number of other publications and analyses. Secondary publications which use the data are the *Annual Energy Review, Annual Energy Outlook, Petroleum Supply Annual,* and *Natural Gas Annual.*

II. Current Actions

This notice is for a proposed three year extension of the forms EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," EIA-23P, "Oil and Gas Well Operator List Update Report," and EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production," until December 31, 1994, from the current OMB expiration date of December 31, 1991. Under the EIA budget proposal for FY 1992, which was submitted to Congress in January 1991, the Oil and Gas Reserves program will remain a major part of EIA's effort with annual estimates of oil and gas reserves published every other year.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the time specified in the instructions?

D. Public reporting burden for this data collection is estimated to range from 62 to 333 hours per response for the field version of Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves" and reporting burden is estimated to average 8 hours per response for the state level version of Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves." Public reporting burden is estimated to average 5.9 hours per response for the Form EIA-64A, "Annual Report of the Origin of Natural Gas Liquids Production." Public reporting burden is estimated to average 0.25 hours per response for the Form EIA-23P, "Oil and Gas Well Operator List Update Report." How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form(s)?

E. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of the collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purpose would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

E. Would your use of the data be adversely affected if publication of annual estimates were on a biennial basis? If so, how?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form(s); they also will become a matter of public record.

Statutory Authorities: Sections 5(a), 5(b), 13(b), and 52 of Pub. L. No. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. §§ 564(a), 764(b), 772(b), and 790a.

Issued in Washington, DC April 29, 1991.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 91-10508 Filed 5-2-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. F-030]

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures From Goodman Manufacturing Corporation

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Goodman Manufacturing Corporation (Goodman) from the existing Department of Energy (DOE) test procedures for furnaces relating to blower time delay for the company's PG and PGX series rooftop gas furnaces.

Today's notice also publishes a "Petition for Waiver" from Goodman

which requests DOE to grant relief from the DOE test procedures relating to the blower time delay specification. Goodman seeks to test using a blower delay time of 30 seconds for its PG and PGX series rooftop furnaces instead of the specified 1.5 minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than June 3, 1991.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-030, Mail Stop CE-90, room 6B-025, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-3012.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station CE-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On January 16, 1991, Goodman filed an Application for an Interim Waiver regarding blower time delay. Goodman's Application seeks an interim waiver from the DOE test provisions that require a 1.5 minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Goodman requests the allowance to test using a 30 second blower time delay when testing its PG and PGX series rooftop gas furnaces. Goodman states that the 30 second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 1.0 percent. Since current DOE test procedures do not address this variable blower time delay, Goodman asks that the interim waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to the Coleman Company, 50 FR 2710, Janaury 18, 1985, Magic Chef Company, 50 FR 41553, October 11, 1985, Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990, Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990, DMO Industries, 55 FR 4004, February 6, 1990, Heil-Quaker Corporation, 55 FR 13184, April 9, 1990, Carrier Corporation, 55 FR 13182, April 9, 1990, Amana Refrigeration, Inc., 56 FR 853, January 9, 1991, and Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Goodman an Interim Waiver for its PG and PGX series rooftop gas furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver to Goodman Manufacturing Corporation was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, April 26, 1991.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

April 26, 1991.

Mr. Peter H. Alexander,
Vice President, Engineering, Goodman Manufacturing Corporation, 1501 Seamist, Houston, Texas 77008

Dear Mr. Alexander: This is in reponse to your January 16, 1991, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces regarding blower time delay for the Goodman Manufacturing Corporation PG and PGX series rooftop gas furnaces.

Previous waivers for timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985, Magic Chef Company, 50 FR 41553, October 11, 1985, Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990, Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990, DMO Industries, 55 FR 4004, February 6, 1990, Heil-Quaker Corporation, 55 FR 13184, April 9, 1990, Carrier Corporation, 55 FR 13182, April 9, 1990, Amana Refrigeration, Inc., 56 FR 853, January 9, 1991, and Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991.

Goodman's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Goodman will

likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Goodman's Application for an Interim Waiver from the DOE test procedures for its PG and PGX series rooftop gas furnaces regarding blower time delay is granted.

Goodman shall be permitted to test its line of PG and PGX series rooftop gas furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, Appendix N, with the modification set forth below.

(i) Section 3.0 in appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103–82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas-and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs as single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start, the blower at the highest temperature. If the fan control is permitted start the blower, measure time delay, (t-), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ±0.01 inch of water gauge of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary

Sincerely,

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

January 16, 1991.

Assistant Secretary, Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Gentlemen: This is a Petition for Waiver and Application for Interim Waiver submitted pursuant to Title 10 CFR 430.27. Waiver is requested from the test procedures for measuring the Energy Consumption of Furnaces found in Appendix N of Subpart B to Part 430.

Goodman Manufacturing Corporation requests a waiver from the specified 1.5 minute delay between burner ignition and initiation of the circulating air blower. Goodman Manufacturing seeks authorization in its furnance efficiency test procedures and calculations to utilize a fixed timing device which energizes the circulating blower 30 seconds after burner ignition. A control of this type which employes a 30 second delay will be incorporated in our PG and PGX series of gas/electric package units.

The current test procedures does not credit Goodman Manufacturing for additional energy savings that are realized when a shorter blower on-time is utilized. Test data which we have generated indicates an average increase of 1 percent in AFUE when a 30 second timed on delay is used. Copies of this confidential test data will be furnished to you upon request.

Goodman Manufacturing is confident that this petition for Waiver will be granted as similar petitions have been previously granted to Evcon, Rheem Manufacturing, Carrier, Inter-City Products, Lennox Industries and the Trane Company.

Manufacturers that domestically market similar products are being sent a copy of this Petition for Waiver and Application for Interim Waiver. Please direct any correspondence on this request to the undersigned.

Sincerely,

GOODMAN MANUFACTURING CORPORATION,

Peter H. Alexander,

Vice President, Engineering.

[FR Doc. 91–10507 Filed 5–2–91; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91-10-LNG]

Phillips 66 Natural Gas Company and Marathon Oil Company, Application To Amend Authorization To Export Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application to amend authorization to export liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 30, 1991, of an application filed by Phillips 66 Natural Gas Company (Phillips 66) and Marathon Oil Company (Marathon) requesting an amendment to the pricing provisions contained in their existing authorization to export liquefied natural gas (LNG) from the Kenai peninsula of Alaska to Japan.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., June 3, 1991.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Linda Silverman, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7249.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Under DOE/ERA Opinion and Order No. 261, issued July 28, 1988 (1 ERA Para. 70,130), applicants currently are authorized to export annually 52.0 trillion Btus of LNG per year, subject to certain adjustments, through March 31, 2004. The LNG is exported from their Kenai LNG liquefaction plant in the Cook Inlet area of Alaska to two Japanese customers, the Tokyo Electric Power Company, Inc., and the Tokyo Gas Company, Ltd.

Order No. 261 approved application of the following price formula to these LNG sales:

Delivered price: A base price of five hundred ninety-two and eight tenths (592.8) U.S cents per million Btu (MMBtu) as indexed and adjusted in accordance with the below formula so as to reflect changes in the monthly weighted average of the Government Selling Prices of a basket of twenty (20) crude oils imported into Japan plus an adjustment factor.

Delivered price for calendar month (U.S. cents per million BTUs) = 592.8

$$\times \frac{\text{Avg GSP (Month Prior to Calendar Month)}}{34.48}$$

+ Adjustment

Where:

Avg GSP is the average of the Government Selling Prices (in U.S. dollars per barrel) applicable on the last day of the preceding calendar month weighted by the volumes for the top twenty (20) crude oils (ranked by descending volumes) imported into Japan during the preceding calendar year.

Adjustment is a factor negotiated from time to time between Buyers and Sellers to better allow the price of LNG sold under the contract to respond to market conditions. The adjustment is limited to a range of plus or minus 30.0 U.S. cents per MMBtus purchased and sold.

In response to the continued volatility of the international crude oil and LNG markets, the parties executed two agreements, the 1989 Memorandum and the 1990 Agreement, both of which, subject to regulatory approval, revised the pricing formula approved in Order No. 261 for sales made from April 1, 1989, through March 31, 2004. Phillips 66 and Marathon maintain that the actual LNG prices established under the 1989 Memorandum are within the price ranges previously permitted under Order No. 261.

The applicants are requesting approval to revise the LNG pricing formula authorized in Order No. 261 in accordance with the 1989 Memorandum and the 1990 Memorandum in the following respects:

1. Using an arithmetic average price over a three month period (rolling average) of the weighted average price of all crude oils (including raw oils) imported into Japan in each of those three months (the JCC) less 68 cents per barrel rather than using a single month weighted average Government selling price of the top twenty crude oils imported into Japan during the preceding calendar year (average GSP);

2. Determining the current month's crude oil prices by averaging the current and preceding two months' prices;

3. Applying the revised pricing formula to the price of LNG sold and delivered from October 1, 1989, through March 31, 2004.

4. Deducting the 68 cents from the JCC in order to reflect the historic difference between the JCC and the formerly used GSP: and

5. Applying a Special Adjustment Factor (SN) for LNG sold and delivered from October 1, 1990, through March 31, 1993.

The applicants assert that the revised pricing formula makes this LNG competitive with other energy sources, including other LNG, imported into Japan. According to the application, since the approval of Order No. 261, the Government Selling Price has ceased to be a reliable indicator of the actual selling price of crude oil. Furthermore, LNG market prices in Japan have changed, affecting the applicants' ability to market LNG in Japan. Therefore, the applicants have sought to adopt a more flexible and market responsive pricing formula.

This export application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204-111. In reviewing natural gas exports, DOE considers domestic need for the gas and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these matters.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decison and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Phillips 66 and Marathon's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 29, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-10509 Filed 5-2-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRI-3953-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burdens; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for New Residential Wood Heaters (Subpart AAA). (ICR #1176.03; OMB #2060-0161). This is a reinstatement of a previously approved collection.

Abstract: Under these regulations, wood heater manufacturers, testing laboratories, and retailers are required to submit reports to EPA and/or to maintain records for demonstrating compliance with the NSPS. Manufacturers must give 30 days advance notice of scheduled certification testing, report the results of the certification tests, and submit a statement biennially certifying that no changes have been made to the model line that affect emission performance. Manufacturers must affix labels to wood heaters in accordance with the regulations and assure that the owner's manual contents comply with the regulations. Testing laboratories must apply to EPA for accreditation and report the results of the initial and annual proficiency tests. Both manufacturers and laboratories are required to keep records pertaining to certification tests. Commercial owners are required to maintain names and addresses of previous owners of used wood heaters. This information is necessary to prevent the sale of new, uncertified wood stoves under a claim that they are exempt used stoves.

EPA uses the information supplied by the manufacturers to ensure that best demonstrated technology is being applied to reduce emissions from wood heaters and to ensure compliance with the certification procedures and emission standards. EPA uses the information from the testing laboratories to grant or deny accreditation and to assist in enforcement and compliance activities.

Burden Statement: The public reporting burden for this collection of information is estimated to average 5 hours per response for reporting with 19 responses required for each of 50 respondents annually, and 5.6 hours each for 932 recordkeepers annually.

Respondents: Manufacturers, distributors and retailers of residential wood heaters, and laboratories that conduct certification tests.

Estimated No. of respondents: 50 for reporting and 932 for recordkeeping.

Estimated No. of responses per respondent: 19.

Estimated total annual burden on respondents: 9,987 hours.

Frequency of collection: On occasion for test results, annually for laboratory proficiency tests, and biennially for manufacturer's certification that no changes have been made to the model line that affect emission performance.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: April 26, 1991.

Paul Lapsley,

Director Regulatory Management Division.

[FR Doc. 91-10526 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3953-6]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed April 22, 1991 Through April 26, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910123, Final EIS, AFS, NM, Ward Timber Sale, Implementation, Gila National Forest, Luna Ranger District, Catron County, NM, *Due:* June 03, 1991, *Contact:* Jerry Hibbetts (505) 547-2611.

EIS No. 910124, Draft EIS, AFS, CO, Corral Mountain Timber Sale, Implementation, San Juan National Forest, Pagosa Ranger District Archuleta County, CO, *Due:* June 24, 1991, *Contact:* Richard M. Jewell (303) 264-2268.

EIS No. 910125, Second Draft EIS (SCS, CO, UT, Uintah Basin Unit Expansion Plan, Irrigation Improvement, Colorado River Salinity Control Program, Funding, Uintah and Duschesne, UT, *Due:* June 17, 1991, *Contact:* Francis T. Holt (801) 524-5050.

EIS No. 910126, Draft EIS, FHW, MN, MN-TH 14 Improvements, North Mankato-Mankato Bypass and County Road 193 to Smiths Mill, Funding and Section 404 Permit, City of Mankato, Blue Earth County, MN, *Due:* June 17, 1991, *Contact:* Charles E. Foslien (612) 290-3230.

EIS No. 910127, Draft EIS, AFS, UT, WY, Westside Analysis Area, Multiple Use Management Plan, Implementation, Wasatch-Cache National Forest, Summit County, Utah and Uinta County, WY, *Due:* June 17, 1991, *Contact:* Kent O'dell (307) 782-6555.

EIS No. 910128, Draft EIS, COE, HI, Kawainui Marsh Flood Control Project, Coconut Grove Residential Area, Implementation, Island of Oahu, City and County of Honolulu, HI, *Due:* June 17, 1991, *Contact:* Margo Stahl (808) 438-7006.

EIS No. 910129, Final EIS, FAA, WA, Bellingham International Airport Runway Extension, Construction and Operation, Airport Layout Plan, Approval and Funding, Whatcom County, WA, *Due:* June 03, 1991, *Contact:* Dennis G. Ossenkop (205) 227-2611.

EIS No. 910130, Final EIS, FHW, SC, Conway Bypass (formerly Northern Outer Bypass) Construction, US 501 to US 17, Funding, COE section 10 and 404 Permits, U.S. Coast Guard Section 9 Permit, City of Conway, Horry County, SC, *Due:* June 03, 1991, *Contact:* Kenneth Myers (803) 253-3881.

EIS No. 910131, Final EIS, BLM, CA, Ward Valley Low-Level Radioactive Waste Disposal Facility, Site Selection, Construction and Operation, Funding and Right-of-Way Grants, San Bernardino County, CA, *Due:* June 03, 1991, *Contact:* Douglas Romoli (714) 653-4197.

EIS No. 910132, Draft EIS, AFS, WA, Loose Bark/Grouse Butte West Timber Sale, Road Construction, Implementation, Mt. Baker-Snoqualmie National Forest, Mt. Baker Ranger District, Whatcom and Skagit Counties, WA *Due:* June 17, 1991, *Contact:* Larry L. Hudson (206) 856-5700.

EIS No. 910133, Final EIS, FHW, CA, I-5/Santa Ana Freeway Widening and Interchanges I-5/CA-22 and I-5/CA-91 Reconstruction, Funding and Section 404 Permit, Cities of Santa Ana, Orange County, CA, *Due:* June 03, 1991, *Contact:* James J. Bednar (916) 551-1310.

Dated: April 30, 1991.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 91-10543 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3953-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 15, 1991 Through April 19, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D-AFS-J65170-MT Rating EC2, Moose Creek Timber Sales and Road Construction/Reconstruction, Implementation, Lewis and Clark National Forest, Kings Hill Ranger District, Meagher County, MT.

Summary: EPA is concerned about the preferred alternatives' potential to impact water quality and fisheries. EPA recommends selection of Alternative 5 which appears to meet the Forest Service's timber harvest and management goals while providing a greater degree of environmental protection.

ERP No. D-AFS-J65171-MT Rating EC2, East Fortine Timber Sales and Road Construction Implementation, Kootenai National Forest, Fortine Ranger District, Lincoln County, MT.

Summary: EPA believes that the Forest Service's preferred alternative is environmentally preferable to the other alternatives discussed in the draft EIS. Analysis of sediment impacts on Fortine Creek fisheries should be provided in the final EIS.

ERP No. D-FHW-J40122-WY Rating EO2, Snake River Canyon Highway, Improvement, US 26/89 between Alpine Junction to Hoback Junction, Funding and 404 Permit, Teton and Lincoln Counties, WY.

Summary: EPA believes that more information is needed on the impacts related to wetlands and special aquatic sites.

ERP No. D-UAF-F11018-IL Rating EC2, Chanute Air Force Base (AFS) Disposal and Reuse, Implementation, Champaign County, IL.

Summary: EPA requests additional information concerning radon and asbestos surveys. EPA recommends that the Air Force implement mitigation measures to minimize impacts on water, air quality, noise, and wildlife habitat during base closure and reuse.

Final EISs

ERP No. F-MMS-L01007-AK 1991 Norton Sound Outer Continental Shelf (OCS) Lease Sale, Placer Mining Program, Implementation and Lease Offerings, AK.

Summary: EPA has environmental concerns based on several factors: (1) Uncertainty about what mining technology will prove to be economically feasible in the future, (2) the effect of future gold prices on the development scenarios presented, (3) the significance of the trench habitat to the king crab population, and (4) lack of new data from the Bima monitoring program.

Other

ERP No. LD-NPS-L61191-AK Rating EC2, Gate of the Arctic National Park and Preserve, Use of All-Terrain Vehicles (ATV) for Subsistence on Park Land, City of Anaktuvuk Pass, AK.

Summary: EPA has environmental concerns based on the potential for water quality impacts and the lack of any proposed mitigation. Additional information is needed to clarify the nature of effects on water quality, the basis for the water quality conclusions presented in the draft EIS, and the Chandler Lake Exchange Agreement.

Dated: April 30, 1991.

Richard E. Sanderson,

Director, Officer of Federal Activities.

[FR Doc. 91-10544 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3954-3]

Meeting of the Northeast Ozone Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the first meeting of the Northeast Ozone Transport Commission to be held on May 7, 1991. The Clean Air Act Amendments of 1990 require the Administrator of the Environmental Protection Agency to convene, by May 15, 1991, a transport commission to deal with appropriate matters within the transport region. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

DATES: The meeting will be held on May 7, 1991.

ADDRESSES: The meeting will be held at: The Hotel St. Moritz, 50 Central Park South, Quarille Room, New York, New York.

FOR FURTHER INFORMATION CONTRACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, Room 1118, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 new provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia and requires the Administrator of the Environmental Protection Agency to convene by May 15, 1991 a transport commission to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this commission will be convened on May 7, 1991 at a meeting to be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of transport commissions are not subject to the provisions of the Federal Advisory Committee Act.

This meeting will be open to the public as space permits.

TYPE OF MEETING: This meeting is open to the general public.

AGENDA: Doors open at 9 a.m. The meeting begins at 10 a.m. and is expected to last until 4:00 p.m. The purpose of the meeting is to establish and organize the commission.

Dated: May 1, 1991.

John S. Seitz,

Director, Office of Air Quality Planning and Standards, Office of Air and Radiation, U.S. Environmental Protection Agency.

[FR Doc. 91-10607 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3954-4]

Science Advisory Board, Radiation Advisory Committee; Open Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the

Radiation Advisory Committee of the Science Advisory Board will meet May 20, 21, 22, 1991 at the, U.S. Environmental Protection Agency, National Air Radiation Environmental Laboratory, 1504 A, Montgomery, Alabama 36115-2601. The meeting will be held in the Auditorium. The meeting will begin at 8:30 a.m. Monday and adjourn no later than 5 p.m. Wednesday.

PURPOSE: The Committee will complete its review of the Idaho Radionuclide Exposure Study, undertake a review of radon risks, and consider a commentary on the radionuclide transport models. The Commtitee will be briefed on the activities and plans of the Nonionizing Electric and Magnetic Fields Subcommittee and also on the activities of the Office of Radiation Protection.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however seating is limited and is on a first come basis. Members of the public wishing to provide oral public comment or have written comment sent to the Committee in advance of the meeting should contact Mrs. Kathleen Conway, Designated Federal Official, or Mrs. Dorothy Clar, Staff Secretary at (202) 382-2552 by 3 p.m. May 17.

Date: April 26, 1991.

Donald G. Barnes,

Director Science Advisory Board.

[FR Doc. 91-10615 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59296A; FRL-3892-7]

Certain Chemical; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-91-12. The test marketing conditions are described below.

EFFECTIVE DATE: April 29, 1991.

FOR FURTHER INFORMATION CONTACT: William B. Lee, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613A, 401 M St., SW., Washington, DC 20460, (202) 382-3769.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-91-12. EPA had determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-91-12:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. The Company must not release the substance into waters of the United States.

3. The Company may distribute the substance only to persons who agree in writing to not release the substance into waters of the United States.

4. The Company must affix a label to each container of the substance or formulations containing the substance. The label shall include, at a minimum, the following statement:

WARNING: Do not release this substance into waters of the United States. This substance may cause toxicity to aquatic organisms.

5. The applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the labels affixed to containers of the substance or formulations containing the substance.

d. Copies of the bill of lading that accompanies each shipment of the substance.

e. Copies of written agreements with customers pertaining to the release to water restrictions.

TME-91-12

Date of Receipt: March 14, 1991.

Notice of Receipt: April 16, 1991 (56 FR 15347).

Applicant: Stepan Company.

Chemical: (G) Alkoxylated diesters.

Use: (G) Lubricants, oil additives, and emulsifiers.

Production Volume: 10,000 lbs.

Number of Customers: 8.

Test Marketing Period: 1.5 years, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified concerns for acute and/or chronic aquatic toxicity based on analogous substances. However, during manufacturing, processing, and use, the submitter is prohibited from releasing the substance into waters of the United States. In addition, the submitter will distribute the substance only to persons who agree in writing to comply with the same release to water restrictions. Therefore, the Agency has determined that the test market activities will not present an unreasonable risk to the environment.

EPA has not identified any significant human health effects associated with the substance. Therefore, the Agency has determined that the test marketing activity will not present an unreasonable risk to human health.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: April 29, 1991.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 91-10532 Filed 5-2-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 25, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under

the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503 (202) 395-4814.

OMB Number: None.

Title: Section 90.713, Entry Criteria (Report and Order, PR Docket No. 89-552).

Action: New collection.

Respondents: Individuals or households, state or local governments. Businesses or other non-profit (including small businesses).

Frequency of Response: Other: One-time requirement.

Estimated Annual Burden: 50 respondents; 2.5 hours average burden per response; 125 hours total annual burden.

Needs and Uses: Section 90.713 requires applicants for new nationwide systems in the 220-222 MHz band to append additional informationto FCC Form 574 to demonstrate that they meet the entry criteria specified in 47 CFR 90.713. Licensing Division personnel will use the data to determine the eligibility of the applicant to hold a radio station authorization. Land Mobile and Microwave Division personnel will use the data for rulemaking proceedings. Compliance personnel in conjunction with field engineers will use the data for enforcement purposes.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-10444 Filed 5-2-91; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 26, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503 (202) 395-4814.

OMB Number: 3060-0016.

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station.

Form Number: FCC Form 346.

Action: Revision.

Respondents: Individuals or households, state or local governments, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 1,600 respondents; 28.166 hours average burden per response; 45,066 hours total annual burden.

Needs and Uses: FCC Form 346 is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or TV Booster broadcast station. The form has been revised to include fee processing data and character qualification questions regarding adjudicated actions or pending adjudications of relevant misconduct by broadcast applicants. The data is used by FCC staff to determine if the applicant is qualified, meets basic statutory and treaty requirements and will not cause interference to other authorized broadcast services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-10445 Filed 5-2-91; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

April 29, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503 (202) 395-4814.

Please note: The Commission has requested emergency review of this item by May 1, 1991, under the provisions of 5 CFR 1320.18.

OMB Number: 3060-0420.

Title: Amendment of part 22 of the Commission's Rules to Revise Certian Filing Procedures for Mobile Services Division Applications.

Action: Reinstatement of a previously appoved collection for which OMB approval has expired.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 16,110 responses; 2 hours average burden per response; 32,220 hours total annual burden.

Needs and Uses: Emergency OMB clearance is sought for the requirement that all non-cellular applications, amendments, correspondence, pleadings, and forms, including attachments, and exhibits of five pages or more to be submitted in paper and microfiche formats. The application forms subject to the microfiche rule are: FCC 489 (3060-0318), FCC 490 (3060-0319), FCC 401 (3060-0046), and FCC 405 (3060-0093). All non-cellular and non-initial cellular applications and all amendments must have certain information printed on the mailing envelope, the microfiche envelope, and on the title area at the top of the microfiche. The information is used by FCC staff in carrying out its duties as set forth in sections 308 and 309 of the Communications Act. The microfiche requirement will facilitate access to information filed with the Commission, enhance service to the public and allow the FCC to make more efficient use of its resources.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-10585 Filed 5-1-91; 10:57 am]

BILLING CODE 6712-01-M

[DA 91-495]

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

Released April 25, 1991.

May 24, 1991, 10 a.m., Commission Meeting Room (room 856), 1919 M Street, NW., Washington, DC

The agenda for the meeting will consist of:

1. Introduction.
2. Minutes of last meeting.
3. Report of working party 1, policy and regulation.
4. Report of working party 2, transition scenarios.
5. General discussion.
6. Other business.
7. Date and location of next meeting.
8. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjen at (609) 734-2237 or David R. Siddall at (202) 632-7792.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-10538 Filed 5-2-91; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

Intent to Prepare a Supplemental Draft Environmental Impact Statement for the Proposed Acquisition of Land for Construction of Office Space in Northern Virginia for Use by the Department of the Navy

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500-1508), the General Services Administration (GSA) announces its intent to prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for the acquisition of interests in land to construct thereon buildings to house the Naval Systems Command in at least 1,000,000 (one million) occupiable square feet of office and related space. All sites must have the capacity to house at least an additional 1,000,000 (one million) square feet of office and related space available for purchase at the option of the Government. The Navy will act as a cooperating agency during preparation of the EIS pursuant to 40 CFR 1501.6. Acquisition of land will allow the Government to construct office space for the Navy to consolidate its offices, which are scattered in 20 leased buildings in northern Virginia, into one location.

In response to a recent GSA advertisement, the Government received 20 expressions of interest from potential private and public offerors. These responses are listed in this notice in the interests of public information, and must satisfy the Government's site selection criteria in order to be considered as a potential Navy site. The possible alternatives are:

1. No Action—No change in the current pattern of office space usage by the Navy.

2. Franconia—This 72 acre Government-owned site is bounded by the Srpingfield Bypass (currently under construction) to the north, the Grey Concrete and Pipe company to the east, Loisdale Estates to the south, and Loisdale Road to the west.

3. Cameron Station—This 165 acre Government-owned site is bounded by Duke Street to the North, Holmes Run to the east and Backlick Run to the south. Cameron Station is currently under the control of the Department of the Army. Under provisions of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988, Cameron Station is scheduled to be closed by 1995 and the land may be transfered or sold to other Federal, state or local agencies, or to the general public.

4. Cameron Run—This 21 acre privately-owned site is bounded by RF&P right-of-way to the north. Bluestone Road to the East, Eisenhower Avenue to the south, and Lake Cook to the West.

5. Van Dorn Street—This 32.6 acre privately-owned site is bounded by the creek abutting the Southern Railroad yard to the north, by the proposed intersection of Clearmont Drive and Eisenhowever Avenue to the east and south.

6. Seminary Road—This 55 acre privately-owned site is bounded by Seminary Road to the north, I-395 to the east, and North Beauregard Street to the West.

7. Potomac Greens—This 36 acre privately-owned site is approximately 2,200 feet south of Four Mile Run and 1,500 feet north of Slaters Lane, and is bounded by the George Washington Memorial Parkway to the east and the Metrorail right-of-way to the west.

8. Port Potomac—This 27.6 acre privately-owned site is bounded by Crystal City to the north, the RF&P railroad mainline right-of-way to the east, South Glebe Road extension to the south, and Jefferson David Highway and Crystal Drive to the west.

9. Crystal City—This privately-owned site includes the 16.8 acre Hayes Street site, which is bounded by Hayes Street to the west, 15th Street to the south, South Fern Street to the east and 12th Street to the north, and several existing buildings (Crystal Gateway 1, 2, and 3, Jefferson Plaza 2) bounded on the north by 12th Street, on the east by Crystal Drive, on the South by 15th Street, and on the west by South Clarke Street.

10. Gallows Road—This 23 acre privately-owned site is bounded by Gatehouse Road to the north, I-495 to the east, Route 50 to the south, and Gallows Road to the west.

11. Kingstown—This 150 acre privately-owned site is bounded by King Center Parkway to the north and west, Van Dorn Street to the east, and South King Center Drive to the south.

12. Cherokee Avenue—This 50 acre privately-owned site is bounded by Indian Run Park to the north and east, Cherokee Avenue to the south, and Shawnee Road to the west.

13. Bush Hill—This 59.4 acre privately-owned site is composed of three parcels; the first parcel is bounded by I-95 to the north, Overly Drive and Larpin Lane to the east, and Janes Way Court and Nevill Court to the south; the second parcel is bounded by RF&P railroad right-of-way to the north, I-95 to the south, and the end of Vine Street to the West; the third parcel is bounded by Eisenhower Avenue to the north, the City of Alexandria Boundary Line to the south, and is about 1,000 feet west of Cleremont Avenue.

14. Turkeycock Run—This 115 acre privately-owned site is bounded by I-395 to the north and west, Turkeycock Run to the east, and Edsal Road to the south.

15. Industrial Road—This 100 acre privately-owned site is bounded by Spring Mall Road to the north, Elder Road to the east, the intersection of Elder Road and Melia Avenue to the south, and Loisdale Road to the west.

16. (Omitted).

17. Tysons Corner—This 19.9 acre privately-owned site consists of four existing buildings and associated parcels located near the intersection of Tysons Blvd. and Tysons Parkway.

18. Clarendon—This site consists of a 1.72 acre privately-owned parcel generally bounded to the northeast by 13th Street, to the southeast by Wilson Blvd., to the southwest by Herdan Steet, and to the northwest by Hartford Steet; and other parcels totaling 6.21 acres generally bounded to the north by Clarendon Blvd., to the east by Fillmore Street, to the south by Washington Blvd., and to the west by Highbard Street.

19. South Fern Street—This privately-owned 27.67 acre site is bounded to the north by Army-Navy Drive, to the east by South Eads Street, to the south by

15th Street, and to the west by South Fern Street.

20. Eisenhower Avenue—This 18.8 acre privately-owned site is bounded by Mill Road to the north and east, Eisenhower Avenue to the south and Stoval Street to the west.

Potential environmental impact resulting from the proposed action include short term impacts during construction, and long term changes in traffic, socio-economic and fiscal conditions. GSA will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this proposed action. A public scoping meeting will be held on May 14, 1991, starting at 7 p.m. in the auditorium of the Lee Center located at 1108 Jefferson Street, Alexandria, Virginia; on May 15, 1991, starting at 7 p.m. at the Aurora Hills Recreation Center located at 735 South 18th Street, Arlington, Virginia; and on May 16, 1991, starting at 7 p.m. at the Hayfield High School Lecture Room located at 7630 Telegraph Road, Alexandria, Virginia. A short formal presentation will precede the request for public comments. GSA represenatatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that Federal, state and county agencies, and interested individuals and groups take this opportunity to identify environmental concerns that should be addressed during the preparation of the SDEIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the general public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address.

Written statements and/or questions regarding the scoping process should be mailed no later than May 31, 1991, to Mr. George Chandler—WPL, National Capitol Region, General Services Administration, 7th & D Streets SW., room 7062, Washington, DC 20407 (telephone (202) 708-5334).

Dated; April 30, 1991.

Daniel Neal,

Deputy Director, NCR Planning Staff.

[FR Doc. 91-10584 Filed 5-2-91; 8:45am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Workshop on Health Assessments; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Workshop on Health Assessments.

Time and Date: 8 a.m.-5 p.m., May 20, 1991, 8 a.m.-2:30 p.m., May 21, 1991.

Place: Stouffer Concourse Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 100 people.

Matters to be Considered: The meeting will convene a group of interested parties to discuss the ATSDR Health Assessment process. The ATSDR Health Assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. The group will consider such areas as the Health Assessment definition and purpose, scope and limitations, initiation, roles of ATSDR staff, ATSDR-public interaction, steps and activities in a health assessment, and possible follow-up health activities.

Oral comments will be scheduled at the discretion of the meeting facilitator and as time permits.

Contact Person for More Information: Lydia Ogden Askew, Community Involvement Liaison, Division of Health Assessment and Consultation, ATSDR (MS E32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0610 or FTS 236-0610 (24 hour telephone 404/330-9543).

Dated: April 26, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 91-10476 Filed 5-2-91;8:45am]

BILLING CODE 4160-70-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings in May-June

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed aqendas of the forthcoming meetings of the agency's advisory committees in the months of May-June 1991.

The initial review committees and the Advisory Committee on Substance Abuse Prevention will be performing review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 522b(c)(6) and 5 U.S.C. app. 2 10(d).

The Advisory Committee of the Task Force on Homelessness and Severe Mental Illness will be open and will include discussion of clinical/service system issues and housing issues relevant to the homeless mentally ill population. Due to security requirements, it will be necessary to register your intent to attend with the contact person listed below.

Notice of these meetings is required under the Federal Advisory Committee Act, Public Law 92-463.

Committee Name: Advisory Committee of the Task Force on Homelessness and Severe Mental Illness, NIMH.

Date and Time: May 22: 9 a.m.

Place: Hubert H. Humphrey Building, Stonehenge Conference Room 615F, 200 Independence Avenue, SW., Washington, DC.

Status of Meeting: Open—May 22: 9 a.m.-5 p.m.

Contact: Irene Levine, room 7C-06, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3706.

Purpose: The Committee provides advice and assistance to the Task Force concerning reaching, treating, and improving access to needed services for severely mentally ill homeless persons, and approaches to preventing homelessnes among severely mentally ill people.

Committee Name: Advisory Committee on Substance Abuse Prevention, OSAP.

Date and Time: May 30-31: 9 a.m.

Place: Executive Plaza North, 6130 Executive Boulervard, Rockville, MD 20852.

Status of Meeting: Open—May 30: 9 a.m.-12 p.m. May 31: 2-5 p.m. Closed—Otherwise.

Contact: DeLoris Hunter, room 9D-08, Rockwall II Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-0365.

Purpose: The committee advises the Secretary, the Assistant Secretary for Health, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, Office for Substance Abuse

Prevention, on program and policy matters in the field of substance abuse prevention. The committee also may provide final review of any grant or contrqact proposed to be made or entered into by the Office for Subtance Abuse Prevention.

Committee Name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Reserach Review Committee, NIAAA.

Date and Time: June 3–4: 8 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 3: 8–8:30 a.m. Closed—Otherwise

Contact: Ronald Suddendorf, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of researching and training activities and makes recommendations to the National Advisory council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Cellular Neurobiology and Psychopharmacology Subcommittee of the Neuroscience Research Review Committee, NIMH.

Date and Time: June 3–5: 8 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037

Status of Meeting: Open—June 3: 8–9 a.m. Closed—Otherwise.

Contact: Camille Sookram, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to cellular neurobiology and psychopharmacology with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology Subcommittee of the Epidemiologic and Services Research Committee, NIMH.

Date and Time: June 3–5: 9 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.

Status of Meeting: Open—June 3: 9–10 a.m. Closed—Otherwise.

Contact: Gloria Yockelson, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0948.

Purpose: The committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology and Prevention Subcommmittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: June 3–5: 9 a.m.

Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 3: 9–10 a.m. Closed—Otherwise.

Contact: Lenore Sawyer Radloff, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Clinical and Behavioral Sciences Subcommittee of the Mental Health Small Grant Review Committee, NIMH.

Date and Time: June 5–7: 8:30 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Status of Meeting: Open—June 5: 8:30–9:30 a.m. Closed—Otherwise.

Contact: Sheri Schwartzback, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4843.

Purpose: The Subcommittee is charged with the initial review of applications for research in all disciplines pertaining to mental health for support of research in the areas of psychology, psychiartry, the behavioral and biological sciences, and epidemiology.

Committee Name: Aging Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: June 6–7: 9 a.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Status of Meeting: Open—June 6: 9–10 a.m. Closed—Otherwise.

Contact: Phyllis Zusman, room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health, in the fields of child, family, and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Behavioral Neurobiology Subcommittee of the Neurosciences Research Review Committee, NIMH.

Date and Time: June 6–8: 8:30 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, Washington, DC.

Status of Meeting: Open—June 6: 8:30–9:30 a.m. Closed—Otherwise.

Contact: William Radcliffe, III, room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants relating to behavioral neurobiology, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Board of Scientific Counselors, NIMH.

Date and Time: June 6–8: 8:30 a.m.

Place: National Institutes of Health, Director's Library, Room 4N–228, Building 10, 9000 Rockville Pike, Bethesda, MD 20892.

Status of Meeting: Open—June 6: 8:30–9 a.m. Closed—Otherwise.

Contact: Steven M. Paul, National Institute of Mental Health, Building 10, room 4N–224, 9000 Rockville Pike, Bethesda, MD 20892, (301) 496–3501.

Purpose: The Board provides expert advice to the Director of Intramural Research and the Acting Director, National Institute of Mental Health, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of producitivity and performance of staff scientists.

Committee Name: Cognition, Emotion, and Personality Research Review Committee, NIMH.

Date and Time: June 6–8: 9 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 2814.

Status of Meeting: Open—June 6: 9–10 a.m. Closed—Otherwise.

Contact: Linda Kepperling, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3944.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the fields of personality, cognition, emotion, and higher mental processes with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Mental Health Behavioral Sciences Research Review Committee, NIMH

Date and Time: June 6–8: 9 a.m.

Place: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Status of Meeting: Open—June 6: 9–9:30 a.m. Closed—Otherwise.

Contact: Bernice Cherry, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Services Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH.

Date and Time: June 10–12: 9–10 a.m.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.

Status of Meeting: Open—June 10: 9–10 a.m. Closed—Otherwise.

Contact: Gloria Yockelson, room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0948.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and

research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Drug Abuse Clinical and Behavioral Research Review Committee, NIDA.

Date and Time: June 11–14: 9 a.m.

Place: Brazilian Court, Hibiscus A Room, 301 Australian Avenue, Palm Beach, FL 33480.

Status of Meeting: Open—June 11: 9–9:30 a.m. Closed—Otherwise.

Contact: Daniel Mintz, room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Drug Abuse Epidemiology and Prevention Research Review Committee, NIDA.

Date and Time: June 11–14: 9 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 11: 9–10 a.m. Closed—Otherwise.

Contact: Raquel Crider, room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9042.

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 12: 8:30 a.m.

Place: Brazilian Court Hotel, Peruvian Room, 301 Australian Avenue, Palm Beach, FL 33480.

Status of Meeting: Open—June 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Rita Liu, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Criminal and Violent Behavior Research Review Committee, NIMH.

Date and Time: June 12–14: 9 a.m.

Place: Quality Hotel Downtown, 1315 16th Street, NW., Washington, DC 20036.

Status of Meeting: Open—June 12: 9–10 a.m. Closed—Otherwise.

Contact: Bernice Cherry, room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3936.

Purpose: The Committee is charged with the intital review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to the mental health aspects of antisocial, criminal, and individual violent behavior, including sexual assault and victimization, and law-mental health interactions related to these areas, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Pharmacology I Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 12–14: 8:30 a.m.

Place: Brazilian Court Hotel, Chilian B. Room, 301 Australian Avenue, Palm Beach, FL 33480.

Status of Meeting: Open—June 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Syed Husain, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Pharmacology II Research Subcommittee of the Drug Abuse Biomedical Research Review Committee, NIDA.

Date and Time: June 12–14: 8:30 a.m.

Place: Brazilian Court Hotel, 301 Australian Avenue, Palm Beach, FL 33480.

Status of Meeting: Open—June 12: 8:30–9 a.m. Closed—Otherwise.

Contact: Gamil Debbas, room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, MD, 20857, (301) 443–2620.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities, and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Committee Name: Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee, NIMH.

Date and Time: June 13–15: 9 a.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 13: 9–10 a.m. Closed—Otherwise.

Contact: Christine Norton, room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3857.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research grants, individual postdoctoral research fellowships and institutional research training grants, cooperative agreements, and research and development contracts, as they relate to mental health in the fields of child, family and aging, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee, NIAAA.

Date and Time: June 13: 2 p.m., June 14–16: 8 a.m.

Place: Radisson Suite Beach Resort, 600 South Collier Boulevard, Marco Island, FL 33937.

Status of Meeting: Open—June 13: 2–3 p.m., Closed—Otherwise.

Contact: Antonio Noronha, room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4375

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Committee Name: Psychopathology Subcommittee of the Psychopathology and Clinical Biology Research Review Committee, NIMH.

Date and Time: June 19–21: 9 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814

Status of Meeting: Open—June 19: 9–10 a.m. Closed—Otherwise.

Contact: Tammy Cross, room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1340.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: June 21: 9 a.m.

Place: The Washington Vista Hotel, 1400 M. Street, NW., Washington, DC 20036.

Status of Meeting: Open—June 21: 9–10 a.m. Closed—Otherwise.

Contact: Frances Smith, room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4868.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research training activities in the area of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee, NIMH.

Date and Time: June 24–25: 9 a.m..

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA.

Status of Meeting: Open—June 24: 9–10 a.m. Closed—Otherwise.

Contact: Helen Craig, room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Subcommittee is charged with the initial review of applications for

assistance from the National Institute of Mental Health for support of research and/or research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Small Business Research Review Committee, NIMH.

Date and Time: June 24–25: 9 a.m..

Place: River Inn, 924 25th Street, NW., Washington, DC 20037.

Status of Meeting: Open—June 24: 9–10 a.m. Closed—Otherwise.

Contact: Gloria Levin, room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–1367.

Purpose: The Committee is charged with the initial review of applications requesting support from the National Institute of Mental Health for small businesses involved in mental health research. Final review and recommendations are made from the National Advisory Mental Health Council.

Committee Name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee, NIAAA.

Date and Time: June 24–26: 9 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Status of Meeting: Open—June 24: 9–10 a.m. Closed—Otherwise.

Contact: Thomas D. Sevy, room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6106

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Substantive in formation, summaries of the meetings, and rosters of committee members may be obtained as follows: Ms. Diana Widner, NIAAA Committee Management Officer, room 16C–20, (301) 443–4375; Ms. Camilla Holland, NIDA Committee Management Officer, room 10–42, (301) 443–2755; Ms. Joannna Kieffer, NIMH Committee Management Officer, room 9–105, (301) 443–4333; Ms. Sally York, OSAP Committee Management Officer, room 630, Rockwall II Building, (301) 443–7389. The mailing address for the above parties is: Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: April 30, 1991.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–10482 Filed 5–2–91; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 89N–0482]

Nutritional Therapy and Nutrition Education in Care and Management of AIDS Patients; Report; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report on current theories and beneficial clinical practices concerning the role of nutritional support in the care of patients with acquired immunodeficiency syndrome (AIDS). The report was prepared by the Life Sciences Research Office (LSRO) of the Federation of American Societies for Experimental Biology (FASEB).

DATES: The report became available publicly on March 15, 1991.

ADDRESSES: Requests for a copy of the report should be sent to FASEB's Special Publication Office, Federation of American Societies for Experimental Biology, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, along with $15 to cover the cost. In the near future, the report will be available from the National Technical Information Service, 5275 Port Royal Rd., Springfield, VA 22161. Copies are on display at the Life Sciences Research Office, FASEB (address above) and at the Docket Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The report is available for public examination at LSRO and at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Yetley, Center for Food Safety and Applied Nutrition (HFF–265), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0087.

SUPPLEMENTARY INFORMATION: FDA has a contract (223–88–2124) with FASEB concerning the analysis of scientific issues in food and cosmetic safety. The objective of this contract is to provide information to FDA on general and specific issues of scientific fact associated with food and cosmetic safety. In the **Federal Register** of December 11, 1989 (54 FR 50822), FDA announced that it has asked LSRO of FASEB, as a task under the contract, to secure information on current theories and beneficial clinical practices concerning the role of nutritional support in the care of patients with AIDS. In the **Federal Register** of April 12, 1990 (55 FR 13847), FDA announced the availability of LSRO's tentative report and provided for public comment.

FDA is now announcing that the report on nutritional therapy and nutrition education in the care and management of patients with AIDS became available to the public on March 15, 1991.

Dated: April 26, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91–10483 Filed 5–2–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91N–0072]

Superpharm Corp.; Withdrawal of Approval of Abbreviated New Drug Application for Ibuprofen Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of abbreviated new drug application (ANDA) 70–708 for Ibuprofen Tablets 400 milligrams held by Superpharm Corp. (Superpharm), 1769 Fifth Ave., Bayshore, NY 11706. FDA is withdrawing approval of this application because it contains untrue statements of material fact, and the drug covered by this application is not shown to be safe and lacks substantial evidence of effectiveness. Superpharm has waived its opportunity for a hearing on this product.

EFFECTIVE DATE: May 3, 1991.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 8, 1991 (56 FR 9957), FDA offered an opportunity for a hearing on a proposal to withdraw approval of ANDA 70–798 held by Superpharm. The grounds for the proposal were that the application contains untrue statements of material fact and that the drug covered by the application is not shown to be safe and lacks substantial evidence of effectiveness for its labeled

indications. In response to the notice, by letter dated March 14, 1991, Superpharm waived its opportunity for a hearing on the product and consented to the entry of an order withdrawing approval of the application.

Accordingly, the Director of the Center for Drug Evaluation and Research, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 5.82), finds that (1) ANDA 70-708 contains untrue statements of material fact (21 U.S.C. 355(e)(5)); (2) new evidence of clinical experience, not contained in the application or not available until after the application was approved, evaluated together with the evidence available to him when the application was approved, shows that the drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved (21 U.S.C. 355(e)(2)); and (3) on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling (21 U.S.C. 355(e)(3)).

Therefore, pursuant to the foregoing finding, approval of ANDA 70-708, and all its amendments and supplements, is hereby withdrawn, effective May 3, 1991. Shipment in interstate commerce of the product listed above will then be unlawful.

Section 505(j)(6)(C) of the act requires that FDA remove from its approved product list (FDA's publication "Approved Drug Products with Therapeutic Equivalence Evaluations") (the list) any drug whose approval was withdrawn for grounds described in the first sentence of section 505(e) of the act. Such grounds apply to the withdrawal of approval of the product listed above. Notice is hereby given that the drug covered by ANDA 70-708 will be removed from the list.

Dated: April 23, 1991.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 91-10484 Filed 5-2-91, 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Notice of Hearing: Reconsideration of Disapproval of Indiana State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 4, 1991, in the 15th Floor Conference Room, 105 W. Adams Street, Chicago, Illinois to reconsider our decision to disapprove Indiana State Plan Amendment 90-09.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by May 20, 1991.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, suite 110, Security Office Park, 7000 Security Blvd., Baltimore, Maryland 21207, Telephone: (301) 597-3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Indiana State Plan amendment (SPA) number 90-09.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Indiana submitted SPA 90-09 on May 1, 1990 requesting protection under the moratorium for its policy that exempts income-producing property from counting toward the resources limit in certain circumstances. It is requesting such protection beginning on October 1, 1981. The State indicated that the policy would apply to the aged, blind, and disabled in mandatory eligibility groups.

The issues in this matter are: (1) Whether Indiana's proposal qualifies for protection under section 2373(c) of the Deficit Reduction Act of 1984 (DEFRA); and (2) whether including the State's proposal as part of the State plan under the authority of 1902(r)(2) of the Act would violate Federal regulations at 42 CFR 430.20 and the appropriations statutes which govern the Department of Health and Human Services' spending authority.

Under section 2373(c) of DEFRA, as amended, a State is protected during the moratorium period against any compliance, disallowance, penalty, or other regulatory action by the Secretary because of certain State policies that are more liberal than those in section 1902(a)(10) of the Act. The moratorium period began October 1, 1981, and ended February 17, 1989. Policies can be protected during the moratorium only if they are more liberal than required under section 1902(a)(10)(A)(ii) (IV), (V), or (VI) or section 1902(a)(10)(C) of the Act. The effect of this restriction is to protect more liberal policies that are applicable to certain eligibility groups whose coverage is at the option of the State (as compared to groups whose coverage is mandatory).

The moratorium provision does not authorize the Secretary to approve amendments as part of the official State plan. The provision merely permits States to use more liberal eligibility policies during the moratorium without fiscal penalties. Therefore, if a plan amendment meets the moratorium requirements, it is disapproved for inclusion in the official State plan but is given moratorium protection. HCFA believes the State policy in SPA 90-09 is more liberal than the policy of the Supplemental Security Income program that would otherwise have applied during the moratorium under section 1902(a)(10) of the Act. Therefore, HCFA believes the policy cannot be approved as a plan amendment. Further, because the State would apply the policy to mandatory, as opposed to the optional eligibility groups identified in the moratorium, the State cannot be protected by the moratorium from fiscal penalties.

Moreover, HCFA believes the request for protection could not be approved as a State plan amendment because it violates 42 CFR 430.20 and the appropriation statutes which govern the Department of Health and Human Services' spending authority. This is because the "amendment" would liberalize Indiana's eligibility rules with

retroactive effect for a period prior to the beginning of the calendar quarter in which it was submitted.

The notice to Indiana announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Ms. Marilyn Scales
Acting Commissioner
Department of Public Welfare
Room 701
100 North Senate Avenue
Indianapolis, Indiana 46204

Dear Ms. Scales:

I am responding to your request for reconsideration of the decision to disapprove Indiana State Plan Amendment (SPA) 90-09.

Indiana submitted SPA 90-09 on May 1, 1990 requesting protection under the moratorium for its policy that exempts income-producing property from counting toward the resources limit in certain circumstances. The State is requesting such protection beginning on October 1, 1981.

The issues in this matter are: (1) Whether Indiana's proposal qualifies for protection under section 2373(c) of the Deficit Reduction Act of 1984 (DEFRA); and (2) whether including the State's proposal as part of the State plan under the authority of 1902(r)(2) of the Social Security Act would violate Federal regulations at 42 CFR 430.20 and the appropriations statutes which govern the Department of Health and Human Services' spending authority.

I am scheduling a hearing on your request for reconsideration to be held on June 4, 1991, at 10 a.m. in the 15th Floor Conference Room, 105 W. Adams Street, Chicago, Illinois. If this date is not acceptable, we will be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed in 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk may be reached at (301) 597-3013.

Sincerely,

Gail R. Wilensky,

Administrator.

cc: Regional Administrator, Chicago

Authority: Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 17, 1991

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-10501 Filed 5-2-91; 8:45 am]

BILLING CODE 4120-03-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on April 19, 1991.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. SSI Application Survey—0960-0000—The information collected on the form SSA-2244 will be used by the Social Security Administration (SSA) to determine what additional methods could be utilized to contact individuals who might be eligible for Supplemental Security Income (SSI) benefits. Without this information SSA would not be able to advise certain individuals of their rights to apply for benefits under the Social Security Act. The affected public consists of elderly SSI applicants.

Number of Respondents: 400
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 33.3 hours

2. Certification By A Religious Group—0960-0093—The information collected on the form SSA-1458 is used to determine whether or not a specific religious group and it's members qualify for the self-employment tax exemption. The affected public is comprised of certain religious groups.

Number of Respondents: 180
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 45 hours

3. Statement of Self-Employment Income—0960-0046—The information collected on the form SSA-766 is used to determine if an individual will have at least the minimum amount of self-employment income needed for one or more quarters of coverage in the current year. The affected public is comprised of applicants who lack 1-4 quarters of coverage to be eligible for Social Security benefits.

Number of Respondents: 5,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 416 hours

4. Statement Regarding Date of Birth and Citizenship—0960-0016—The information collected on the form SSA-702 is used to establish a claimant's age or citizenship. The affected public consists of individuals with a knowledge of the date of birth or the citizenship of an applicant.

Number of Respondents: 18,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 3,000 hours

5. Application For Lump-Sum Death Payment—0960-0013—The information collected on the form SSA-8 is used to determine the eligibility of an applicant for the lump-sum death payment. The affected public is comprised of one of the following: Legal representative, widow(er) or child of the deceased.

Number of Respondents: 735,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 122,500 hours

OMB Desk Officer: Allison Herron.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: April 25, 1991.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 91-10179 Filed 5-2-91; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-91-3265]

Privacy Act of 1974 New System of Records

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of new system of records.

SUMMARY: The Department is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974. This new system is entitled, "ADP Security Clearance Information System," HUD/DEPT-82. It will permit the tracking of scheduled and completed access and security clearance investigations of current,

former, and prospective HUD employees, as well as contractor personnel, assigned to sensitive positions related to ADP systems.

EFFECTIVE DATE: This proposal shall become effective without further notice in 30 calendar days (June 3, 1991) unless comments are received during or before that date which would result in a contrary determination.

ADDRESSES: Inerested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708-2084). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: For Privacy Act: Donna L. Eden, Departmental Privacy Officer, Telephone Number (202) 708-0050. For Program: Les Graham, Director, ADP Security Staff, Telephone Number (202) 708-0302. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The system, HUD/DEPT-82, ADP Security Clearance Information System, will consist of disks and file folders of current, former, and prospective HUD employees, as well as contractor personnel, assigned to sensitive positions related to ADP systems. The records are filed alphabetically and contain social security number, position sensitivity classification, location of invdividual, dates and types of investigations, and dates and levels of clearances.

A report of the Department's intention to establish the system has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records about Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985).

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, DC April 18, 1991.

Jim E. Tarro,

Assistant Secretary for Administration.

HUD/DEPT-82

System name:

ADP Security Clearance Information System.

Security classification:

Sensitivity-S3. Serious risk. Disclosure or alteration of data rated S3 could seriously threaten the organization or its mission.

Criticality-C1. Useful. The system warrants neither a specific contingency plan nor any concern during recovery.

System location:

Headquarters.

Categories of individuals covered by the system:

All current, former, and prospective HUD employees, as well as contractor personnel, assigned to sensitive positions related to ADP systems.

Categories of records in the system:

The system contains the name, social security number, position sensitivity classification, location of individual, dates and types of investigations, and dates and levels of clearances.

Authority for maintenance of the system:

Authority for maintenance of the system includes the following with any revisions or amendments: Executive Order 10450 and Executive Order 12065; and, the Housing and Community Development Act of 1987 (42 U.S.C. 3543).

Purpose:

The records are used for administrative reference to schedule and control background investigations of HUD personnel, as well as contractor personnel, who have access to sensitive systems of HUD.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other Routine Uses: to officials of labor organizations recognized under 5 U.S.C. Chapter 71—(1) notice of the sensitivity level of all sensitive systems, which will be updated annually; (2) lists of bargaining unit positions designated as sensitive (provided periodically); (3) schedule of bargaining unit positions which require background investigations; (4) notice at the time an employee's access is removed from sensitive systems as a result of any adverse action; and (5) when possible, intent to perform planned reviews of ADP security in a specific work environment.

Policies and practices for storing retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on disks, in computers with limited access, and in file folders.

Retrievability:

Records are retrieved by the name, location, or social security number of an individual.

Safeguards:

The disks, and file folders are kept in a secured area; access restricted to authorized individuals. The disks and file folders do not leave the Office of Information Policies and Systems.

Retention and disposal:

Most records are retained for one year after the individual leaves HUD and then are disposed of by erasing the disks or shredding the files.

System manager and address:

ADP Security Officer, ADP Security Staff, Office of Information Policies and Systems, 451 7th Street, SW., Washington, DC 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appears in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting records procedures,

The Department's rules contesting the contents of records and appealing initial denials, by the individual concerned,

appear in 24 CFR part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location, which is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Record source categories:

Subject individuals.

[FR Doc. 91-0494 Filed 5-2-91; 8:45 am]

BILLING CODE 4210-01-M

Office of Administration

[Docket No. N-91-3261]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

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

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of repsonse; (8) whether the proposal is new or an extension, reinstantement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 11, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Section 8 Housing Assistance Program for the Disposition of HUD-Owned Project.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Section 886.311a of the Housing Assistance Program (HAP) Contract stipulates that at least 90 days before the expiration of the contract term, the owner will notify each family that they will no longer be assisted and of the increased rental they will be required to pay.

Form Number: None.

Respondents: Individuals or Households.

Frequency of Submission: Other.

Reporting Burden:

	No. of respondents	Frequency of response	Hours per response	Burden hours
Information Collection	486	11	1	486

Total Estimated Burden Hours: 486.

Status: Reinstatement.

Contact: Donald Myers, HUD, (202) 708-4280, Wendy Sherwin, OMB, (202) 395-6880.

Dated: March 11, 1991.

[FR Doc. 91-10533 Filed 5-2-91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3262]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

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

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; 8) whether the

proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 27, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Monitoring and Technical Assistance Handbook for the Congregate Housing Services Program (CHSP), Handbook 4640.1.

Office: Housing.

Description of the Need for the Information and its Proposed Use:

This information is needed for regular reporting for biennial renewals, no-cost extension, updates and narratives needed to meet grant terms. This report must be filled out by tenants in order for grantees to determine their eligiblity for benefits. The information is used by HUD to monitor reports and guidelines.

Form Number: None.

Respondents: Non-Profit Institutions and Small Businesses or Organizations.

Frequency of Submission: On Occasion, Monthly, Quarterly, Annually, and Biennially.

Reporting Burden:

No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Budget Formats		59		1		3	177
Quarterly Program Report		59		3		2	354
Annual Program Report		59		1		4	236
Application to CHSP		59		2		5	590

Total Estimated Burden Hours: 1,355.

Status: Extension.

Contact: Jerold Nachison, HUD, (202) 708–3291, Wendy Sherwin, OMB, (202) 395–6880.

Dated: March 27, 1991.

[FR Doc. 91–10491 Filed 5–2–91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3263

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

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

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20401, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice listed the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 22, 1991.

John T. Murphy,

Director, Information and Policy and Management Division.

Proposal: 24 CFR parts 215, 236, and 886—Definition of Income, Rents, and Recertification of Family Income for the Rent Supplement, section 236 and Section 8 Special Allocation Programs.

Office: Housing.

Description of the Need for the Information and its Proposed Use:

This information will be used by the project owner to advise HUD and request approval of new utility allowances when the utility rate change results in a cumulative increase of 10 percent or more. If periodic adjustments to the utility allowance are not made, tenants would be required to pay a larger total tenant payment than is permissible.

Form Number: None.

Respondents: State or Local Governments and Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	No. of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Periodic Requests	1,200		1		0.5		600

Total Estimated Burden Hours: 600.
Status: Extension.
Contact: James J. Tahash, HUD, (202) 708-3944, Wendy Sherwin, OMB, (202) 395-6880.

Dated: April 22, 1991.

[FR Doc. 91-10492 Filed 5-2-91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3264]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

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

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephne (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 24, 1991.

John T. Murphy,
Director, Information Policy and Management Division.

Proposal: Requirements Governing the Lobbying of HUD Personnel FR-2732.
Office: Administration.
Description of the Need for the Information and its Proposed Use: The proposed rule will require each person who makes expenditures totalling $10,000 or more in a calendar year to influence a Departmental decision to report on their expenditures to HUD. It also requires lobbyists retained to influence a Departmental decision to register and report annually on receipts totalling $10,000 or more.
Form Number: HUD-2881-A, HUD-2881-B, HUD-2882-B, and HUD-2883.
Respondents: Individuals or Households, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.
Frequency of Submission: Annually.
Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	3,722		1		3.824		14,233

Total Estimated Burden Hours: 14,233.
Status: New.
Contact: Melvin Bell, HUD, (202) 708-3815, Wendy Swire, OMB, (202) 395-6880.

Dated: April 24, 1991.

[FR Doc. 91-10493 Filed 5-2-91; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-24]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: May 3, 1991.

ADDRESS: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a notice in the **Federal Register** identifying the properties determined as suitable.

With one exception, the properties in today's notice were published during the

first quarter of 1991. These properties have been reviewed for suitability for use as facilities to assist the homeless and are being republished as part of HUD's complete resurvey of Federal landholding agencies. The properties identified as suitable in this notice have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable and available in this notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857 (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 60 days from the date of this notice. For complete details concerning the processing of applications, the reader is encouraged to refer to HUD's **Federal Register** notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

This notice also contains a list of properties (including one not previously published) determined by HUD to be unsuitable for use as facilities to assist the homeless. These properties will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405 (202) 501-0067; Dept. of Transportation: Angelo Picillo, Deputy Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10317, Washington, DC 20590 (202) 366-5601. (These are not toll-free numbers.)

Dated: April 26, 1991.

Russell K. Paul,

Deputy Assistant Secretary for Grant Programs.

Suitable/Available

California

Suitable Land (by Agency)

GSA

Receiver Site
Dixon Relay Station
7514 Radio Station Road
Dixon, CA 95620-9653
Location: Approximately 16 miles southeast of Dixon, CA. **Federal Register** notice date: 05/03/91
Property Number: 549010042
Status: Excess
Base Closure: No
Comment: 80 acres: 1560 sq. ft.; radio receiver bldg. on site; subject to grazing lease; limited utilities.
GSA No. 9-2-CA-1162-A.

Suitable Buildings (by Agency)

Table Bluff Light Station
Near Luleta, CA
Humboldt, CA, Co: Humboldt 95414
Location: US 101, Take Hookton Road exit, follow Hookton Road for approximately 5 miles (road becomes Table Bluff Road) property on left; west of Light House Ranch. **Federal Register** notice date: 05/03/91
Property Number: 549010039
Status: Excess
Base Closure: No
Comment: 210 sq. ft.; 1 story concrete, needs rehab, subject to access easement, most recent use—storage.
GSA NO. 9-GR-1-CA-683-A.

Building on 0.5 acres
Madera Employment Training Center
Adjacent to Former Madera Employ. Trng. Ctr.
Madera, CA, Co: Madera 93638
Location: Located near 19500 Road 28 1/2
Federal Register notice date: 05/03/91
Property Number: 549010063
Status: Excess
Base Closure: No
Comment: 800 sq. ft., concrete/wood building, possible asbestos, access is from the Former Training Center, most recent use—storage building on 0.5 acres.
GSA NO. 9-G-CA-864A.

Suitable Land (by Agency)

Receiver Site
Delano Relay Station
Route 1, Box 1350,
Delano, CA Co: Tulare 93215
Location: 5 miles west of Pixley, 17 miles north of Delano. **Federal Register** Notice date: 05/03/91
Property Number: 549010044
Status: Excess,
Base Closure: No
Comment: 81 acres, 1560 sq. ft.—radio receiver bldg on site, subject to grazing lease, potential utilities.
GSA NO. 9-2-CA-1308.

Idaho

Suitable Buildings (by Agency)

GSA

Tract BC-3
Ditchrider House #704
SE. 4th Avenue
Payette, ID, Co: Payette 83661
Location: 1.25 miles east of Highway 30, 5.5 miles southeast of New Plymouth, ID. **Federal Register** notice date: 05/03/91.
Property Number: 549010016
Status: Excess
Base Closure: No
Comment: 886 sq. ft., 1 story wood frame with ½ basement, most recent use—residence
GSA NO. 9-I-ID-553.

Tract BC-4
Ditchrider House #716
SE. 2nd Avenue
Payette, ID, Co: Payette 83661
Location: 1.25 miles west of Highway 30, 2.5 miles SW. of New Plymouth, ID. **Federal Register** notice date: 05/03/91
Property Number: 549010017
Status: Excess
Base Closure: No
Comment: 900 sq. ft., 1 story wood frame with unfinished basement, most recent use—residence.
GSA NO. 9-I-ID-543.

Louisiana

Suitable Buildings (by Agency)

GSA

Federal Building
Mississippi and Vienna Streets
Ruston, LA, Co: Lincoln Parish 71273
Federal Register Notice date: 05/03/91
Property Number: 549040005
Status: Excess
Base Closure: No
Comment: 3492 sq. ft., two story, most recent use—office, listed on National Register of Historic Places.
GSA NO. 7-G-LA-0541.

Massachusetts

Suitable Land (by Agency)

GSA

Por of Former Navy Am.no. Plt.
Fort Hill Street
Hingham, MA, Co: Plymouth 02043
Location: Across from bus company parking garage.
Federal Register Notice date: 05/03/91
Property Number: 549030017
Status: Excess
Base Closure: No
Comment: 1.129 acres, gravel pavement, most recent use—parking lot.
GSA NO. 2-GR-MA-591B.

Maryland

Suitable Buildings (by Agency)

GSA

Chesapeake Bay Hydraulic Model
Matapeake, MD, Co: Queen Annes 21666
Federal Register Notice date: 05/03/91
Property Number: 549040007
Status: Excess
Base Closure: No
Comment: 617280 sq. ft., one story metal building, ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property.

Maine

Suitable Land (by Agency)

GSA

Bucks Harbor GATR Site
GATR Road
Machias Port, ME, Co: Washington 04655
Location: 8 miles southeast of Machias off Highway 91
Federal Register Notice date: 05/03/91
Property Number: 549030015
Status: Excess
Base Closure: No
Comment: 5.5 acres with 2,900 sq. ft. concrete block building, potential utilities, secured area with alternate access.
GSA NO. 2-U-ME-611B.

Ohio

Suitable Land (by Agency)

GSA

Receiver Site
Bethany Relay Station
Tolbert Road, Wayne Township
Jacksonburg, OH, Co: Butler 45040
Federal Register notice date: 05/03/91
Property Number: 549010046
Status: Excess
Base Closure: No
Comment: 29 acres, 7560 sq. ft.—concrete bldg. on site, radio antenna towers, potential utilities.
GSA NO. 2-Z-OH-726-A.

Oregon

Suitable Land (by Agency)

GSA

Tonque Point Job Corps Center (Portion of)
Astoria, OR, Co: Clotsop 97103
Location: On the east by highway 30; on the west by city of Astoria's sewage treatment plant
Federal Register notice date: 05/03/91
Property Number: 549010027
Status: Excess
Base Closure: No
Comment: 22.77 acres, land slopes, some soil erosion, potential utilities.
GSA NO. 9-L-OR-508M.

Alaska

Suitable Buildings (by Agency)

GSA

Anchorage Duplex
924-926 Brown Street
Anchorage, AK 99501
Federal Register notice date: 05/03/91
Property Number: 549030005
Status: Excess
Base Closure: No
Comment: 930 sq. ft., 2 story residence, wooden frame, presence of asbestos.
GSA NO. 9-U-AK-496.

Anchorage Duplex
944-946 Brown Street
Anchorage, AK 99501
Federal Register notice date: 05/03/91
Property Number: 549030006
Status: Excess
Base Closure: No
Comment: 930 sq. ft., 2 story residence, wooden frame, presence of asbestos.
GSA NO. 9-U-AK-496.

Maine

Suitable Buildings (by Agency)

GSA

Ellsworth Federal Building
Corner of Main and Water Streets
Ellsworth, ME, Co: Hancock 04605
Federal Register notice date: 05/03/91
Property Number: 549040008
Status: Excess
Base Closure: No
Comment: 4904 sq. ft., 1 story steel frame/brick concrete exterior, most recent use—office.
GSA NO. 2-G-ME-622.

New York

Suitable Land (by Agency)

GSA

Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040009
Status: Excess
Base Closure: No
Comment: 3.27 acres, black top, easement restrictions.
GSA NO. 2-U-NY-799.

Suitable Buildings (by Agency)

Dwelling #1
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040010
Status: Excess
Base Closure: No
Comment: 460 sq. ft., 2 story wood frame, good condition, lease restrictions.
GSA NO. 2-U-NY-799.

Dwelling #2
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040011
Status: Excess
Base Closure: No
Comment: 360 sq. ft., 2 story wood frame, good condition, lease restrictions.
GSA NO. 2-U-NY-799.

Barn
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040012
Status: Excess
Base Closure: No
Comment: 204 sq. ft., 1 story wood frame, good condition, lease restrictions.
GSA NO. 2-U-NY-799.

3-Car Garage
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040013
Status: Excess
Base Closure: No
Comment: 660 sq. ft., 1 story wood frame, good condition, lease restrictions.
GSA NO. 2-U-NY-799.

Paint Locker
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040014
Status: Excess
Base Closure: No
Comment: 55 sq. ft., 1 story metal on concrete slab, most recent use—tool shed, lease restrictions.
GSA NO. 2-U-NY-799.

Fog Signal Building
Tibbetts Point Light Station
Cape Vincent, NY, Co: Jefferson 13618
Federal Register notice date: 05/03/91
Property Number: 549040015
Status: Excess
Base Closure: No
Comment: 792 sq. ft., 1 story brick, most use—power house, lease restrictions.
GSA NO. 2-U-NY-799.

Colorado

Unsuitable Land (by Agency)

GSA

Sunset Canyon Field Station
Boulder, CO, Co: Boulder 80302
Location: 5 miles west of Wall Street on County Road 118
Federal Register notice date: 05/03/91
Property Number: 549030019
Status: Excess
Base Closure: No
Reason: Floodway
GSA NO. 7-C-CO-602.

New York

Unsuitable Buildings (by Agency)

DOT

Bldg. S-253
Governors Island
Governors Island, NY, Co: New York 10004
Location: The first building directly south of the base library
Federal Register notice date: 05/03/91
Property Number: 879120095
Status: Unutilized

Base Closure: No
Reason: Secured Area, Other
Comment: Not accessible by road.

GSA

Portion Former Radar
Radar Surveillance Facility
Saratoga Springs
Stillwater, NY, Co: Saratoga 12866
Federal Register notice date: 05/03/91
Property Number: 549040006
Status: Excess
Base Closure: No
Reason: Other
Comment: Radar Tower
GSA NO. NY-736B.

Plum Island Light Station
Plum Island
Southfield Township, NY, Co: Suffolk
Federal Register notice date: 05/03/91
Property Number: 549030004
Status: Excess
Base Closure: No
Reason: Secured Area
GSA NO. 2-A-NY-798.

Utah

Unsuitable Land (by Agency)

GSA

Hill Air Force Base
Layton, UT, Co: Davis 84041
Location: Approximately 850 west 3000 North Street.
Federal Register notice date: 05/03/91
Property Number: 549010010
Status: Surplus
Base Closure: No
Reason: Other
Comment: 16.36 acres, irregular elevations, several easements of record.
GSA NO. 7-D-UT-421AC.

[FR Doc. 91-10400 Filed 5-2-91; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-01-4120-14; WYW117924]

Proposed Coal Lease by Application; Public Hearing, Rescheduled

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of rescheduling of public hearing, change of location.

SUMMARY: This Notice announces the rescheduled date and location of the location of the public hearing previously announced in the April 10, 1991, **Federal Register**, Vol. 56, No. 69, pg 14530-531 to receive comments on a proposed sale, the environmental assessment (EA), the fair market value (FMV), and the maximum economic recovery (MER) pertaining to the proposed coal lease application filed by Kerr-McGee Coal Corporation.

DATES: The public hearing has been rescheduled to be held on Monday, June, 24, 1991, 7 p.m., in the Gillettee Holiday Plaza, Gillette, WY 82716. The public comment period will end on Wednesday, July 10, 1991. The Environmental Assessment is expected to be available for public review and comment on or before June 7, 1991.

ADDRESSES: The EA document will be mailed directly to interested individuals and groups. Copies can also be obtained upon request from the Bureau of Land Management, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601 between the hours of 7:45 a.m. an 4:30 p.m. Written comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: All comments and any further information should be addressed to: James W. Monroe, District Manager, Casper District Office, Bureau of Land Management (BLM), 1701 East "E" Street, Casper, Wyoming 82601 (307) 261-7600.

SUPPLEMENTARY INFORMATION: Kerr-McGee Coal Corporation has filed a coal lease application for the following subject lands:

Sixth Principal Meridian

T. 44 N., R. 70 W.,
Sec. 33, lots 1-3 incl., 6-11 incl., 14-16 incl.;
Sec. 34, lots 1-16 incl.;
Sec. 35, lots 2-15 incl.

The above lands comprise 1708.62 acres, and contain an estimated 132 million tons of recoverable coal. These lands are adjacent to the existing Jacob's Ranch coal mine in Campbell County, Wyoming operated by the Kerr-McGee Coal Corporation. Comments may be submitted in writing or expressed verbally at the hearing.

Ray Brubaker,
State Director, Wyoming.

[FR Doc. 91-10475 Filed 5-2-91; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-41-4111-15; WYW108469]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

April 26, 1991.

Correction

In notice document 91-8547 appearing on page 14714 in the issue of Thursday, April 11, 1991, in the second column, third paragraph, second line, "administrative fee and $25 to reimburse" should read "administrative fee and $125 to reimburse."

Pamela J. Lewis,
Supervisory Land Law Examiner.

[FR Doc. 91-10479 Filed 5-2-91; 8:45 am]

BILLING CODE 4310-22-M

[OR 43344; OR-080-01-4212-13; GP1-202]

Realty Action: Cancellation of Notice of Realty Action for Oregon

This notice cancels the notice of realty action published in the **Federal Register** on November 9, 1989, 54 FR 47138 (FR Doc. 89-26472). The parties involved have decided to terminate further processing of this exchange proposal.

Dated: April 26, 1991.

Richard C. Prather,
Yamhill Area Manager.

[FR Doc. 91-10456 Filed 5-2-91; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meetings

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 10:30 a.m. (p.d.t.) on Saturday, May 18, 1991 at West Marin School in Point Reyes Station, California to hear presentations on issues related to management of the Point Reyes National Seashore and adjoining Golden Gate National Recreation lands.

The Advisory Commission was established by Public law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman; Ms. Amy Meyer, Vice Chair; Mr. Ernest Ayala, Dr. Howard Cogswell, Brig. Gen. John Crowley, USA (ret); Mr. Margot Patterson Doss, Mr. Neil D. Eisenberg, Mr. Jerry Friedman, Mr. Steve Jeong, Ms. Daphne Greene, Ms. Gimmy Park Li, Mr. Gary Pinkston, Mr. Merritt Robinson, Mr. R. H. Sciaroni, Mr. John J. Spring, Dr. Edgar Wayburn, Mr. Joseph Williams.

Included on the agenda for this public meeting will be reports on resource management at Point Reyes, including grazing, on the work by the Soil Conservation Service, and on a Olema Creek study. This will be followed by a report on the proposed rehabilitation of the parking areas at Chimney Rock, Abbotts Lagoon, and Drakes Estero. This will be followed by a report on the

exhibit expansion at the Drakes Beach Visitor Center. The final agenda item will be a report on the status of other proposed exhibits at Point Reyes National Seashore, including a Pierce Point exhibit and roadside exhibits.

Also included at this meeting under Old Business will be a report on comments received on the GGNRA Statement for Management.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the May 16 public meeting. Those not wishing to appear in person may submit written statements to the Superintendent of the Point Reyes National Seashore on any of the above-mentioned items.

These meetings will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A transcript for this meeting is available after June 14, 1991.

For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: April 24, 1991.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 91-10537 Filed 5-2-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-517 (Preliminary)]

Refined Antimony Trioxide from the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-517 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of refined antimony trioxide,[1] provided for in subheading 2825.80.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 10, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: April 25, 1991.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-252-1188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on April 25, 1991, by The Coalition for Fair Trade in Antimony Trioxide.[2]

Participation in the investigation and public service list—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on May 16, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202-252-1188) not later than May 14, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 21, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: April 29, 1991.

[1] For purposes of this investigation, refined antimony trioxide (also known as antimony oxide) is a crystalline powder of the chemical formula (Sb_2O_3). The refined antimony trioxide which is the subject of this investigation includes blends with organic or inorganic additives comprising up to and including 20 percent of the blend by volume or weight.

[2] The Coalition for Fair Trade in Antimony Trioxide is composed of the following individual member firms: (1) Anzon, Inc., Philadelphia, PA; (2) Atochem North America, Inc., Philadelphia, PA; (3) Laurel Industries, Inc., Cleveland, OH; (4) United States Antimony Corporation, Thompson Falls, MT; and (5) United States Antimony Sales Corporation, Natick, MA.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-10453 Filed 5-2-91; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent to Perform Interstate Transportation for Certain Nonmembers

April 30, 1991.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Harvest State Cooperatives,
(2) P.O. Box 64594, St. Paul, MN 55164
(3) 1667 N. Snelling Avenue, St. Paul, MN 55108,
(4) Russell J. Eichman, P.O. Box 64594, St. Paul, MN 55164

(1) Northwest Agricultural Cooperative Association, Inc. (N.A.C.A., INC.),
(2) P.O. Box 1, Ontario, OR 97914
(3) 920 SE 9th Avenue, Ontario, OR 97914,
(4) Jerry Ready, P.O. Box 1, Ontario, OR 97914

Kathleen M. King,

Acting Secretary.

[FR Doc. 91-10517 Filed 5-2-91; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Jones Group, Inc., 6060 St. Albans Street, One South Executive Park, Charlottee, NC 28287, (704) 553-3000. State of incorporation: Delaware.

2. Wholly-owned subsidiaries which will participate in the operations and state(s) of incorporation:

A. J. A. Jones Construction Company, Inc., State of Incorporation: North Carolina.

B. Metric Constructors, Inc., State of Incorporation: North Carolina.

C. Chas. H. Tompkins Company, State of Incorporation: District of Columbia.

D. William L. Crow Construction Company, State of Incorporation: New York.

E. Rea Construction Company, State of Incorporation: North Carolina.

F. J. A. Jones Applies Research Company, State of Incorporation: North Carolina.

G. Queens Properties, Inc., State of Inc., North Carolina.

H. Tiber Construction Company, State of Incorporation: Virginia.

I. J.A. Jones Construction Services Company, State of Incorporation: North Carolina.

J. Ecker Empire Electirc, Inc., State of Incorporation: Washington.

K. Electical and Special Systems, Inc., State of Incorporation: North Carolina.

L. Enviro-Tech Abatement Services, Inc., State of Incorporation: North Carolina.

M. Jones Operations & Maintenance Co., State of Incorporation; North Carolina.

N. Jones Capital Corporation, State of Incorporation: North Carolina.

O. Mansfield Mining Company, State of Incorporation: North Carolina.

P. Jones Black River Services, Inc., State of Incorporation: New York.

Q. Jones Charles River, Inc., State of Incorporation: Delaware.

R. Jones Power Co., Ltd., Province of Incorporation: Nova Scotia.

Kathleen M. King,

Acting Secretary.

[FR Doc. 91-10518 Filed 5-2-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-32; Sub-No. 43]

Boston and Maine Corporation and Springfield Terminal Railway Corporation—Abandonment and Discontinuance of Service in Hartford Country, CT; Findings

The Commission has found that the public convenience and necessity permit Boston and Maine Corporation (B&M) and Springfield Terminal Railway Corporation (ST) to abandon and discontinue service over 8.24 miles of rail line in Hartford County, CT, between milespost 28.81 in Plainville and milepost 37.05 in Avon and, as amended, .4 mile of sidetrack. The certificate will be issued 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to continue; and (2) it is likely that the assistance would fully compensate the railroad.

Requests for public use conditions must be filed with the Commission and the applicant within 10 days after publication.

Any financial assistance offer must be filed with the Commission and applicants no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27. Requests for public use conditions must conform with 49 CFR 1152.28(a)(2).

Decided: April 26, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Kathleen M. King,

Acting Secretary.

[FR Doc. 91-10514 Filed 5-2-91; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-351X]

County of Wayne, New York—Abandonment Exemption—Within Village of Newark, NY

Applicant has filed a notice of exemption under 49 CFR Part 1152 subpart F—*Exempt Abandonments* to abandon its 0.830-mile line of railroad between mileposts 16.2 and 17.06, within the Village of Newark, Wayne County, NY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with

any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 29, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27 (c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 9, 1991[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 20, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Donald Crowley, County Court House, 26 Church Street, Lyons, NY 14489.

If the notice of exemption contains false or misleading infomation, use of the exemption is void *ad initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by May 3, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 29, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 91-10515 Filed 5-2-91; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 29, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514-4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

This Notice also contains certain entries for which an expedited review has been requested from the Office of Management and Budget. In an effort to fully inform the reporting public, those entries for which an expedited review has been requested are printed in full, including instructions if any, at the end of this notice.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Agreement Between a Transportation Line (Operating Between Foreign Territory and the United States) and the United States of America.

(2) I-775, Immigration and Naturalization Service.

(3) On occasion.

(4) Businesses or other for-profit. The agreement between a transportation company and the United States is mandatory to assure the U.S. that the transportation company will remain responsible for the aliens that transports to the United States under the Visa Waiver Pilot Program (8 U.S.C. 1187).

(5) 50 annual respondents at 1 hour per response.

(6) 50 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Assurance by a United States Sponsor in Behalf of an Applicant for Refugee Status.

(2) I-591, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used by U.S. sponsor in behalf of a refugee as acceptable sponsorship agreement and guarantee of transportation in order to be approved for refugee status under section 107 of the Immigration and Nationality Act.

(5) 10,000 annual respondents at .332 hours per response.

(6) 3,320 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Application for Nonresident Alien's Canadian Border Crossing Card.

(2) I-175, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used to obtain data from an applicant for a Canadian Border Crossing Card; data is used to determine eligibility of applicant.

(5) 5,000 annual respondents at .03 hours per response.

(6) 150 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review Has Been Requested For This Entry

(1) Employment Eligibility Verification.

(2) I-9, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households, State or local governments, farms, businesses or other for profit, Federal agencies or employees, non-profit institutions, small businesses or organization. The I-9 facilitates compliance with section 101 of the Immigration Reform and Control Act of 1986, making employment of unauthorized aliens unlawful which will and is diminishing the flow of illegal workers into the United States.

(5) 90,000,000 annual respondents at .166 hours per response. 20,000,000 annual recordkeepers at .083 hours each.

(6) 16,600,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Nonimmigrant Checkout Letter.

(2) G-146, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. Used in making inquiry of persons in the United States or abroad concerning the whereabouts of aliens and/or departure information wanted by the INS when initial investigation to locate an alien or verify his/her departure has been unsuccessful.

(5) 20,000 annual respondents at .166 hours per response.

(6) 50 estimated annual burden hours.

(7) Not applicable under 3504(h).

New Collections

(1) Study of Conditions of Confinement in Juvenile Detention and Correctional Facilities.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) One time collection.

(4) State of local governments, non-profit institutions. This is a survey of conditions of confinement in all State and local juvenile detention and correctional facilities in the United States. The information from this survey fulfills a Congressional mandate and will be used to form policy recommnedations.

(5) 1,038 annual respondents at 2 hours per response.

(6) 2,076 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) 1991 Restta Restitution Survey.

(2) No form number. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

(3) On occasion.

(4) State or local governments. The survey will determine state-of-the-art of juvenile restitution, provide descriptive data regarding model restitution strategies, and indicate training/technical assistance needs of practitioners. The information will also be used to update a juvenile restitution program dirctory, and will be published as a reference guide for program development/improvement.

(5) 2,100 annual respondents at 1 hour per response.

(6) 2,100 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Hate Crime Statistics.

(2) No form number. Federal Bureau of Investigation.

(3) Quarterly.

(4) State or local governments. The Hate Crime Statistics Act mandated a five year data collection of crimes motivated by religious, ethnic, racial, or sexual orientation prejudice. The FBI's Uniform Crime Reports (UCR) section has been assigned the task of developing and managing the collection of this information through the use of a separate report.

(5) 16,000 respondents, quarterly, at .17 hours per response.

(6) 10,880 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review Has Been Requested For This Entry

(1) Application for Participation in a Dedicated Commuter Lane Program.

(2) I-823, I 823A, I-823B. Inspections Division, Immigration and Naturalization Service.

(3) Annually.

(4) Individuals or households. At land border ports of entry participating in this dedicated commuter lane program, this form will be used by frequent crossers to voluntarily apply for permission to use the dedicated commuter lane.

(5) 200,000 annual respondents at .664 hours per response.

(6) 132,800 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review has been Requested for this Entry

(1) Application to Waive Exclusion Grounds.

(2) I-724. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used by aliens to apply to waive excludability from the United States pursuant to provisions as amended by section 601 of the Immigration Act of 1990. Public Law 101-649. This new form replaces the current I-191, I-192, I-193, I-212, I-601, I-602 and I-612, now used to apply for various waivers.

(5) 76,000 respndents, quarterly, at .82 hours per response.

(6) 62,320 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review has been Requested for this Entry

(1) Visa Waiver Nonimmigrant Arrival Departure Document.

(2) I-94W, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used by nonimmigrant aliens applying for admission into the United States under the Visa Waiver Program. It merges the current I-791 and the I-94 Nonimmigrant Arrival Departure Document so persons applying for admission to the United States under this program can complete one rather than two forms.

(5) 4,000,000 annual respondents at .105 hours per response.

(6) 420,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review has been Requested for this Entry

(1) Application to Replace a Naturalization/Citizenship Certificate.

(2) N-565, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used to apply for a duplicative Naturalization certificate, Citizenship certificate, or related documents. It replaces the N-565, the N-458, N-459, and the N-577, previously used to apply for these documents.

(5) 10,000 annual respondents at .9 hours per response.

(6) 9,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review has been Requested for this Entry

(1) Petition for Immigrant Entrepreneur.

(2) I-526, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form is used to petition for classification as an alien entrepreneur as provided by sections 121(b)(5) and 162(b) of the Immigration Act of 1990. The data collected is used to determine eligibility for this benefit.

(5) 2,000 annual respondents at 1.25 hours per response.

(6) 2,500 estimated annual burden hours.

(7) Not applicable under 3504(h).

An Expedited Review Has Been Requested for This Entry

(1) Application for Naturalization.

(2) N-400, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This application is prescribed by the Immigration and Naturalization Act as the means for permanent residents to apply for Naturalization. This form replaces the current N-400 as well as the N-400B, supplement to N-400, the N-402, Naturalization Petition for a Child, the N-405, and the N-407 Petition for Naturalization.

(5) 377,000 annual respondents at 4.335 hours per response.

(6) 1,634,295 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Survey of Inmates of State Correctional Facilities.

(2) NPS 23, 24, 25, 26, 27, 28, Bureau of Justice Statistics, Office of Justice Programs.

(3) Every five years.

(4) Individuals or households, State or local governments. This survey will be used to profile inmates nationwide; to determine trends in inmate composition, criminal histories and drug abuse; and gun use and crime; and to report on the victims of crime. The data will be used by the Bureau of Justice Statistics, the Congress, researchers, practitioners and others in the criminal justice community.

(5) 15,200 annual respondents at .75 hours per response.

(6) 11,400 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Application for Temporary Protected Status.

(2) I-821, Immigration and Naturalization Service.

(3) Annually.

(4) Individuals or households. The I-821 was developed to comply with Sections 302 and 303 of the Immigration Act of 1990 to provide eligible aliens with withholding of deportation as well as employment authorization.

(5) 50,000 annual respondents at .5 hours per response.

(6) 25,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Certificate by Designating School Official.

(2) I-538, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households, Non-profit institutions. This form is provided for use in section 101(a)(15) of the I&N Act. The form is submitted by a nonimmigrant student as a supporting document to applications for employment authorization, extension of stay or school transfers.

(5) 150,000 annual respondents at .063 hours per response.

(6) 9,450 estimated annual burden hours.

(7) Not applicable under 3504(h).

(1) Request for Asylum in the United States.

(2) I-589, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This information will be used to determine if an alien applying for asylum in the United States is classifiable as a refugee and is eligible to remain in the United States. These data will minimize the need to re-interview applicants for asylum.

(5) 175,000 annual respondents at 3.5 hours per response.

(6) 612,000 estimated annual burden hours.

(7) Not applicable under 3504(h).

Special Note Regarding Impact on the Fee

I-724: The forms being merges have the same fee except for the current I-192. In the interest of consistency, the fee for the majority of these applications will apply to each waiver for which application is made. This means that where a person wishes to apply for more than one ground of ineligibility, the application fee will be the base fee multiplied by the number f actual waivers sought.

N-400: The forms being merged into the new N-400 have fees that are within a narrow range. In the interest of consistency and simplicity, the new N-400 will have a single fee, which would be the fee for the prior N-400, since it, by far, has the largest volume of filings among the merged forms.

I-526: The existing process, which due to visa number restrictions, has not been available for some years, calls for the I-526 to be filed with an I-485 application for adjustment. The new IMMACT process is such that the I-526 must be able to be filed independently. Based on an analysis of the projected processing costs associated with this complex adjudication, and comparison with the fee for other adjudicative processes, the INS proposes to institute a fee of $140.00 for filing an I-526. As the INS gains experience in processing this new application, the fee will be adjusted annually based on actual costs.

Public comment on these items is encouraged.

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

BILLING CODE 4410-10-M

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application for Naturalization

INSTRUCTIONS

Purpose of This Form.
This form is for use to apply to become a naturalized citizen of the United States.

Who May File.
You may apply for naturalization if:

- you have been a lawful permanent resident for five years;
- you have been a lawful permanent resident for three years, have been married to a United States citizen for those three years, and continue to be married to that U.S. citizen;
- you are the lawful permanent resident child of United States citizen parents; or
- you have qualifying military service.

Children under 18 may automatically become citizens when their parents naturalize. You may inquire at your local Service office for further information. If you do not meet the qualifications listed above but believe that you are eligible for naturalization, you may inquire at your local Service office for additional information.

General Instructions.
Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item the answer refers to.

Every application must be properly signed and filed with the correct fee. If you are under 18 years of age, your parent or guardian must sign the application.

If you wish to be called for your examination at the same time as another person who is also applying for naturalization, make your request on a separate cover sheet. Be sure to give the name and alien registration number of that person.

Initial Evidence Requirements.
You must file your application with the following evidence:

A copy of your alien registration card.

Photographs. You must submit 3 identical natural color photographs of yourself taken within 30 days of this application. The photos should be no larger than 2 X 2 inches. They must have a white background, be unmounted, printed on thin paper, and be unglossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member), and with the distance from the top of the head to the point of your chin about 1 1/4 inches. Lightly print you A# on the back of each photo with a pencil.

Fingerprints. If you are between the ages of 14 and 75, you must sumit your fingerprints on Form FD-258. Fill out the form and write your Alien Registration Number in the space marked "Your No. OCA" or "Miscellaneous No. MNU". Take the chart and these instructions to a police station, sheriff's office or an office of this Service, or other reputable person or organization for fingerprinting. (You should contact the police or sheriff's office before going there since some of these offices do not take fingerprints for other government agencies.) You must sign the chart in the presence of the person taking your fingerprints and have that person sign his/her name, title, and the date in the space provided. Do not bend, fold, or crease the fingerprint chart.

U.S. Military Service. If you have ever served in the Armed Forces of the United States at any time, you must submit a completed Form G-325B. If your application is based on your military service you must also submit Form N-426, "Request for Certification of Military or Naval Service."

Application for Child. If this application is for a permanent resident child of U.S. citizen parents, you must also submit copies of the child's birth certificate, the parents' marriage certificate, and evidence of the parents' U.S. citizenship. If the parents are divorced, you must also submit the divorce decree and evidence that the citizen parent has legal custody of the child.

Where to File.
File this application at the local Service office having jurisdiction over your place of residence.

Fee.
The fee for this application is $90.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.
Rejection. Any application that is not signed or is not accompanied by the proper fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until it is accepted by the Service.

Requests for more information. We may request more information or evidence. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Interview. After you file your application, you will be notified to appear at a Service office to be examined under oath or affirmation. This interview may not be waived. If you are an adult, you must show that you have a knowledge and understanding of the history, principles, and form of government of the United States. There is no exemption from this requirement.

You will also be examined on your ability to read, write, and speak English. If on the date of your examination you are more than 50 years of age and have been a lawful permanent resident for 20 years or more, or you are 55 years of age and have been a lawful permanent resident for at least 15 years, you will be exempt from the English language requirements of the law. If you are exempt, you may take the examination in any language you wish.

Oath of Allegiance. If your application is approved, you will be required to take the following oath of allegiance to the United States in order to become a citizen:

"I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the armed forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God."

If you cannot promise to bear arms or perform noncombatant service because of religious training and belief, you may omit those statements when taking the oath. "Religious training and belief" means a person's belief in relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or merely a personal moral code.

Oath ceremony. You may choose to have the oath of allegiance administered in a ceremony conducted by the Service or request to be scheduled for an oath ceremony in a court that has jurisdiction over the applicant's place of residence. At the time of your examination you will be asked to elect either form of ceremony. You will become a citizen on the date of the oath ceremony and the Attorney General will issue a Certificate of Naturalization as evidence of United States citizenship.

If you wish to change your name as part of the naturalization process, you will have to take the oath in court.

Penalties.
If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.
We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1439, 1440, 1443, 1445, 1446, and 1452. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.
We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 20 minutes; (2) completing the form, 25 minutes; and (3) assembling and filing the application (includes statutory required interview and travel time, after filing of application), 3 hours and 35 minutes, for an estimated average of 4 hours and 20 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-XXXX, Washington, D.C. 20503.

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application for Naturalization

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial

U.S. Mailing Address - Care of

Street Number and Name	Apt. #
City	County
State	ZIP Code
Date of Birth (month/day/year)	Country of Birth
Social Security #	A #

Part 2. Basis for Eligibility *(check one)*.

a. ☐ I have been a permanent resident for at least five (5) years .

b. ☐ I have been a permanent resident for at least three (3) years and have been married to a United States Citizen for those three years.

c. ☐ I am a permanent resident child of United States citizen parent(s) ..

d. ☐ I am applying on the basis of qualifying military service in the Armed Forces of the U.S. and have attached completed Forms N-426 and G-325B

e. ☐ Other. (Please specify section of law) _____.

Part 3. Additional information about you.

Date you became a permanent resident (month/day/year)	Port admitted with an immmigrant visa or INS Office where granted adjustment of status.

Citizenship

Name on alien registration card (if different than in Part 1)

Other names used since you became a permanent resident (including maiden name)

Sex ☐ Male ☐ Female	Height	Marital Status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed

Can you speak, read and write English ? ☐No ☐Yes.

Absences from the U.S.:

a. Since becoming a permanent resident have you been absent from the U.S. for any periods of six months or longer? ☐No ☐Yes. Total number of trips_____.

b. Since becoming a permanent resident, have you been absent from the U.S. for any periods of six months or less? ☐No ☐Yes. Total number of trips _____.

If you answered **"Yes"** to either of the above, complete the following. Begin with your most recent absence. If you need more room to explain the reason for an absence or to list more trips, continue on separate paper.

Date left U.S.	Date returned	Destination	Reason for trip

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

At Interview
☐ request naturalization ceremony at court

Remarks

Action

To Be Completed by Attorney or Representative, if any
☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Form N-400 (Rev. 4/17/91) DRAFT 7

Continued on back.

Part 4. Information about your residences and employment.

A List your addresses during the last five (5) years or since you became a permanent resident, whichever is less. Begin with your current address. If you need more space, continue on separate paper:

Street Number and Name, City, State, Country, and Zip Code	Dates (month/day/year)	
	From	To

B. List your employers during the last five (5) years. List your present or most recent employer first. If none, write "None". If you need more space, continue on separate paper.

Employer's Name	Employer's Address	Dates Employed (month/day/year)		Occupation/position
	Street Name and Number - City, State and ZIP Code	From	To	

Part 5. Information about your marital history.

A. Total number of times you have been married _____ . If you are now married, complete the following regarding your husband or wife.

Family name	Given name	Middle initial
Address		
Date of birth (month/day/year)	Country of birth	Citizenship
Social Security#	A#	Immigration status (If not a U.S. citizen)

Naturalization (If applicable)
(month/day/year) Place (City, State)

If you have ever previously been married or if your current spouse has been previously married, please provide the following on separate paper: Name of prior spouse, date of marriage, date marriage ended, how marriage ended and immigration status of prior spouse.

Part 6. Information about your children.

B Total Number of Children _____ . Complete the following information for each of your children. If the child lives with you, state "with me" in the address column; otherwise give city/state/country of child's current residence. If deceased, write "deceased" in the address column. If you need more space, continue on separate paper.

Full name of child	Date of birth	Country of birth	Citizenship	A - Number	Address

Continued on next page

Continued on back

Part 7. Additional eligibility factors.

Please answer each of the following questions. If your answer is **"Yes"**, explain on a separate paper.

1. Are you now, or have you ever been a member of, or in any way connected or associated with the Communist Party? ☐ Yes ☐ No
2. Have you ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person? ☐ Yes ☐ No
3. Do you now, or have you ever advocated, taught, believed in, or knowingly supported or furthered the interests of communism? ☐ Yes ☐ No
4. During the period March 23, 1933 to May 8, 1945, did you serve in, or were you in any way affiliated with, either directly or indirectly, any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, citizen unit of the Nazi party or SS, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, detention camp or transit camp, under the control or affiliated with:
   a. The Nazi Government of Germany? ☐ Yes ☐ No
   b. Any government in any area occupied by, allied with, or established with the assistance or cooperation of, the Nazi Government of Germany? ☐ Yes ☐ No
5. Have you at any time, anywhere, ever ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion? ☐ Yes ☐ No
6. Have you ever left the United States to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☐ No
7. Have you ever failed to comply with Selective Service laws? ☐ Yes ☐ No
   If you have registered under the Selective Service laws, complete the following information:
   Selective Service Number:_____ Date Registered:_____
   If you registered before 1978, also provide the following:
   Local Board Number:_____ Classification:_____
8. Did you ever apply for exemption from military service because of alienage, conscientious objections or other reasons? ☐ Yes ☐ No
9. Have you ever deserted from the military, air or naval forces of the United States? ☐ Yes ☐ No
10. Since becoming a permanent resident, have you ever failed to file a federal income tax return? ☐ Yes ☐ No
11. Since becoming a permanent resident, have you filed a federal income tax return as a nonresident or failed to file a federal return because you considered yourself to be a nonresident? ☐ Yes ☐ No
12. Are deportation proceedings pending against you, or have you ever been deported, or ordered deported, or have you ever applied for suspension of deportation? ☐ Yes ☐ No
13. Have you ever claimed in writing, or in any way, to be a United States citizen? ☐ Yes ☐ No
14. Have you ever:
   a. been a habitual drunkard? ☐ Yes ☐ No
   b. advocated or practiced polygamy? ☐ Yes ☐ No
   c. been a prostitute or procured anyone for prostitution? ☐ Yes ☐ No
   d. knowingly and for gain helped any alien to enter the U.S. illegally? ☐ Yes ☐ No
   e. been an illicit trafficker in narcotic drugs or marijuana? ☐ Yes ☐ No
   f. received income from illegal gambling? ☐ Yes ☐ No
   g. given false testimony for the purpose of obtaining any immigration benefit? ☐ Yes ☐ No
15. Have you ever:
   a. knowingly committed any crime for which you have not been arrested? ☐ Yes ☐ No
   b. been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance excluding traffic regulations? ☐ Yes ☐ No

(If you answer yes to 15, in your explanation give the following information for each incident or occurrence the **city**, **state**, and **country**, where the offense took place, the **date** and **nature** of the offense, and the **outcome** or **disposition** of the case).

16. Have you ever been declared legally incompetent or have you ever been confined as a patient in a mental institution? ☐ Yes ☐ No
17. Were you born with, or have you acquired in same way, any title or order of nobility in any foreign State? ☐ Yes ☐ No

Part 8. Allegiance to the U.S.

If your answer to any of the following questions is **"NO"**, attach a full explanation:

1. Do you believe in the Constitution and form of government of the U.S.? ☐ Yes ☐ No
2. Are you willing to take the full Oath of Allegiance to the U.S.? (see instructions) ☐ Yes ☐ No
3. If the law requires it, are you willing to bear arms on behalf of the U.S.? ☐ Yes ☐ No
4. If the law requires it, are you willing to perform noncombatant services in the Armed Forces of the U.S.? ☐ Yes ☐ No
5. If the law requires it, are you willing to perform work of national importance under civilian direction? ☐ Yes ☐ No

Continued on back

Part 9. Memberships and organizations.

A. List your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place. Include any military service in this part. If none, write "none". Include the name of organization, location, dates of membership and the nature of the organization. If additional space is needed, use separate paper.

Part 10. Complete only if you checked block " C " in Part 2.

How many of your parents are U.S. citizens? ☐ One ☐ Both (Give the following about one U.S. citizen parent:)

Family Name	Given Name	Middle Name
Address		

Basis for citizenship:	Relationship to you (check one):
☐ Birth ☐ Naturalization Cert. No.	☐ natural parent ☐ adoptive parent ☐ parent of child legitimated after birth

If adopted or legitimated after birth, give date of adoption or, legitimation: *(month/day/year)*_____.

Does this parent have legal custody of you? ☐ Yes ☐ No

(Attach a copy of relating evidence to establish that you are the child of this U.S. citizen and evidence of this parent's citizenship.)

Part 11. Signature. *(Read the information on penalties in the instructions before completing this section)*

I certify or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature **Date**

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for naturalization and this application may be denied.*

Part 12. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature **Print Your Name** **Date**

Firm Name
and Address

DO NOT COMPLETE THE FOLLOWING UNTIL INSTRUCTED TO DO SO AT THE INTERVIEW

I swear that I know the contents of this application, and supplemental pages 1 through_____, that the corrections , numbered 1 through_____, were made at my request, and that this amended application, is true to the best of my knowledge and belief.

(Complete and true signature of applicant)

Subscribed and sworn to before me by the applicant.

(Examiner's Signature) *Date*

U.S. Department of Justice
Immigration and Naturalization Service

OMB# 1115-XXXX
Application to Waive Exclusion Grounds

INSTRUCTIONS

Purpose of This Form.
This form is used to apply for a waiver of the exclusion provisions of the immigration law.

Who May File; Initial Evidence Requirements.
General. If you have been found excludable under a ground listed below, you may be able to apply for a waiver. You must file your application with a written statement indicating why you believe you should be granted a waiver and with the other initial evidence required in the appropriate subsection. In your statement explain the beginning and end dates of your proposed trip(s) as well as the reason(s) and purpose of the trip(s). Include any information and evidence you wish considered as to why you should be given the requested waiver. For a nonimmigrant waiver, you should include information about each proposed trip for which you seek a waiver.

In this application the term "immigrant" refers to a person applying for admission with an immigrant visa or applying for adjustment to permanent resident status. The term "permanent resident" refers to a person who his a lawful permanent resident of the United States, but does not qualify as a returning resident. The term "returning resident" refers to a person who has been a permanent resident for the past 7 consecutive years, is returning from a temporary trip abroad, was not deported, and has not been convicted of an aggravated felony and served a term of imprisonment of at least 5 years.

Lack of valid passport or visa. If, when you apply to enter the U.S., you are excludable because you do not have a valid passport or valid nonimmigrant visa, you can apply for a waiver, but you must establish when filing your application that your trip was due to an unforeseen emergency. If, when you apply to enter the U.S. with an immigrant visa, it is found that the visa has expired or was issued in error, you can apply for a waiver, but you must establish when filing your application that you could not reasonably have known that the visa had expired or was issued in error.

Controlled substance trafficking. You may apply for a waiver if you are a nonimmigrant or returning resident. File the application with:
- evidence of the violations (see **General Evidence**), and
- evidence of rehabilitation (see **General Evidence**).

Prostitution or procurement. File your application with evidence of the violations (see **General Evidence**). If you are an immigrant or permanent resident, you must also file evidence that you are the spouse, parent, son, or daughter of a U.S. citizen or permanent resident, and evidence of rehabilitation (see **General Evidence**).

Commercialized vice. File your application with evidence of the violations (see **General Evidence**). If you are an immigrant or permanent resident also file evidence that you are the spouse, parent, son, or daughter of a U.S. citizen or permanent resident, evidence that it has been at least 15 years since you committed any excludable offense, and evidence of rehabilitation (see **General Evidence**).

Exercise of diplomatic immunity from prosecution. File your application with:
- evidence of the violations (see **General Evidence**),
- a statement from the prosecuting authority as to whether or not prosecution is planned or contemplated, and
- a detailed explanation of your decision to exercise diplomatic immunity to avoid full submission to the jurisdiction of a U.S. court. Include the date of your departure from the U.S. Also indicate if you have made any attempts at restitution (if applicable).
- If you are an immigrant or permanent resident, also file evidence you are the spouse, parent, son or daughter of a U.S. citizen or permanent resident; evidence that it has been at least 15 years since you committed any excludable offense; and evidence of rehabilitation (see **General Evidence**).

One or more other criminal violations. File your application with:
- evidence of the violations (see **General Evidence**), and
- If you are an immigrant or permanent resident, also file evidence that you are the spouse, parent, son or daughter of a U.S. citizen or permanent resident, evidence that it has been at least 15 years since you committed any excludable offense, and evidence of rehabilitation (see **General Evidence**).

You are not eligible for a waiver if you have been convicted of murder or a crime involving torture. An immigrant or permanent resident is also not eligible for a waiver of a violation of any law relating to controlled substances, other than one conviction of simple possession of 30 grams or less of marijuana.

Previous terrorist activities. You may apply for a waiver if you are a nonimmigrant or returning resident. File this application with:
- evidence that you are no longer engaged in terrorist activities,
- evidence that you have no intention of engaging in terrorist activities in the future,
- evidence of rehabilitation (see **General Evidence**), and
- a detailed explanation of your reasons for coming to the United States.

Membership in Communist or other totalitarian party. File your application with:
- evidence that you are the parent, spouse, son, daughter, brother, or sister of a U.S. citizen or the spouse, son, or daughter of a permanent resident (see **General Evidence**),
- a statement giving the name of each Communist or other totalitarian party to which you belonged, explaining why and when you joined; dates of membership; any offices you held; why you remained a member and the degree to which you accepted the structure, goals, methods, and philosophy of the party; and, if you left, the reasons why you left.

Previous exclusion, deportation, or removal. File your application with:
- copies of any documents you have relating to previous immigration proceedings, or a statement about the proceeding, including the date of exclusion, deportation or removal,
- evidence of any family relationship to a U.S. citizen or permanent resident (see **General Evidence**),
- evidence of any petitions filed in your behalf.

Assisting illegal entry of others. File your application with:
- complete information about the violations (see **General Evidence**),
- If you are an immigrant or have been a permanent resident for less than 7 years, you must submit evidence that the alien(s) you assisted were your spouse, parent, son, or daughter, and no other person.

Subject of a civil penalty for violation of section 274C. You may apply for a waiver if you are a nonimmigrant, returning resident, or refugee/asylee. File the application with a letter from the administrative law judge who imposed the civil penalty stating that he or she has no objection to the granting of this waiver.

Other misrepresentation or fraud in immigration proceedings. File your application with:
- copies of any documents you have relating to your attempt to procure the benefit through fraud or misrepresentation, and
- a statement describing the manner in which you attempted to gain such benefit.
- If you are an immigrant or permanent resident, also file evidence that you are the spouse, parent, son or daughter of a U.S. citizen or permanent resident (see **General Evidence**), or that the fraud occurred more than 10 years ago.

Ineligible for citizenship. You may apply for a waiver if you are a nonimmigrant or returning resident. File a statement detailing the events which caused you to be ineligible for citizenship and explaining why you believe you should be granted the waiver.

Draft evasion. You may apply for a waiver if you are a nonimmigrant, returning resident, or refugee/asylee. You must file the application with a statement giving the date of your departure and explaining your reasons for departing the U.S. to avoid military service.

Withholding child custody. File your application with a copy of the court order giving custody to another person, and evidence that you are coming to the United States to comply with the court order.

Two-year foreign residence requirement. File your application with:

- copies of the Form(s) I-94, Nonimmigrant Arrival/Departure Record, of yourself, your spouse, and your children, if applicable.
- copies of your IAP-66 forms issued by your program sponsors; and
- evidence that you are the spouse or parent of a U.S. citizen or permanent resident (see **General Evidence**) and that compliance with the requirement would impose exceptional hardship upon them or that compliance would result in your persecution on account of race, religion, or political opinion in the country to which you would have to return to comply with the requirement, or
- a recommendation from the USIA that the waiver be granted based on either
  - a letter from the country of your citizenship or last residence that it has no objection to the waiver, or
  - a letter from an interested U.S. government agency.

General Evidence.
Any foreign language document must be accompanied by an English translation certified by the translator that he or she is competent to translate from the foreign language into English.

Family relationship. If you must file evidence that you are related to a U.S. citizen or permanent resident, you must file:

- a copy of that person's birth certificate, naturalization certificate, alien registration card, or other evidence of his or her status in the U.S., and
- a copy of a birth certificate, marriage certificate, adoption decree, or other document showing your relationship to that person.

Evidence of criminal violations. If you must file evidence of criminal violations, you must include full and complete copies of the official police reports and court records for all crimes (other than minor traffic violations), indicating the crime committed, the sentence imposed, the sentence actually served, whether any probation or parole has been successfully completed, and copies of any pardon, clemency, expungement or similar action. If you admit committing a crime but there are no official records, you must submit a statement detailing the crime committed.

Evidence of rehabilitation. If you file evidence of rehabilitation, you must include a letter of clearance from local police departments where you have resided for the last 5 years. You may also include any other evidence you wish to submit, such as letters attesting to your good moral character from individuals of high standing in the community, documentation of volunteer work in the community, etc.

General Filing Instructions.
Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none", write "none". If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item the answer refers to.

Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application.

Where to File.
Except as noted below, you must file the application at the American Consulate or INS office where you are applying for a visa or other benefit. If you are applying for a waiver of previous exclusion, deportation, or removal, you must file the application at the INS office where the previous proceedings were held.

If you are outside the U.S. and you are applying for a waiver of the 2-year foreign residence requirement, you must file the application with the INS office having jurisdiction over your last address in the U.S. If you qualify as a returning resident and believe that you may be excludable, you may apply for this waiver while in the U.S. If you are not sure whether you are excludable, contact your local INS office for assistance.

Fee.
The fee for this application is $90.00 per waiver requested (per block checked in Part 2, Question 2 of the application form). The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.
Rejection. Any application that is not signed, or is not accompanied by the correct fee, will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by the Service.

Initial processing. Once an application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file if without required initial evidence, you will not establish a basis for eligibility, and we may deny your application.

Requests for more information or interview. We may request more information or evidence, or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. An application for a waiver may be approved in the discretion of the Service. If your application is denied, you will be notified in writing of the reasons for the denial. A nonimmigrant waiver may be limited in time or purpose. If you later apply for status as an immigrant, you may be required to obtain another waiver based upon the requirements for an immigrant waiver.

Penalties.
If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.
We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice
We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 15 minutes; (2) completing the form, 10 minutes; and (3) assembling and filing the application, 25 minutes, for an estimated average of 50 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-XXXX Washington, D.C. 20503.

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-XXXX
Application to Waive Exclusion Grounds

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial
Address - C/O		
Street Number and Name		Apt. #
City	State or Province	
Country	ZIP/Postal Code	
Date of Birth (month/day/year)	Country of Birth	
Social Security #	A#	

Part 2. Application Type.

1. **I am applying for status as:** *(check one)*
   - ☐ a nonimmigrant
   - ☐ an immigrant
   - ☐ a permanent resident
   - ☐ a returning resident (certain permanent residents see instruction)
   - ☐ an asylee/refugee
   - ☐ Other_____

2. **I believe that I am excludable due to** *(check all that apply).*

   (check the instructions to make sure you are eligible to apply for a waiver.)

   - a. ☐ lack of a valid passport or visa
   - b. ☐ controlled substance trafficking
   - c. ☐ prostitution or procurement
   - d. ☐ commercialized vice
   - e. ☐ exercise of diplomatic immunity from prosecution
   - f. ☐ one or more other criminal violations
   - g ☐ previous terrorist activities
   - h. ☐ membership in communist or other totalitarian party
   - i. ☐ previous exclusion, deportation, or removal
   - j. ☐ assisting illegal entry of others
   - k. ☐ subject of civil penalty for violation of INA Section 274(C)
   - l. ☐ misrepresentation or fraud in immigration proceedings
   - m. ☐ ineligible for citizenship
   - n. ☐ draft evasion
   - o. ☐ withholding child custody
   - p. ☐ the two-year foreign residence requirement based on hardship
   - q. ☐ the two-year foreign residence requirement based on persecution
   - r. ☐ the two-year foreign residence requirement based on the recommendation of the USIA

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

Waiver approved under Section:
(Check as many as apply)
- ☐ 212(c)
- ☐ 212(d)(3)(A)
- ☐ 212(d)(3)(B)
- ☐ 212(d)(4)
- ☐ 212(d)(11)
- ☐ 212(e)
- ☐ 212(h)
- ☐ 212(i)
- ☐ 212(k)
- ☐ 212(l) of the INA

Action Block

To Be Completed by *Attorney or Representative*, if any
☐ Fill in box if G-28 is attached to represent the applicant
VOLAG#
ATTY State License #

Continued on back.

Part 3. Processing Information.

Other Names Used (include maiden name)			Consulate where you will apply for a visa
Home Telephone #		Work Telephone #	Country of Citizenship
IF IN THE U.S.	Date of Arrival (month/day/year)	I-94#	
	Current nonimmigrant status:	Expires on (month/day/year)	

(Attach a copy of your INS documentation, e.g. Alien Registration Card, I-94, etc). If a returning resident, on separate paper list each date of departure and return to the U.S. within the past 7 years.)

Passport Information	Passport #		Date of Issuance (month/day/year)
	Country		Expiration Date (month/day/year)
Nonimmigrant Visa Information	Nonimmigrant Visa #	Date of Issuance (month/day/year)	Place of Issuance
	Classification	Expiration Date (month/day/year)	

Part 4. Family Members. List any relative who lives in the U.S.: (attach separate paper if additional space is needed)

1 Family name	Given name	Middle initial
Address		
Relationship	Immigration status	A# (if any)
2 Family name	Given name	Middle initial
Address		
Relationship	Immigration status	A# (if any)

Part 5. Signature.

(Read the information on penalties in the instructions before completing this section. If you are going to file this petition at an INS office in the United States, sign below. If you are going to file it at a U.S. Consular or INS Office overseas, sign in front of a U.S. INS or Consular official.)

I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature ***Date***

Signature of INS or Consular Officer ***Print Name*** ***Date***

Please Note: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested waiver and this application may be denied.

Part 6. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature **Print Your Name** **Date**

Firm Name and Address

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0136
Employment Eligibility Verification

1. EMPLOYEE INFORMATION AND VERIFICATION *To be completed and signed by employee at the time of hire.*

Print or Type: Name Last First Middle Birth Name

Address (Street Name and Number, City, State, Zip Code)

I attest, under penalty of perjury, that I am (check one of the following):
❑ A citizen or national of the United States.
❑ A Lawful Permanent Resident (Alien # A_____).
❑ An alien authorized to work until ___/___/___ (Alien # or Admission #_____).

Date of Birth: Month/Day/Year

Social Security Number

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

Employee's Signature

Date: Month/Day/Year

2. EMPLOYER REVIEW AND VERIFICATION *To be completed and signed by employer in accordance with instructions on reverse of this form. You must accept any document or combination of documents listed that appear to be genuine and to relate to the individual. You can not specify which document(s) you will accept from an employee.*

Date of Hire: Month/Day/Year

Examine one document from List A OR Examine one document from List B and one from List C

List A - Documents that establish both identity and employment eligibility - List document number and expiration date (if any) and place a check mark (✓) next to the document examined.
Document #_____
Expiration Date (if any) ___/___/___

❑ 1. U.S. Passport (unexpired or expired)
❑ 2. Certificate of U.S. Citizenship (INS Form N-560 or N-561)
❑ 3. Certificate of Naturalization (INS Form N-550 or N-570)
❑ 4. Unexpired foreign passport with attached unexpired employment authorization document (list passport document number and expiration date above *and* list employment authorization document number and expiration date below)
Document #_____
Expiration Date (if any) ___/___/___
❑ 5. Alien Registration Receipt Card with photograph (INS Form I-151) or Resident Alien Card with photograph (INS Form I-551)
❑ 6. Unexpired Temporary Resident Card (INS Form I-688)
❑ 7. Unexpired Employment Authorization Card (INS Form I-688A)
❑ 8. Unexpired reentry permit (INS Form I-327)
❑ 9. Unexpired Refugee Travel Document (INS Form I-571)
❑ 10. Unexpired employment authorization document issued by the INS which contains a photograph (INS Form I-688B)

List B - Documents that establish identity - List document number and expiration date (if any) and place a check mark (✓) next to the document examined.
Document #_____
Expiration Date (if any) ___/___/___

❑ 1. Driver's license or ID card issued by a state or outlying possession of the U.S. provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
Specify issuing authority _____
❑ 2. School ID card with a photograph
❑ 3. Voter's registration card
❑ 4. U.S. Military card or draft record
❑ 5. ID card issued by federal, state, or local government agencies or entities provided it contains a photgraph or information such as name, date of birth, sex, height, eye color, and address
Specify issuing authority _____
❑ 6. Military dependent's ID card
❑ 7. Native American tribal document
❑ 8. U.S. Coast Guard Merchant Mariner Card
❑ 9. Driver's license issued by a Canadian government authority
For persons under age 18 who are unable to present a document listed above:
❑ 10. School record or report card
❑ 11. Clinic, doctor, or hospital record
❑ 12. Daycare or nursery school record

List C - Documents that establish employment eligibility - List document number and expiration date (if any) and place a check mark (✓) next to the document examined.
Document #_____
Expiration Date (if any) ___/___/___

❑ 1. U.S. social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
❑ 2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
❑ 3. Certification of Birth Abroad issued by the Department of State (Form DS-1350)
❑ 4. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the U.S. bearing an official seal.
Specify issuing authority _____
❑ 5. Native American tribal document
❑ 6. U.S. Citizen ID Card (INS Form I-197)
❑ 7. ID Card for use of Resident Citizen in the U.S. (INS Form I-179)
❑ 8. Unexpired employment authorization document issued by the INS (other than those listed under List A)
Specify form type _____

Certification - **I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee commenced employment on the above-listed date, and that to the best of my knowledge the employee is eligible to work in the United States.**

Signature of Employer or Authorized Representative

Print or Type: Name

Title

Business or Organization Name

Address (Street Name and Number, City, State, Zip Code)

Date: Month/Day/Year

See Reverse Side for Instructions

3. UPDATING AND REVERIFICATION	*To be completed and signed by employer in accordance with instructions below.*
A. New name and/or address (if applicable): _____	A. New name and/or address (if applicable): _____
B. Date of rehire (if applicable): ___/___/___	B. Date of rehire (if applicable): ___/___/___
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility:	C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility:
Document type / Document # / Expiration Date (if any)	Document type / Document # / Expiration Date (if any)
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.	**I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.**
Employer's Signature / Date: Month/Day/Year	Employer's Signature / Date: Month/Day/Year

4. PREPARER AND/OR TRANSLATOR CERTIFICATION	*To be completed and signed if Section 1 is prepared by a person other than the employee.*
I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.	
Preparer's/Translator's Signature	Print or Type: Name
Address (Street Name and Number, City, State, Zip Code)	Date: Month/Day/Year

INSTRUCTIONS

Anti-Discrimination Notice -
You may not discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status.

SECTION 1 EMPLOYEE - All employees hired after November 6, 1986 must complete Section 1 of this form at the time of hire. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

SECTION 2 EMPLOYER - **For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors.** Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date of hire. However, if employers hire individuals for a duration of less than three (3) business days, Section 2 must be completed at the time of hire. If employees are unable to present the required document(s) within three (3) business days, they must present a receipt for the application of the document(s) within ninety (90) days. Employers must record the date of hire, check either an appropriate box in List A OR an appropriate box in both List B and List C, record the document number(s) and expiration date(s), if any, and sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. However, the employer is still responsible for completing the I-9.

SECTION 3 UPDATING AND REVERIFICATION - Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1.

- **If an employee's name or address changes,** complete line A.
- **If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating),** complete line B and the signature block.
- **If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired (reverification),**
  - examine any document that reflects that the employee is authorized to work in the U.S. (see Lists A and C),
  - record the type of document, document number and expiration date (if any) on line C, and
  - complete the signature block.

SECTION 4 PREPARER/TRANSLATOR CERTIFICATION - The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1 personally.

PHOTOCOPYING AND RETAINING FORM I-9 - A blank Form I-9 may be reproduced provided both sides are copied. Employers must retain completed I-9's for three (3) years after the date of hire OR one (1) year after the date employment ends, whichever is later.

DO NOT MAIL COMPLETED I-9 TO I.N.S.

PAPERWORK REDUCTION ACT NOTICE: We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (record keeping) the application, 5 minutes, for an average of 15 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0136, Washington, D.C. 20503.
NOTICE: Authority for collecting the information on this form is in Title 8, United States Code, Section 1324a, which requires employers to verify the identity and employment eligibility of individuals on a form approved by the Attorney General. This form will be used to verify the individual's identity and employment eligibility in the United States. Failure to present this form for inspection to officers of the Immigration and Naturalization Service, the Department of Labor, or the Office of Special Counsel for Unfair Immigration Related Employment Practices within the time period specified by regulation, or improper completion or retention of this form, may be a violation of the above law and may result in a civil money penalty. Information on this form will comply with the requirements of Sections (c)(1) and (4) of the Privacy Act (5 U.S.C. 552a).

Form I-9
OMB No. 1115-0136

U.S. Department of Justice
Immigration and Naturalization Service

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-XXXX
Application - Dedicated Commuter Lane Program

INSTRUCTIONS

Read carefully -- fee will not be refunded. Failure to follow instructions may require return of your application and delay final action.

1. **Preparation of Application.** Fill in application in single copy only, by typewriter, or print in block letters using only dark ink. **Do not use pencil or red ink.**

2. **Who Can Apply.** Citizens of the United States or citizens of the country contiguous to the specific port of entry sponsoring the commuter lane program are eligible to apply for participation in the dedicated commuter lane. Other passengers accompanying the principal applicant in the registered vehicle are limited to members of the applicant's car pool, or immediate family residing with the applicant, who must be listed on this form at the time of the principal's application. It is the responsibility of the principal applicant to promptly notify the local Immigration Office of the addition of approved new family or car pool members prior to their use of the dedicated commuter lane. All participants in the program are required to submit an application which must accompany the application of the principal applicant.

3. **Where to Submit This Application.** The port of entry sponsoring the dedicated commuter lane for which you are applying will furnish you with the correct local address to which this application may be mailed. If mail-in applications are not being accepted, the local port of entry will furnish you with detailed instructions on how to schedule an interview appointment and/or otherwise complete the necessary processing.An application for participation in a dedicated commuter lane program may be denied at the discretion of the District Director with no appeal. All applicants denied shall be so notified.

4. **Fee.** The U.S. Immigration and Naturalization Service requires a $25.00 (U.S.) nonrefundable fee upon approval of this application. Payment by check or money order must be drawn on a bank or other institution located in the United States and be payable in United States currency. When a check is drawn on an account of a person other than the applicant, the name of the applicant must be entered on the face of the check. Personal checks are accepted subject to collectibility. An uncollectible check will render the approval of the application invalid. A charge of $15.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

5. **Privacy Act Statement.** The Authority to collect this information is contained in Title 8, United States Code. Furnishing the information on this form is voluntary, however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request. The information collected will be used to make a determination on your application. It may, however, be provided to other government agencies (Federal, state, local and/or foreign).

6. **Penalties for False Statements in Applications.** Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of this application. Also, a false representation may result in the denial of this application and any other application you may make for any benefit under the immigration laws of the United States.

In addition, periodic checks will be made to ensure proper use of the dedicated commuter lane. Any person violating the conditions and terms of this application or agreement may be subject to severe penalties including revocation of the permit; seizure of the vehicle and/or any goods found unlawfully therein; as well as possible fines and/or prosecution. The law will be strictly enforced.

7. **Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1)learning about the form, and reading and understanding U.S. Customs Publications 28 minutes; 2) completing the form, 8 minutes ; and 3) assembling and mailing the application , 4 minutes, for an estimated average of 40 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W.; Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-XXXX, Washington, D.C. 20503.

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application- Dedicated Commuter Lane Program

START HERE - PLEASE TYPE OR PRINT

1. Name: *(Last)* *(First)* *(Middle Initial)*

2. Date of Birth: *(MM/DD/YY)*

3. Sex: ( ) Male ( ) Female

4. Mailing Address *(Street Number and Name)*:

City	State or Province	Zip/Postal Code

5. Telephone: Business: ( ) - Residence: ( ) -

6. Residence Address *(Street Number and Name)*:

City	State or Province	Zip/Postal Code

7. Country of Citizenship:

8. Alien Registration No.: *(If applicable)*

9. Place of Birth:

10. Driver's License No.: State/Province:

11. Frequency of cross border travel: Per week:

12. Most frequent reason for crossing:

13. Have you or any person listed below ever been convicted of:
1. A criminal offense Yes____ No____
2. A violation of Customs law Yes____ No____
3. A violation of Immigration law Yes____ No____

If yes, please specify:_____

14. Family, or Car Pool, Members:

	Name	Citizenship/Alien No.	Sex	Date of Birth *(MM/DD/YY)*
1.				
2.				
3.				
4.				
5.				

15. Vehicle Information *(If applicable)*:
1. Vehicle License: _____ State/Province: _____
2. Vehicle Make: _____ Vehicle Model: _____
3. Vehicle Year: _____ Vehicle Color: _____

Name and address of registered owner, if different than applicant:_____

CERTIFICATION: I certify that I have read and understood all statements contained in this application. I also certify that the information given is true and complete. I understand that all information provided on this application may be shared with other agencies participating in this pilot project.

(Signature of Applicant) *(Date)*

PRIVACY ACT STATEMENT -- The Authority to collect this information is contained in Title 8, United States Code. Furnishing the information on this form is voluntary, however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request. The information collected will be used to make a determination on your application. It may, however, be provided to other government agencies (Federal, state, local and/or foreign).

Form I-823 (04-17-91) DRAFT 4

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application - Dedicated Commuter Lane Program

COMMUTER LANE PARTICIPANTS

1. Participant acknowledges that he/she is a citizen of the United States or a citizen of the country contiguous to the specific port of entry sponsoring the commuter lane program.

2. Participant agrees to a full inspection of the registered vehicle and/or all passengers listed on the application prior to initial use of the dedicated commuter lane, if requested by either Federal agency.

3. Participant further agrees to submit to a full and complete vehicular and passenger inspection, for compliance purposes, at any time while utilizing the dedicated commuter lane.

4. Participant agrees to pay a periodic fee for the use of the dedicated commuter lane.

5. Participant agrees to abide by all conditions imposed. These conditions include, but are not limited to, the following:

   a. Number and type of passengers permitted in a designated vehicle;
   b. State and federal laws regarding the importation of alcohol;
   c. All federal, state and local laws pursuant to Sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Act regarding possession and importation of controlled substances; and,
   d. All other pertinent regulations under the jurisdiction of any other federal inspectional agency.

6. Participant agrees that the dedicated commuter lane will not be utilized when he/she intends to travel to interior points within the United States which require a permit from the U.S. Immigration Service.

7. Participant agrees to retain the dedicated commuter lane approval notice in the vehicle when crossing the border and to produce such notice and personal identification upon request.

8. Participant acknowledges that a violation of the conditions listed above for use of the dedicated commuter lanes may result in his/her removal from the program and, in addition, may result in the imposition of any other applicable fines, penalties, or sanctions as provided by law.

9. Participant acknowledges that he/she has read and understood U.S. Customs publication 512, "Know Before You Go", for U.S. resident applicants, or U.S. Customs publication 511-A, "Customs Hints", for non-resident applicants. If there is anything to be declared in the vehicle by anyone, beyond entitled exemptions, vehicle can not use the dedicated commuter lane.

CERTIFICATION: I certify that I have read, understood, and agree to abide by all conditions listed above for use of the dedicated commuter lanes.

Signature	Printed Name	Date
1.		
2.		
3.		
4.		
5.		

FOR AGENCY USE ONLY
DECAL#:
ISSUE DATE:
RENEWAL DATE:
VEHICLE LIC. #:
APP._____DEN.___OFF.___INT.___

Form I-823A (04-17-91) DRAFT 4

U.S. Department of Justice

Immigration and Naturalization Service

Dear Applicant:

Congratulations on your acceptance into the dedicated commuter lane program. Please affix the decal included with this notice to the **inside** of the windshield of the vehicle listed. The decal is to be placed at the top of the windshield in the center. (On most vehicles this will be behind the rear view mirror.) The decal is constructed to disintegrate in the event that you attempt to remove it so you must be very careful in its application.

Vehicle Information (from system):

You and the following family or car pool members are authorized to be in the vehicle when you are utilizing the dedicated commuter lanes. **If you are transporting anyone not included on this list, you must use one of the regular lanes.**

Applicant, family and/or car pool members, including DOB (from system):

You must keep this letter in the vehicle when crossing the border. It is your responsibility to inform this Service if the vehicle is sold, stolen, or disposed of otherwise. The decal is not transferable under any circumstances. If you sell the vehicle, it is your responsibility to remove, or obliterate the window decal. If the windshield needs to be replace because of damage, a new decal may be obtained if you provide satisfactory evidence to this Service.

Very Truly Yours,

DISTRICT DIRECTOR

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115 XXX

Admission Number

Welcome to the United States

I-94W Nonimmigrant Visa Waiver Arrival/ Departure Form

Instructions

This form must be completed by every nonimmigrant visitor not in possession of a visitor's visa, who is a national of one of the countries enumerated in 8 CFR 217. The airline can provide you with the current list of eligible countries.

Type or print legibly with pen in ALL CAPITAL LETTERS. USE ENGLISH

This form is in two parts. Please complete both the Arrival Record, items 1 through 11 and the Departure Record, items 12 through 15. The reverse side of this form must be signed and dated. Children under the age of fourteen must have their form signed by a parent/guardian.

Item 7 - If you are entering the United States by land, enter **LAND** in this space. If you are entering the United States by ship, enter **SEA** in this space.

Admission Number

Immigration and Naturalization Service
Form I-94W (03-25-91) - Arrival Record
VISA WAIVER

1. Family Name
2. First (Given) Name
3. Birth Date (day/mo/yr)
4. Country of Citizenship
5. Sex (male or female)
6. Passport Number
7. Airline and Flight Number
8. Country where you live
9. City Where you boarded
10. Address While in the United States (Number and Street)
11. City and State

Departure Number

Immigration and Naturalization Service
Form I-94W (03-25-91) - Departure Record
VISA WAIVER

12. Family Name
13. First (Given) Name
14. Birth Date (day/mo/yr)
15. Country of Citizenship

See Other Side

Staple Here

Do any of the following apply to you? *(Answer Yes or No)*

A. Do you have a communicable disease; physical or mental disorder; or are you a drug abuser or addict? ☐Yes ☐No

B. Have you ever been arrested or convicted for an offense or crime involving moral turpitude or a violation related to a controlled substance; or been arrested or convicted for two or more offenses for which the aggregate sentence to confinement was five years or more; or been a controlled substance trafficker; or are you seeking entry to engage in criminal or immoral activities? ☐Yes ☐No

C. Have you ever been or are you now involved in espionage or sabotage; or in terrorist activities; or have you ever participated in Nazi persecutions or genocide? ☐Yes ☐No

D. Are you seeking to work in the U.S.; or have you ever been excluded and deported; or been previously removed from the United States; or procured or attempted to procure a visa or entry into the U.S. by fraud or misrepresentation? ☐Yes ☐No

E. Have you ever detained, retained or withheld custody of a child from a U.S. citizen granted custody of the child? ☐Yes ☐No

F. Have you ever been denied a U.S. visa or entry into the U.S. or had a U.S. visa canceled? If yes, when?_____where?_____ ☐Yes ☐No

G. Have you ever asserted immunity from prosecution? ☐Yes ☐No

IMPORTANT: If you answered "Yes" to any of the above, please contact the American Embassy BEFORE you travel to the U.S. since you may be refused admission into the United States.

Family Name *(Please Print)* _____ First Name _____

Country of Citizenship _____ Date of Birth _____

WAIVER OF RIGHTS: I hereby waive any rights to review or appeal of an immigration officer's determination as to my admissibility, or to contest, other than on the basis of an application for asylum, any action in deportation proceedings.

CERTIFICATION: I certify that I have read and understand all the questions and statements on this form. The answers I have furnished are true and correct to the best of my knowledge and belief.

Signature _____ Date _____

Public Reporting Burden - The burden for this collection is computed as follows: (1) Learning about the form 2 minutes; (2) completing the form 4 minutes for an estimated average of 6 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to INS, 425 I Street, N.W., Rm. 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-1115-0077, Washington, D.C. 20503.

Departure Record

Important - Retain this permit in your possession; **you must surrender it when you leave the U.S.** Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from Immigration authorities, is a violation of the law.

Surrender this permit when you leave the U.S.:

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

WARNING: You may not accept unauthorized employment; or attend school; or represent the foreign information media during your visit under this program. You are authorized to stay in the U.S. for 90 days or less. You may not apply for: 1) a change of nonimmigrant status; 2) adjustment of status to temporary or permanent resident,unless eligible under section 201(b) of the INA; or 3) an extension of stay. Violation of these terms will subject you to deportation.

Port:

Date:

Carrier:

Flight #/Ship Name:

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX

Application for Replacement Naturalization/Citizenship Document

INSTRUCTIONS

Purpose of This Form.
This form is used to apply for a replacement Declaration of Intention, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate, or to apply for a special certificate of naturalization as a U.S. citizen to be recognized by a foreign country.

Who May File.
If you have been issued a Declaration of Intention, Naturalization Certificate, Certificate of Citizenship, or Repatriation Certificate which has been lost, mutilated, or destroyed, or if your name has been changed by marriage or by court order after the document was issued and you wish a document in the new name, you may apply for a replacement.

If you are a naturalized citizen who desires to obtain recognition as a citizen of the United States by a foreign country, you may apply for a special certificate for that purpose.

General Filing Instructions.
Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item.

Every application must be properly signed and filed with the correct fee. If you are under 14 years of age, your parent or guardian may sign the application in your behalf.

Initial Evidence Requirements.
You must file your application with the following evidence:

- 3 identical natural color photographs of yourself taken within 30 days of this application. The photos should be no larger than 2 X 2 inches. They must have a white background, be unmounted, printed on thin paper, and be unglossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member), with the distance from the top of the head to the point of your chin about 1 1/4 inches. Lightly print your A# on the back of each photo with a pencil.
- If you are applying for replacement of a mutilated document, you must attach the mutilated document.
- If you are applying for a new document because your name has been changed, you must submit the original Service document and a copy of the marriage certificate or court order showing the name change.
- If you are applying for a special certificate of naturalization, you must attach a copy of your naturalization certificate.

Copies.
If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where to File.
File this application at the local Service office having jurisdiction over your place of residence.

Fee.
The fee for this application is $50.00, except there is no fee if you check block 2(d) of Part 2. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing information.

Rejection. Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that the application is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by the Service.

Initial processing. Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your application.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. If you establish eligibility for the document, your application will be approved and the document issued. A special certificate of naturalization will be forwarded to the Department of State for delivery to a foreign government official. If your application is denied, you will be notified in writing of the reasons for the denial.

Penalties.

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1439, 1440, 1443, 1445, 1446, and 1452. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 10 minutes; (2) completing the form, 10 minutes; and (3) assembling and filing the application, 35 minutes, for an estimated average of 55 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-XXXX, Washington, D.C. 20503.

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Application for Replacement
Naturalization/Citizenship Document

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial

Address - In care of:

Street # and Name	Apt #
City or town	State or Province
Country	Zip or Postal Code
Date of Birth (month/day/year)	Country of Birth
Certificate #	A #

Part 2. Type of application.

1. I hereby apply for: (check one)

a. ☐ a new Certificate of Citizenship
b. ☐ a new Certificate of Naturalization
c. ☐ a new Certificate of Repatriation
d. ☐ a new Declaration of Intention
e. ☐ a special Certificate of Naturalization to obtain recognition of my U.S. citizenship by a foreign country

2. Basis for application: (If you checked other than "e" in Part 1, check one)

a. ☐ my certificate was lost, stolen or destroyed (attach a copy of the certificate if you have one)
b. ☐ my certificate is mutilated (attach the certificate)
c. ☐ my name has been changed (attach the certificate)
d. ☐ my certificate or declaration is incorrect (attach the document)

Part 3. Processing information.

SEX	☐ Male ☐ Female	Height	Marital Status	☐ Single ☐ Married	☐ Widowed ☐ Divorced

My last certificate or declaration of intention was issued to me by:

INS Office or Name of court	Date (month/day/year)

Since becoming a citizen, have you lost your citizenship in any manner?

☐ No ☐ Yes (attach an explanation)

Part 4. Complete if applying for a new document because of name change.

Name changed to present name by: (check one)

☐ Marriage or Divorce on (month/day/year)_____ (attach a copy of marriage or divorce certificate)

☐ Court Decree (month/day/year)_____(attach a copy of the court decree)

Form N-565 (Rev. 04/09/91) DRAFT 10

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	

☐ Declaration of Intention verified by _____

☐ Citizenship verified by _____

Remarks

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 5. Complete if applying to correct your document.

If you are applying for a new certificate or declaration of intention because your current one is incorrect, explain why it is incorrect and attach copies of the documents supporting your request.

Part 6. Complete if applying for a special certificate of recognition as a citizen of the U.S. by the Government of the foreign country.

Name of Foreign Country

Information about official of the country who has requested this certificate (if known)

Name | Official title

Government Agency

Address: Street # and Name | Room #

City | State or Province

Country | Zip or Postal Code

Part 7. Signature.

Read the information on penalties in the instructions before completing this part. If you are going to file this application at an INS office in the U.S., sign below. If you are going to file it at a U.S. INS office overseas, sign in front of a U.S. INS or consular official.

I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature | **Date**

Signature of INS or Consular Official | Print Name | Date

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for a certificate and this application may be denied.*

Part 8. Signature of person preparing form if other than above. *(sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature | **Print Your Name** | **Date**

Firm Name and Address

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-XXXX
Immigrant Petition by Alien Entrepreneur

INSTRUCTIONS

Purpose of This Form.
This form is for use by an entrepreneur to petition for status as an immigrant to the U.S.

Who May File.
You may file this petition for yourself if you have established a new commercial enterprise

- in which you will engage in a managerial or policy-making capacity, and
- in which you have invested or are actively in the process of investing the amount required for the area in which the enterprise is located, and
- which will benefit the U.S. economy, and
- which will create full-time employment in the U.S. for at least 10 U.S. citizens, permanent residents, or other immigrants authorized to be employed, other than yourself, your spouse, your sons or daughters, or any nonimmigrant aliens.

The establishment of a new commercial enterprise may include:

- creation of a new business,
- the purchase of the assets of an existing business which results in reorganization of the business, such as reincorporation or the restructuring of a partnership, or
- the expansion of an existing business through investment of the amount required, so that a substantial increase (at least 140%) in either the net worth, number of employees, or both, results.

The amount of investment required in a particular area is set by regulation. Unless adjusted downward for targeted areas or upward for areas of high employment, the figure shall be $1,000,000. You may obtain this information from an INS office or American consulate.

General Filing Instructions.
Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer to a question is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item. Your petition must be properly signed and filed with the correct fee.

Initial Evidence Requirements.
The following evidence must be filed with your petition:

- Evidence that you have established a lawful business entity under the laws of the jurisdiction in the U.S. in which it is located, or, if you have made an investment in an existing business, evidence that your investment has caused a substantial (at least 140%) increase in the net worth of the business, the number of employees, or both. Such evidence may consist of copies of the articles of incorporation, partnership or joint venture agreement, license or other official authorization to engage in business, payroll records, certified financial reports, or any available evidence of conveyance of the funds from you to the business.
- Evidence, if applicable, that your enterprise has been established in a targeted employment area. A targeted employment area is defined as a rural area or an area which has experienced high unemployment of at least 150% of the national average rate. A rural area is an area not within a metropolitan statistical area or not within the outer boundary of any city or town having a population of 20,000 or more.
- Evidence that you have invested or are actively in the process of investing the amount required for the area in which the business is located. Such evidence may include copies of bank statements, purchase contracts, evidence of borrowing which is secured by your assets, excluding the new enterprise, evidence of monies transferred to the new enterprise in exchange for shares of stock or convertible debentures, evidence of property transferred from abroad for use in the U.S. enterprise (including U.S. Customs entry documents), etc.
- Evidence that the enterprise will create at least 10 full-time positions for U.S. citizens, permanent residents, or aliens lawfully authorized to be employed (except yourself, your spouse, sons, or daughters, and any nonimmigrant aliens). Such evidence may consist of copies of Form I-9, if the employees have already been hired, or a business plan showing when such employees will be hired within the next two years.
- Evidence that you are or will be engaged in the management of the enterprise, either through the exercise of day-to-day managerial control or through policy formulation. Such evidence may include a statement of your position title and a complete description of your duties, evidence that you are a corporate officer or hold a seat on the board of directors, or if the new enterprise is a partnership, evidence that you are engaged in either direct management or policy-making activities.

Copies.
If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where to File.
The petition must be filed with the INS Service Center having jurisdiction over the area in which the new commercial enterprise is established or will be principally doing business.

If the enterprise is in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, or West Virginia, mail this petition to USINS, Eastern Service Center, P.O. Box 590, Williston, VT 05479.

If the enterprise is in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail this petition to USINS, Southern Service Center, P.O. Box 152122, Dept. A, Irving, Texas 75015-2122.

If the enterprise is in Arizona, California, Guam, Hawaii, or Nevada, mail this petition to USINS, Western Service Center, P.O. Box 30040, Laguna Nigel, CA 92607-0040.

If the enterprise is elsewhere in the U.S., mail this petition to USINS, Northern Service Center, 100 Centennial Mall North, Room, B-26, Lincoln NE 68508.

Fee.
The fee for this petition is $140.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.
Rejection. Any petition that is not signed or is not accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service. A priority date will not be assigned until the petition is properly filed.

Initial processing. Once the petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

Requests for more information or interview. We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Approval. If you have established that you qualify for investor status, the petition will be approved. If you have requested that the petition be forwarded to an American consulate abroad, the petition will be sent there unless that consulate does not issue immigrant visas. If you are in the U.S. and state that you will apply for adjustment of status, and the evidence indicates that you are not eligible for adjustment, the petition will be sent to an American consulate abroad. You will be notified in writing of the approval of the petition and where it has been sent, and the reason for sending it to a place other than the one requested, if applicable.

Meaning of petition approval. Approval of a petition shows only that you have established that you have made a qualifying investment. It does not guarantee that the American Consulate will issue the immigrant visa. There are other requirements which must be met before a visa can be issued. The American Consulate will notify you of those requirements.

Denial. If you have not established that you qualify, the petition will be denied. You will be notified in writing of the reasons for the denial.

Penalties.
If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.
We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.
We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 15 minutes; (2) completing the form, 25 minutes; and (3) assembling and filing the application, 35 minutes, for an estimated average of 1 hour and 15 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-XXXX, Washington, D.C. 20503.

U.S. Department of Justice
Immigration and Naturalization Service

Immigrant Petition by
Alien Entrepreneur
OMB #1115-XXXX

START HERE - Please Type or Print

Part 1. Information about you.

Family Name	Given Name	Middle Initial
Address - In Care of:		
Street # and Name		Apt. #
City or town	State or Province	
Country	Zip or Postal Code	
Date of Birth (month/day/year)	Country of Birth	
Social Security #	A#	
If in the U.S. Date of Arrival (month/day/year)	I-94#	
Current Nonimmigrant Status	Expires on (month/day/year)	

Part 2. Application Type (check one).

a. ☐ This petition is based on an investment in a commercial enterprise in a targeted employment area.

b. ☐ This petition is based on an investment in a enterprise in an area for which the required amount of capital invested has been adjusted upward.

c. ☐ This petition is based on an investment in a commercial enterprise which is not in either a targeted area or in an upward adjustment area.

Part 3. Information about your investment.

Name of Commercial Enterprise Invested In	
Street Address	
Phone #	Business Organized as (Corporation, partnership, etc...)
Kind of Business (Example: Furniture Manufacturer)	
Date established (month/day/year)	IRS Tax #
Date of your initial Investment(month/day/year)	Amount of your Initial Investment $
Your total Capital Investment in Enterprise to date $	% of Enterprise you own

If you are not the sole investor in the new commercial enterprise, list on separate paper the names of all other parties (natural and non-natural) who hold a percentage share of ownership of the new enterprise and indicate whether any of those parties is seeking classifications as an alien entrepreneur. Include the name, percentage of ownership and whether or not the person is seeking classification under section 203(b)(5).

If you indicated in Part 2 that the enterprise was in a targeted employment area or in an upward adjustment area, give the location at right. County _____ State _____

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Applicant Interviewed	
Remarks	
Action Block	

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Continued on back.

Part 4. Additional information about the enterprise.

Type of enterprise ***(check one)***:

☐ new commercial enterprise resulting from the creation of a new business
☐ new commercial enterprise resulting from the reorganization of an existing business.
☐ new commercial enterprise resulting from a captial investment in an existing business.

Assets:	Total amount in U.S. bank account	$_____
	Total value of all assets purchased for use in the enterprise	$_____
	Total value of all property transferred from abroad to the new enterprise	$_____
	Total of all debt financing	$_____
	Total stock and debenture purchases	$_____
	Other (explain on separate paper)	$_____
	Total	$_____

Income:	When you made investment	Gross	$_____	Net	$_____
	Now	Gross	$_____	Net	$_____
Net worth	When you made investment	$_____		Now	$_____

Part 5. Employment creation information.

# of full-time employees in Enterprise in U.S. (excluding you, spouse, sons & daughters)

When you made your initial investment _____ Now _____ Difference _____

How many of these new jobs were created by your investment? _____ How many additional new jobs will be created by your additional investment? _____

What is your position, office or title with the new commercial enterprise?

Briefly describe your duties, activities and responsibilities.

Salary Cost of Benefits

Part 6. Processing information.

Below give the U.S. Consulate you want notified if this petition is approved and if any requested adjustment of status cannot be granted.

American Consulate: **City** **Country**

If you gave a U.S. address in Part 1, print your foreign address below. If your native alphabet does not use Roman letters, print your name and foreign address in the native alphabet.

Name **Foreign Address**

Is an application for adjustment of status attached to this petition?	☐ yes	☐ no
Are you in exclusion or deportation proceedings?	☐ yes (explain on separate paper)	☐ no
Have you ever worked in the U.S. without permission	☐ yes (explain on separate paper)	☐ no

Part 7. Signature. *Read the information on penalties in the instructions before completing this section.*

I certify under penalty of perjury under the laws of the United States of America that this petition, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature Date

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for the requested document and this application may be denied.*

Part 8. Signature of person preparing form if other than above. *(Sign below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature Print Your Name Date

Firm Name
and Address

[FR Doc. 91-10451 Filed 5-2-91; 8:45 am]
BILLING CODE 4410-10-C

Federal Prison Industries, Inc.

UNICOR Independent Market Study; Interim Report Availability

AGENCY: Federal Prison Industries, Inc., Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: The independent market study of UNICOR is in process. An interim report describing the study approach and data sources is now available for review and comment. Copies of the interim report are available at the address given below.

DATES: All written comments and suggestions should be submitted prior to June 1, 1991.

ADDRESSES: Requests for the interim report and any comments and suggestions on the market study may be sent to John C. Foreman, Deloitte & Touche, 1900 M Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: John Foreman, (202) 955-4194.

Dated: April 29, 1991.

James Hagerty,

Manager, Market Research, Federal Prison Industries, Inc.

[FR Doc. 91-10500 Filed 5-2-91;8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will afffect the public.

List of Recordkeeping/Reporting Requirements Under Reveiw: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Mine Safety and Health Administration.

Form 7000-1, Mine Accident, Injury and Illness Report

1219-0007.

On occasion.

Businesses and other for profit; small businesses or organizations.

59,477 responses, 0.5 hour per response, 29,738 burden hours Mine operators are required to submit Form 7000-1 to MSHA to report on accidents, injuries, and illnesses at their mines shortly after an accident or injury has occurred or a work-related illness has been identified. The use of the form provides for uniform information gathering.

Reinstatement

Bureau of Labor Statistics.

Current Population Survey—September 1991—Veterans, Supplement.

1220-0102—CPS-I, CPS 260.

Other—one time.

Individuals of households.

57,000 responses; 969 hours—1 minute per responses; 1 form.

The supplement data will provide estimates of disabled and Vietnam-theater veterans in the labor force, the number of Veterans who feel their disability affects labor force participation and information about veterans who use the programs that are available to them. Data are necessary to evaluate Veterans' programs.

Signed at Washington, DC this 30th day of April, 1991.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 91-10520 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-24-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects

to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Alabama:
- AL91-23 (Feb. 22, 1991) ..... p.45, p.46.
- AL91-24 (Feb. 22, 1991) ..... p.47, p.48.
- AL91-25 (Feb. 22, 1991) ..... p.49, p.50.
- AL91-26 (Feb. 22, 1991) ..... p.51, p.52.
- AL91-28 (Feb. 22, 1991) ..... p.55, p.56.
- AL91-29 (Feb. 22, 1991) ..... p.57, p.58.

North Carolina:
- NC91-23 (Feb. 22, 1991) ..... p.655, p.656.
- NC91-24 (Feb. 22, 1991) ..... p.657, p.658.
- NC91-25 (Feb. 22, 1991) ..... p.659, p.660.
- NC91-26 (Feb. 22, 1991) ..... p.661, p.662.
- NC91-27 (Feb. 22, 1991) ..... p.663, p.664.
- NC91-28 (Feb. 22, 1991) ..... p.665, p.666.
- NC91-29 (Feb. 22, 1991) ..... p.667, p.668.
- NC91-30 (Feb. 22, 1991) ..... p.669, p.670.
- NC91-31 (Feb. 22, 1991) ..... p.671, p.672.

New Jersey:
- NJ91-2 (Feb. 22, 1991) ..... p.701, p.705.
- NJ91-3 (Feb. 22, 1991) ..... p.721, p.725.

New York:
- NY91-6 (Feb. 22, 1991) ..... p.827, pp.828-829,833.

Pennsylvania:
- PA91-1 (Feb. 22, 1991) ..... p.953, p.957.
- PA91-2 (Feb. 22, 1991) ..... p.965, pp.966-967, 971.
- PA91-3 (Feb. 22, 1991) ..... p.979, p.980.
- PA91-4 (Feb. 22, 1991) ..... p.985, pp.986, 988.
- PA91-8 (Feb. 22, 1991) ..... p.1029, p.1030, pp.1032-1038.
- PA91-11 (Feb. 22, 1991) ..... p.1053, p.1054.
- PA91-16 (Feb. 22, 1991) ..... p.1077, p.1078.
- PA91-17 (Feb. 22, 1991) ..... p.1079, p.1080.
- PA91-20 (Feb. 22, 1991) ..... p.1099, p.1100.
- PA91-22 (Feb. 22, 1991) ..... p.1111, p.1112.
- PA91-25 (Feb. 22, 1991) ..... p.1135, p.1136.

Rhode Island:
- RI91-1 (Feb. 22, 1991) ..... p.1149, pp.1150-1152.

South Carolina:
- SC91-1 (Feb. 22, 1991) ..... p.1157, p.1158.
- SC91-3 (Feb. 22, 1991) ..... p.1161, p.1162.
- SC91-7 (Feb. 22, 1991) ..... p.1169, p.1170.
- SC91-8 (Feb. 22, 1991) ..... p.1171, p.1172.
- SC91-9 (Feb. 22, 1991) ..... p.1172a, p.1172b.
- SC91-12 (Feb. 22, 1991) ..... p.1172g, p.1172h.
- SC91-13 (Feb. 22, 1991) ..... p.1172i, p.1172j.
- SC91-15 (Feb. 22, 1991) ..... p.1173, p.1174.
- SC91-18 (Feb. 22, 1991) ..... p.1179, p.1180.
- SC91-19 (Feb. 22, 1991) ..... p.1181, p.1182.
- SC91-21 (Feb. 22, 1991) ..... p.1185.

Tennessee:
- TN91-6 (Feb. 22, 1991) ..... p.1205, p.1206.
- TN91-7 (Feb. 22, 1991) ..... p.1207, p.1208.
- TN91-8 (Feb. 22, 1991) ..... p.1209, p.1210.
- TN91-9 (Feb. 22, 1991) ..... p.1211, p.1212.
- TN91-10 (Feb. 22, 1991) ..... p.1213, p.1214.
- TN91-11 (Feb. 22, 1991) ..... p.1215, p.1216.
- TN91-12 (Feb. 22, 1991) ..... p.1217, p.1218.
- TN91-13 (Feb. 22, 1991) ..... p.1219, p.1220.
- TN91-14 (Feb. 22, 1991) ..... p.1221, p.1222.
- TN91-15 (Feb. 22, 1991) ..... p.1223, p.1224.

Virginia:
- VA91-1 (Feb. 22, 1991) ..... p.1233, p.1234.
- VA91-2 (Feb. 22, 1991) ..... p.1235, p.1236.
- VA91-4 (Feb. 22, 1991) ..... p.1241, p.1242.
- VA91-7 (Feb. 22, 1991) ..... p.1249, p.1250.
- VA91-13 (Feb. 22, 1991) ..... p.1265, p.1266.
- VA91-16 (Feb. 22, 1991) ..... p.1277, pp.1278-1279.
- VA91-21 (Feb. 22, 1991) ..... p.1293, p.1294.
- VA91-22 (Feb. 22, 1991) ..... p.1295, p.1296.

Volume II

Illinois:
- IL91-3 (Feb. 22, 1991) ..... p.115, p.117.
- IL91-13 (Feb. 22, 1991) ..... p.183, p.186.
- IL91-14 (Feb. 22, 1991) ..... p.195, p.198.
- IL91-18 (Feb. 22, 1991) ..... p.237, p.238.

Kansas:
- KS91-6 (Feb. 22, 1991) ..... p.363, pp.364-365.
- KS91-8 (Feb. 22, 1991) ..... p.373, p.375.

Minnesota:
- MN91-12 (Feb. 22, 1991) ..... p.629, p.630.

Nebraska:
- NE91-1 (Feb. 22, 1991) ..... p.745, p.746.
- NE91-11 (Feb. 22, 1991) ..... p.771, p.772.

Oklahoma:
- OK91-13 (Feb. 22, 1991) ..... p.977, pp.978,981,98 p.985.
- OK91-16 (Feb. 22, 1991) ..... p.999, p.1000.

Volume III

Idaho:
- ID91-1 (Feb. 22, 1991) ..... p.207, p.208.
- ID91-3 (Feb. 22, 1991) ..... p.221, p.222.
- ID91-4 (Feb. 22, 1991) ..... p.225, p.226.
- ID91-5 (Feb. 22, 1991) ..... p.229, p.230.

Nevada:
- NV91-1 (Feb. 22, 1991) ..... p.229, pp.300-319.
- NV91-5 (Feb. 22, 1991) ..... p.345, pp.346-347.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 26th day of April 1991.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 91-10315 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that Attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process

The Employment and Training Administration has established a voice-mail service for the H-1A nurse attestation process. Call telephone number: 202-535-0643 (this is not a toll-free number.) At that number, a caller can:

(1) Listen to general information on the attestation process for H-1A nurses;

(2) Request a copy of the Department of Labor's regulations (20 CFR part 655, subparts D and E, and 29 CFR part 504, subparts D and E) for the attestation process for H-1A nurses, including a copy of the attestation form (form ETA 9029) and the instructions to the form;

(3) Listen to information on H-1A attestations filed within the preceding 30 days;

(4) Listen to information pertaining to public examination of H-1A attestation filed with the Department of Labor;

(5) Listen to information on filing a complaint with respect to health care facility's H-1A attestation (however, see the telephone number regarding complaints, set forth below); and

(6) Request to speak to a Department of Labor employee regarding questions not answered by Nos. (1) through (4) above.

Regarding the Complaint Process

Questions regarding the complaint process for the H-1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facilities' attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 26th day of April 1991.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS 04/15/91 TO 04/19/91

CEO-name/facility name/address	State	Approval date
Mr. Larry O. Barton, Jefferson Regional Med. Ctr., 1515 West 42nd, Pine Bluff, AR 71603, 501-541-7771.	AR	04/16/91
Mr. Charles S. Ricks, Hanford Community Med. Ctr., 450 Greenfield Avenue, Hanford, CA 93230, 209-582-900.	CA	04/16/91
Mr. David M. Litchtman, Naval Hospital, Oakland, 8750 Mountain Blvd., Oakland, CA 94627, 415-633-5001.	CA	04/16/91
Mr. William B. Kerr, The Medical Ctr. at the U. of 505 Parnassus Ave., San Francisco, CA 94143, 415-476-4855.	CA	04/18/91
Ms. Marcia S. Weldon, Beverly Manor Convalescent Ho, 9541 Van Nuys Blvd., Panorama City, CA 91402, 818-893-6385.	CA	04/18/91
Mr. Floyd E. Farley, Kern Medical Center, 1830 Flower Street, Bakersfield, CA 93305, 805-326-2101.	CA	04/18/91
Mr. David Levinsohn, Sherman Oaks Community Hospit, 4929 Van Nuys Boulevard, Sherman Oaks, CA 91403, 818-981-7111.	CA	04/18/91
Mr. Bernard Salick, Salick Health Care, Inc., 407 North Maple Drive, Beverly Hills, CA 90210, 213-276-0732.	CA	04/18/91
Mr. William Crittenden, Health Center at Abbey Delray, 21105 S.W. 11th Court, Delray Beach FL 33445, 407-278-3249.	FL	04/16/91
Mr. Robert B. Hill, Bethesda Memorial Hosp. 2815 S. Seacrest Blvd., Boynton Beach, FL 33435, 407-737-7733.	FL	04/16/91
Mr. Larry E. Hannan, AMI Town & Country Hosp., 6001 Webb Road, Tampa, FL 33615, 813-885-6666.	FL	04/16/91

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS 04/15/91 TO 04/19/91—Continued

CEO-name/facility name/address	State	Approval date
Mr. Donald A. Anderson, Everglades Memorial Hosp., In, 200 South Barfield Highway, Palatka, FL 32178, 407-924-5201.	FL	04/16/91
Ms. Joan Robinson Carl, Alden Management Services, In, 4200 West Peterson Ave., Chicago, IL 60646, 312-286-3883.	IL	04/18/91
Mr. Bryan Breckenridge, Shady Grove Adventist Hospital, 9901 Medical Center Dr., Rockville, MD 20850, 301-279-6135.	MD	04/18/91
Ms. Debbie Sheffield, Brian Center Nursing Cars/Sal, 635 Statesville Blvd., Salisbury, NC 28145, 704-633-7390.	NC	04/18/91
Ms. Eleanor A. Rivera, Eastern Nursing Services, Inc., 471 Bloomfield Avenue, Verona, NJ 07044, 201-857-5662.	NJ	04/18/91
Mr. Hugh A. Quigley, St. Mary's Hospital, 211 Pennington Avenue, Passaic, NJ 07055, 201-470-3000.	NJ	04/18/91
Mr. Ronald J. Del Mauro, Saint Barnabas Med. Ctr., Old Short Hills Road, Livingston, NJ 07039, 201-533-5000.	NJ	04/18/91
Mr. Sid Schiff, Hospitality Care Center, 300 Broadway, Newark, NJ 07104, 201-484-4222.	NJ	04/18/91
Mr. Benjamin F. Miller, Berkeley Heights Convalescent, 35 Cottage Street, Berkeley Heights, NJ 07922, 908-464-0048.	NJ	04/18/91
Mr. Edward A. Stolzenberg, Westchester County Med. Ctr., Personnel Office-Eastview Hall, Valhalla, NY 10595, 914-285-7842.	NY	04/16/91
Mr. Peter T. Gendron, Briar Crest Nursing Home, 31 Overton Road, Ossining, NY 10562, 914-941-4947.	NY	04/16/91
Mr. Albert Dicker, Franklin Hosp. Med. Ctr., 900 Franklin Avenue, Valley Stream, NY 11580, 516-825-8800.	NY	04/18/91
Mr. Orlando R. Pozzuoli, Sacred Heart Hospital, 421 Chew Street, Allentown, PA 18102, 215-776-4524.	PA	04/18/91
Ms. Louise Linder, Brian Center Nursing Care/Col, 2451 Forest Drive, Columbia, SC 29204, 803-254-5960.	SC	04/18/91
Mr. Raymond Khoury, St. Joseph Hospital, 1919 LaBranch, Houston, TX 77002, 713-757-1000.	TX	04/16/91
Mr. Donald R. Gintzig, Lutheran General Hospital, P.O. Box 7958, San Antonio, TX, 78407, 512-434-5252.	TX	04/16/91
Ms. Chris Kelly, AMI Brownsville Medical Center, 1040 W. Jefferson, Brownsville, TX 78520, 512-544-1455.	TX	04/18/91
Mr. William C. Poore, East Texas Medical Center—R, 500 North Bonner, Rusk, TX 75785, 903-683-2273.	TX	04/18/91
Mr. Houston Bell, Roanoke Memorial Hospital, Belleview at Jefferson Street, Roanoke, VA 20414, 703-981-7825.	VA	04/16/91
Total Attestations		30

[FR Doc. 91-10519 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-30-M

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Processing of Applications Submitted by Employers Which Have Traditionally Utilized Nonimmigrant Caribbean Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is announcing operational policies that will be followed starting in 1991 by its Regional Offices in reviewing applications for temporary agricultural (H-2A) labor certifications expected to be submitted by employers which have traditionally utilized temporary nonimmigrant workers from the Caribbean.

EFFECTIVE DATE: The policies announced in this notice apply to applications filed under 20 CFR part 655, subpart C, on or after May 3, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Schaerfl, Director, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N-4456, 200 Constitution NW., Washington, DC. Telephone: 202-535-0157 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is announcing operational policies to be followed starting in 1991 by its Regional Offices in reviewing applications for temporary agricultural (H-2A) labor certifications expected to be submitted by employers which have traditionally utilized temporary nonimmigrant workers from the Caribbean. Approximately 8,000 such alien workers are normally permitted entry into the United States to harvest applies in New England, New York, Virginia and West Virginia. Another 10,000 normally work in the Florida sugar cane harvest.

In the past, employers of those workers have required the execution of a tripartite agreement between the worker, the employer and the West Indies Central Labour Organization (WICLO) acting for and on behalf of the governments of Barbados, Dominica, Jamaica, St. Lucia, St. Vincent and Grenada. This agreement served as a contract between the employer and the worker for the period during which agricultural work was to be performed under the provisions of a labor certification granted by ETA.

Prior to 1991, ETA did not require employers to submit the standard Caribbean worker contract with their applications for temporary alien labor certification. This policy was revised in August 1990, and employers of Caribbean workers were advised that submittal of the contract would be a requirement in 1991. The employers were also reminded of the long-standing ETA policy that adherence to ETA regulatory requirements at 20 CFR part 655 takes priority over any contract terms that may conflict with the regulations, and that DOL's Wage and Hour Divisions would continue to enforce H-2A employer contractual obligations in this manner. See 29 CFR part 501.

A review of the contents of the standard Caribbean worker contract has been completed by ETA. The ETA Regional Offices are being provided instructions to follow in reviewing such contracts when they are submitted by employers this year. The ETA Regional Office in Atlanta also is being given supplemental instructions to follow in reviewing applications expected to be submitted by Florida sugar cane growers in August 1991. These policy instructions are summarized and published below for public information.

Operational Policies

1. The alien worker contract must show the actual place where the worker was recruited for purposes of determining transportation and subsistence costs. Contract language which in the past "deemed" the place of recruitment to be Kingston, Jamaica, is not permissible.

2. The charge quoted for three meals a day to be provided by the employer to the worker must include any tax involved in providing meals. With tax included, the total daily charge cannot

exceed the maximum permissible under ETA regulations.

3. Employers must delete alien worker contract provisions which provide for earlier termination of a contract period than specified in the job offer which has been approved earlier as a condition of the H-2A labor certification.

4. Any provision in the standard contract which requires the worker to appoint WICLO as the exclusive representative to pursue claims against an employer must be deleted.

5. Any mandatory deduction for "savings" stipulated in the standard worker contract is not permissible. Because the deduction is mandatory, it cannot be considered "reasonable" under the provisions of 20 CFR 655.102(b)(13).

6. Any deduction specified in the contract for insurance coverage (other than workers compensation) may be permissible, provided certain conditions are met. The employers must demonstrate that the deduction is reasonable and complies with Pension and Welfare Benefits Administration requirements for employee welfare benefit plans under the Employee Retirement Income Security Act of 1974 if such a deduction is stipulated. A benefit of this nature, if offered to foreign workers, also must be offered to United States workers and be included in the employer's job order.

7. Any definitions for "hours worked", or "starting" or "quitting time" in the standard contract must conform to principles established under the Fair Labor Standards Act (FLSA).

8. Any provision describing lodging arrangements in the standard contract must conform to ETA's housing policy set forth in 20 CFR parts 653 and 655.

9. The ETA Atlanta Regional Office also will carefully examine information provided by the Farmworker Justice Fund in its letter of June 21, 1990, to the Secretary of Labor relative to the following components of sugar cane employers' H-2A applications: (a) Variations in wage rates among employers; (b) bonus arrangements; and (c) premium row prices. The Regional Office will determine if it is necessary to require additional employ-specific information pertaining to these items.

Signed at Washington, DC this 25th day of April 1991.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 91-10521 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standard under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Trojan Mining

[Docket No. M-91-30-C]

Trojan Mining, P.O. Box 280, Ashcamp, Kentucky 41512 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 1 mine (I.D. No. 15-11726)) located in Pike County, Kentucky. Due to roof conditions, the petitioner proposes to monitor methane and oxygen from the surface.

2. S & J Coal Company

[Docket No. M-91-31-C]

S & J Coal Company, 117 School Row, Branchdale, PA 17923 has filed a petition to modify the application of 30 CFR 75.301 (air quality; quantity, and velocity) to its Diamond View Slope (I.D. No. 36-08152) located in Schuykill County, Pennsylvania. The petitioner requests a modification to require the minimum quantity of air reaching the working face be 1,500 cubic feet a minute, reaching the last open crosscut 5,000 cubic feet a minute, and reaching the intake end of a pillar line 5,000 cubic feet a minute.

3. Zeigler Coal Company

[Docket No. M-91-32-C]

Zeigler Coal Company, 50 Jerome Lane, Fairview Heights, Illinois 62208 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Spartan Mine (I.D. No. 11-00612) located in Randolph County, Illinois. The petitioner proposes to place electrical equipment in a neutral air course in lieu of ventilating the equipment to the return.

4. U.S. Steel Mining Company

[Docket No. M-91-33-C]

U.S. Steel Mining Company, Inc., P.O. Box 338, Pineville, West Virginia 24874 has filed a petition to modify the application of 30 CFR 75.326 (air courses and belt haulage entries) to its Shawnee Mine (I.D. No. 46-05907) located in Wyoming County, West Virginia. The petitioner proposes to use belt air to ventilate the face area and install a low-level carbon monoxide detection system in the belt entry.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 3, 1991. Copies of the petitions are available for inspection at that address.

Dated: April 25, 1991.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 91-10522 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91-24; Exemption Application No. D-8407, et al.]

Grant of Individual Exemptions; Los Angeles Police Credit Union Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested person. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Los Angeles Police Credit Union Pension Plan (the Plan) Located in Van Nuys, California

[Prohibited Transaction Exemption 91-24; Exemption Application No. D-8407]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the cash purchase from the Plan of interests (the Interests) in certain real estate limited partnerships by the Los Angeles Police Credit Union (the Employer), the sponsor of the Plan; and (2) the assumption by the Employer of the Plan's obligations with respect to four promissory notes related to the Interests; provided that the purchase price paid to the Plan is no less than the greater of $992,940, plus interest at the rate of 9 percent per annum effective January 1, 1989, or the fair market value of the Interests as of the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 22, 1991 at 56 FR 7402.

Written Comments: The Department received one written comment and no requests for a hearing. The comment was submitted by the applicant as a supplementation of the summary of facts and representations. The points addressed in the applicant's comment are summarized as follows:

(1) The applicant wishes to clarify that the amount of cash required by the litigation settlement, referred to in the summary of facts and representations, to be paid by the Employer to the Plan represents the amount determined by Touche Ross to reflect the aggregate harm to the Plan's entire portfolio resulting from the Committee's investments of Plan assets over a nine year period. The applicant notes that this amount, $992,940 plus interest at the rate of 9 percent per annum effective January 1, 1989, includes but is not restricted to losses resulting from the investments of Plan assets in those limited partnership interests (the Interests) which are proposed by the applicant for transfer from the Plan to the Employer. With respect to the other Committee investments resulting in Plan losses which are remedied by the litigation settlement, the applicant represents that there were secondary markets in which the Trustees were able to sell such investments and recover some value. The Interests constitute those Committee investments for which secondary markets could not be located and with respect to which there are remaining Plan obligations under unpaid promissory notes, which are proposed for assumption by the Employer.

(2) The applicant represents that the payment of cash by the Employer to the Plan pursuant to the litigation settlement was made subsequent to the filing of the exemption application with the Department and following the approval of the litigation settlement by the United States District Court for the Central District of California (the Court), although the Interests will not be transferred to the Employer until the requested exemption is granted.

(3) The applicant represents that the Plan received a written notice on March 18, 1991 from representatives of the Noteholders/Investor's Committee for the Rodeo Plaza partnership, the Plan's investment in which constitutes one of the Interests to be transferred to the Employer. Such notice advised that this committee expects to be able to make a distribution in the approximate amount of $93,000 in return for the relinquishment of the Rodeo Plaza investment, due to a sale of the underlying real estate at an unexpectedly favorable price. The applicant represents that in the event any such distribution with respect to the Rodeo Plaza investment is made prior to the transfer of the Interests to the Employer, such distribution will be held in a separate account until the requested exemption is granted, at which time the separate account and any earnings thereon, together with the Interest representing the Plan's Rodeo Plaza investment, would be transferred to the Employer. The applicant represents that this treatment of any distribution with respect to the Rodeo Plaza investment is in accordance with the terms of the litigation settlement. Counsel for the plaintiffs in the class action which resulted in the litigation settlement represents that this treatment of any distribution with respect to the Rodeo Plaza investment is consistent with the terms of the litigation settlement and that it was the intention of the parties thereto that any monies eventually received in return for any of the Interests would be the property of the Employer.

After consideration of the entire record, including the applicant's comment, the Department has determined to grant the exemption.

For Further Information Contact: Mr. Ronald Willet of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Fox Lumber Sales, Inc. Profit Sharing Plan (the Plan) Located in Hamilton, Montana

[Prohibited Transaction Exemption 91-25; Exemption Application No. D-8429]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain real property (the Property) by the Plan to Thomas L. Fox (Fox), a party in interest with respect to the Plan, and the assumption by Fox of the existing amount due by the Plan on a contract for deed on the Property, provided the Plan receives no less than the greater of $814,600 of the fair makret value of the Property at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 22, 1991, at 56 FR 7404.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Equitable Life Assurance Society of the United States (Equitable) Located In New York, NY

[Prohibited Transaction Exemption 91-26; Exemption Application No. D-7999]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective January 1, 1986, to the transfer of certain interests (the Interests) in four parcels of real property (the Properties) from Equitable's General Account to its Separate Account No. 143 (the Separate Account), a single customer separate account established pursuant to a group annuity contract with the International Business Machines (IBM) Retirement and Part-Time Employees Retirement Plans (the Plans), provided that transactions were on terms and conditions at least as favorable to the Plans as those between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 21, 1990, at 55 FR 38874.

Written Comments: The Department received two written comments on the proposed exemption.

The two commentators, both Plan participants, questioned the proposed exemption on the grounds that the rate of return on the Properties was inadequate and that Equitable violated its fiduciary duty to the Plans by transferring the Interests of the Separate Account.

IBM, in response to the Plan participants' comments, explained that the decision to invest in commerical real estate generally, and to acquire the Interests in particular, and the terms of the acquisitions, were made by the named fiduciary for the Plans, the IBM Retirement Plans Committee, (the Committee). The Committee retained Goldman Sachs Co., (Goldman) to act as independent acquisition advisor for the Plans in this regard. The Committee and Goldman, after extensive investigation of the Properties, determined that the investment in the Interests satisfied the Plans' investment guidelines and that the terms of the transactions were satisfactory to the Plans.

After consideration of the entire record the Department has determined to grant the exemption as proposed.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-7901. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fidiciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of this Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transactions which is the subject of the exemption.

Signed at Washington, DC, this 30th day of April 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91-10511 Filed 5-2-91; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement to Assist State Arts Agencies in Program Evaluation

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to provide technical assist to State Arts Agencies in the area of program evaluation of their Arts Education Programs. The work will consist of: Researching, developing, and distributing a program evaluation resource/information package; creating and maintaining appropriate consultant availability and expertise information; and developing and distributing a self-assessment instrument to help State Arts Agencies assess and improve their program evaluation efforts. Those interested in receiving the Solicitation package should reference Program Solicitation PS 91-08 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 91-08 is scheduled for release approximately May 1, 1991 with proposals due June 3, 1991.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 91-10480 Filed 5-2-91; 8:45 am]

BILLING CODE 7537-01-M

Arts in Education Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Panel (Arts in Schools Basic Education Grants; Challenge III Section) to the National Council on the Arts will be held on May 21, 1991 from 9 a.m.-5:30 p.m. and on May 22 from 9 a.m.-3 p.m. in room M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 22 from 11:30 a.m.-3 p.m. The topics will be AISBEG category evaluation and policy discussion.

The remaining portions of this meeting on May 21 from 9 a.m.-5:30 p.m. and May 22 from 9 a.m.-11:30 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant

applicants. In accordance with the determination of the Chairman of March 5, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5482, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-10458 Filed 5-2-91; 8:45 am]

BILLING CODE 7537-01-M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Artists Projects: New Forms II Section) to the National Council on the Arts will be held on May 20-23, 1991 from 9 a.m.-7 p.m. and May 24 from 9 a.m.-5 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 24 from 3 p.m.-5 p.m. The topic will be policy discussion.

The remaining portions of this meeting on May 20-23 from 9 a.m.-7 p.m. and May 24 from 9 a.m.-3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 5, 1991, these sessions will be closed to the pubic pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Martha Y. Jones, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-10459 Filed 5-2-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority Availability of Safety Evaluation Report Related to the Operation of Watts Bar Nuclear Plant, Units 1 and 2

The U.S. Nuclear Regulatory Commission has published Safety Evaluation Report, Supplement No. 6 (NUREG-0847, Supp. 6) related to the operation of Watts Bar Nuclear Plant, Units 1 and 2, Docket Nos. 50-390 and 50-391.

Copies of the report have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and in the Local Public Document Room, Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402, for review by interested persons. Copies of the report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. GPO deposit account holders may charge orders by calling 202-275-2060. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfied, Virginia 22161.

Dated at Rockville, Maryland, 23rd day of April 1991.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-10536 Filed 5-2-91; 8:45 am]

BILLING CODE 7590-01-M

Meeting of the Fifth MELCOR Peer Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The MELCOR Peer Review Committee will meet to review the technical adequacy of the MELCOR code.

DATES: May 20-22, 1991.

TIME: 8 am May 20, 1991, 8:30 am May 21, 1991, 8 am May 22, 1991.

ADDRESSES: Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: R. B. Foulds, Office of Nuclear Regulatory, Research, U.S. Nuclear Regulatory, Commission, Washington, DC 20555, (301) 492-3535.

SUPPLEMENTARY INFORMATION: MELCOR is a fully integrated severe accident analysis code that has been developed for the U.S. Nuclear Regulatory Commission by Sandia National Laboratories. Among the targeted applications of the code are its use in probabilistic risk assessment studies to address the perceived risk from a nuclear plant and evaluation of accident management strategies. MELCOR development activities have focused on improving physical models beyond those in precursor codes, flexibility for future modification, and ease of use. MELCOR is capable of treating the complete accident sequence from the initiating event to the fission product release.

The newest version of MELCOR , MELCOR 1.8, was released in March

1989. This version has the capabilities for modeling both boiling and pressurized water reactor plants. The code has now reached sufficient maturity that a number of organizations inside and outside the US Nuclear Regulatory Commission are planning to use the current version. Although the quality control and validation efforts are seen to be proceeding, there is a need to have a broad technical review by recognized experts to determine or confirm the technical adequacy of the code for the serious and complex analyses it is expected to perform.

A peer review committee has been organized using recognized experts from the national laboratories, universities, MELCOR user community, and independent contractors. During the meetings to be held on Monday, May 20, the MELCOR Peer Review Committee will review the proposed top-down findings regarding MELCOR. This review will focus on the draft body of the final report and presentation materials for Tuesday. On Tuesday, May 21, an overview of the complete findings of the MELCOR Peer Review Committee will be presented. The morning session will focus on the MELCOR Peer Review process and findings regarding the integral code (top-down review). The afternoon session will be devoted to findings about the MELCOR phenomenological packages and the models in those packages (bottom-up review). On Wednesday, May 22, the Committee will consider how to incorporate comments received the previous days and complete plans for drafting the final Committee Report.

Dated at Rockville, Maryland, this 24 day of April, 1991.

For the U.S. Nuclear Regulatory Commission.

Farouk Eltawila,

Chief, Accident Evaluation Branch, Division of Systems Research, Office of Nuclear Regulatory Research.

[FR Doc. 91-10442 Filed 5-2-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy (OFPP)

AGENCY: Office of Federal Procurement Policy (OFPP), OMB.

ACTION: FINAL POLICY LETTER CORRECTION.

SUMMARY: In the Federal Register of March 20, 1991, (56 FR 11796) OFPP published policy letter No. 91-1 entitled "Government-wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts; Policy Letter". This policy letter implements sections 502 and 503 of Public Law 100-656, the Business Opportunity Development Reform Act of 1988. Errors were detected in the document. This notice corrects these errors.

FOR FURTHER INFORMATION CONTACT: Robert L. Neal, Jr., Deputy Associate Administrator, (202) 395-3300.

2. On page 11797, in the third column, in the second full paragraph, delete "do not".

3. On page 11797, in the third column, in the second full paragraph, delete "prime contract" and insert "estimated subcontracts".

1. On page 11797, in the third column, in the third full paragraph, delete "prime contracts" and insert "subcontracts".

Dated: April 25, 1991.

Allan V. Burman,

Administrator.

[FR Doc. 91-1463 Filed 5-2-91; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under schedules A and B, and placed under schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: John Daley (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on April 3, 1991 (55 FR 12973). Individual authorities established or revoked under schedules A and B and established under schedule C between March 1 and March 31, 1991, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1991.

Schedule A

The following exception was established:

National Endowment for the Arts

One position of Assistant Director of the International Program. Effective March 15, 1991.

Schedule B

No Schedule B authorities were established or revoked during March.

Schedule C

Administrative Conference of the United States

One Confidential Assistant to the Chairman. Effective March 31, 1991.

Air Force

One Special Counsel to the General Counsel. Effective March 5, 1991.

Department of Agriculture

One Confidential Assistant to the Director, Office of Public Affairs. Effectivce March 9, 1991.

One Staff Assistant to the Director, Press and Media Relations. Effective March 29, 1991.

One Confidential Assistant to the Manager, Federal Crop Insurance Corporation. Effective March 29, 1991.

Agency for International Development

One Special Assistant to the Director, Office of Trade and Investment, Bureau for Latin America and the Caribbean. Effective March 13, 1991.

Commission on Civil Rights

One Special Assistant to the Staff Director. Effective March 28, 1991.

Department of Commerce

One Special Assistant to the Deputy Assistant Secretary for Program Support. Effective March 4, 1991.

One Special Assistant to the Deputy Assistant Secretary for Services. Effective March 8, 1991.

One Deputy to the Counselor to the Secretary. Effective March 12, 1991.

One Public Affairs Specialist to the Director, Office of Public Affairs, Bureau of Export Administration. Effective March 20, 1991.

One Confidential Assistant to the Deputy Assistant Secretary for Investigations. Effective March 24, 1991.

One Confidential Assistant to the Chief of Staff, Office of the Secretary. Effective March 24, 1991.

One Congressional Affairs Specialist to the Congressional Affairs Officer, Bureau of the Census. Effective March 24, 1991.

One Special Assistant to the Deputy Assistant Secretary for Economic Development, Economic Development Administration. Effective March 24, 1991.

One Confidential Assistant to the Under Secretary for Travel and Tourism. Effective March 28, 1991.

Department of Defense

One Speechwriter to the Director, Strategic Defense Initiative Organization. Effective March 12, 1991.

One Drug Testing, Health and Rehabilitation Programs Officer, to the Deputy Assistant Secretary of Defense for Drug Enforcement Policy. Effective March 20, 1991.

Department of Energy

One Special Assistant to the Director, Office of Scheduling and Logistics. Effective March 3, 1991.

One Deputy to the Director, Office of Minority Economic Impact. Effective March 28, 1991.

Department of Transportation

One Chief, Consumer Affairs Division, to the Director, Office of Public and Consumer Affairs. Effective March 4, 1991.

One Staff Assistant to the Administrator, Federal Aviation Administration. Effective March 6, 1991.

One Special Assistant to the Administrator, Research and Special Programs Administration. Effective March 12, 1991.

One Staff Assistant to the Secretary. Effective March 14, 1991.

One Chief, Communications Division, to the Director, Office of Public and Consumer Affairs. Effective March 16, 1991.

One Special Assistant to the Director, Office of Small and Disadvantaged Business Utilization. Effective March 20, 1991.

One Special Assistant to the Deputy Administrator, Federal Highway Administration. Effective March 28, 1991.

One Director, Office of Media Relations and Special Projects, to the Assistant Secretary for Public Affairs. Effective March 29, 1991.

Environmental Protection Agency

One Program Advisor to the Assistant Administrator for Solid Waste and Emergency Response. Effective March 24, 1991.

One Chief Scheduler to the Chief of Staff. Effective March 24, 1991.

One Program Advisor to the Assistant Administrator, Office of Research and Development. Effective March 29, 1991.

Federal Mine Safety and Health Review Commission

One Confidential Secretary to a Member. Effective March 24, 1991.

Government Printing Office

One Special Assistant to the Chief of Staff. Effective March 25, 1991.

General Services Administration

One Staff Assistant to the Associate Administrator for Congressional Affairs. Effective March 13, 1991.

One Special Assistant to the Commissioner, Federal Property Resources Service. Effective March 15, 1991.

One Special Assistant to the Acting Comptroller. Effective March 28, 1991.

One Senior Advisor to the Regional Administrator, Region 2 (New York). Effective March 31, 1991.

Department of Health and Human Services

One Confidential Assistant to the Director, U.S. Office of Consumer Affairs. Effective March 3, 1991.

One Confidential Assistant to the Executive Secretary, Office of the Secretary. Effective March 3, 1991.

One Special Assistant to the Associate Commissioner for Public Affairs. Effective March 9, 1991.

One Speechwriter to the Assistant Secretary for Public Affairs. Effective March 15, 1991.

Department of Housing and Urban Development

One Staff Assistant (Typing) to the Chief of Staff, Office of the Secretary. Effective March 3, 1991.

One Special Assistant to the Deputy Assistant Secretary for Executive Services. Effective March 3, 1991.

One Assistant to the Director, Executive Secretariat. Effective March 19, 1991.

Department of the Interior

One Special Assistant to the Director, Office of Surface Mining Reclamation and Enforcement. Effective March 6, 1991.

One Special Assistant to the Principal Deputy Assistant Secretary, Fish and Widlife and Parks. Effective March 13,1991.

Department of Justice

One Special Assistant to the Director, Office of Policy Development. Effective March 15,1991.

One Senior Liaison Officer to the Director, Office of Liaison Services. Effective March 24,1991.

Department of Labor

One Special Assistant to the Director, Women's Bureau. Effective March 19, 1991.

National Endowment for the Arts

One Director of Policy, Planning and Research to the Chairman. Effective March 7, 1991.

One Special Assistant to the Chairman. Effective March 7, 1991.

One Acting Director of Public Affairs to the Chairman. Effective March 25, 1991.

National Transportation Safety Board

One Confidential Assistant to a Member. Effective March 16, 1991.

Office of National Drug Control Policy

One Staff Assistant for Scheduling to the Executive Assistant to the Director. Effective March 1, 1991.

Office of Personnel Management

One Special Assistant to the Chief of Staff. Effective March 9, 1991.

Office of Science and Technology Policy

One Administrative Assistant (Typing) to the Chief of Staff. Effective March 12, 1991.

Small Business Administration

One Special Assistant to the Administrator. Effective March 4, 1991.

One Confidential Assistant to the Administrator. Effective March 4, 1991.

Department of State

One Correrspondence Officer to the Principal Deputy Assistant Secretary. Effective March 4, 1991.

United States Tax Courts

One Secretary (Confidential Assistant) to a Judge. Effective March 28, 1991.

Department of the Treasury

One Confidential Assistant to the Deputy Treasurer of the United States. Effective March 3, 1991.

One Speechwriter to the Associate Director for Public Affairs. Effective March 13,1991.

One Public Affairs Specialist to the Commissioner of Customs. Effective March 24,1991.

One Staff Assistant to the Director, Office of Public Affairs. Effective March 28, 1991.

United States Trade Representative

One Executive Secretary to the United States Trade Representative. Effective March 28, 1991.

One Confidential Secretary to the United States Trade Representative. Effective March 28, 1991.

One Confidential Secretary to the Chief Textile Negotiator. Effective March 28, 1991.

One Associate Director, Office of Private Sector Liaison, to the Assistant United States Trade Representative for Public Affairs and Private Sector Liaison. Effective March 28, 1991.

Department of Veterans Affairs

One Special Assistant to the Assistant Secretary for Acquisition and Facilities. Effective March 9, 1991.

Authority: 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954–1958 Comp, P. 218.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–10497 Filed 5–2–91; 8:45 a.m.]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; 1990 and 1991 Annual Review

SUMMARY: The purpose of this notice is: (1) To announce the dispositions of the petitions accepted for review in the 1990 Annual Review of the GSP program; and (2) to announce the deadline for the submission of petitions in the 1991 GSP Annual Review.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. The telephone number is (202) 395–6971. Public versions of all documents are also available for review by appointment with the USTR Public Reading Room. Documents will be available in the reading room shortly after the filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

SUPPLEMENTARY INFORMATION:

I. Decisions Made on 1990 GSP Annual Review Petitions

This publication contains the dispositions of the petitions accepted for review in the 1990 Annual Review of the GSP program (55 FR 14029 and 55 FR 34878). These petitions requested changes in the list of articles and countries eligible for duty-free treatment under the U.S. Generalized System of Preference (GSP). The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461–2465). The review was conducted pursuant to regulations codified as 15 CFR part 2007. These changes will take effect on July 1, 1991. The President's decisions concerning the 1990 Annual Review have also been reflected in a proclamation and in a recent USTR press release (the press release is available by contacting the USTR Public Affairs Office at (202) 395–3230). All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, room 517, 600 17th Street, NW., Washington, DC 20506.

Reviews were also conducted concerning the beneficiary status of eight GSP beneficiary countries based on their practices in the area of internationally recognized worker rights. This includes reviews of Benin, the Dominican Republic, Haiti, Nepal, and Syria, which were continued from the 1989 Annual Review and reviews of Bangladesh, El Salvador, and Sudan, which were accepted for review in the 1990 Annual Review. After reviewing these requests, the President determined that Benin, Nepal, Haiti, and the Dominican Republic are taking steps to afford internationally recognized worker rights. The President also determined that Sudan is not taking such steps and therefore will be suspended from the GSP program. Bangladesh, El Salvador, and Syria will continue to be reviewed as part of the upcoming 1991 Annual Review. With respect to a request from American International Group (AIG) to examine Peru's actions of alleged expropriation without compensation, the President has extended the review for up to one year.

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1. Petitions to add products to the GSP Program
   - Tariff numbers with a (#) have been established by Presidential Proclamation in order to grant GSP on the specified article.
   - Items with a (*) are added to the list of GSP eligible articles effective May 1, 1991.

Case #	HTS	Article	Petitioner	Action Taken
1	0202.30.20	beef cuts, frozen*	Hungary Meat Proc. Co.	grant
2	0203.22.10	ham cuts, processed*	Hungary Meat Proc. Co.	grant
3	0203.29.20	ham cuts, processed*	Hungary Meat Proc. Co.	grant
4	0406.10.10#	chongos	Govt. Mexico	grant
			Dulces Reg. Tres Reyes	
5	0406.90.30	goya cheese	Duna Cheese Company	deny
6	0701.90.10#	potatoes, yellow	Govt. Colombia	grant
7	0710.30.00	frozen spinach	Govt. Mexico	deny
			Congelados Don Jose	
			Covemex, S.A.	
			Empacad. Gen. Agr. Bajia	
			Expohort, S.A.	
			Mar Brand	
			Vegetales Congelados S.	
8	0710.80.95	frozen broccoli	Govt. Colombia	deny
			Govt. Mexico	
			Congelados Don Jose	
			Covemex, S.A.	
			Empacad. Gen. Agr. Bajia	
			Expohort, S.A.	
			Mar Brand	
			Vegetables Congelados S.	

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9	0710.80.95	frozen cauliflower	Govt. Colombia	deny
			Govt. Mexico	
			Congelados Don Jose	
			Covemex, S.A.	
			Empacad. Gen. Agr. Bajia	
			Expohort, S.A.	
			Mar Brand	
			Vegetables Congelados S.	
10	0710.80.97#	frozen okra	Govt. Colombia	grant
			Govt. Mexico	
			Congelados Don Jose	
			Covemex	
			Emp. Gen. Agr. Bajio	
			Expohort	
			Mar Brand	
			Veg. Congelados Mex.	
11	0807.10.60	ogden/galia melons	Govt. Mexico	grant
			Asn. Agricl. de Sonora	
12	1602.41.20	pork hams*	Animex Ltd., Poland	grant
13	1602.42.20	pork shoulders*	Animex Ltd., Poland	grant
14	1602.49.20	other canned pork*	Animex Ltd., Poland	grant
15	1702.30.40	glucose	Govt. Mexico	grant
			Arancia, S.A.	
16	2003.10.00	preserved mushrooms	Pillsbury Company	deny
			Debrecen Canning Factory	
17	2007.99.05	jam, ling. and rasp.*	Fructal Ajdovscina	grant

18	2007.99.10	jam, strawberry*	Fructal Ajdovscina	grant
19	2007.99.20	jam, apricot*	Fructal Ajdovscina	grant
20	2007.99.25	jam, cherry*	Fructal Ajdovscina	grant
21	2204.21.40.30	red wine	Assoc. Hungarian Wine Tr.	deny
			Ergervin Winery	
22	2204.21.40.45	white wine	Ergervin Winery	deny
			Assoc. Hungarian Wine Tr	
23	2204.21.80	dessert wine	Assoc. Hungarian Wine Tr.	deny
24	2208.90.50	bottled tequila	Govt. Mexico	grant
			Construexport, S.A.	
			Satisfactores, S.A.	
25	2901.10.30#	n-pentane and isopentane	Govt. Mexico	grant
			Inter. Com. Exp. Corp.	
			Prod. Quimicos Coin	
26	2903.61.10	chlorobenzene	Nitroclor Productos	grant
27	2903.61.30	p-dichlorobenzene	Nitroclor Productos	grant
28	2903.69.05#	certain trifluoro-toluenes*	Chemolimpex	grant
			Budapest Chem. Works	
29	2904.90.04#	monochloromononitrob.	Nitroclor	grant
30	2904.90.15#	derivatives of hydroc.*	Chemolimpex	grant
			Budapest Chem. Works	
31	2907.29.20#	certain phenols	Ameribrom, Inc.	grant
32	2907.29.20#	4,4 - biphenol	Novaquim, S.A.	grant
33	2908.10.15#	certain trifluoro-toluenes*	Chemolimpex	grant
34	2908.90.04#	nitrophenols	Nitroclor	grant
35	2916.39.08#	4-chloro-3 nitrobenzoic*	Chemolimpex	grant

			Budapest Chem. Works	
36	2916.39.12#	4-chloro-3,5-dinitro-benzoic acid*	Chemolimpex	grant
			Budapest Chem. Works	
37	2916.39.16#	4-chlorobenzoic acid*	Chemolimpex	grant
			Budapest Chem. Works	
38	2917.37.00	dimethyl terephthalate	Govt. Mexico	grant
			Petrocel, S.A.	
39	2921.42.23#	aniline derivatives	Nitroclor, S.A.	grant
40	2921.42.24#	metanilic/sulfanilic*	Nitrokemia	grant
41	2921.43.18#	toluide derivatives*	Chemolimpex	grant
			Budapest Chem. Works	
43	2924.29.04#	aromatic cyclic amides	Govt. Mexico	grant
			Ciba-Geigy Mexico	
44	2924.29.02#	acetanilide*	Nitrokemia	grant
45	2929.10.15	Mix. of touenediisocy.	Govt. Mexico	grant
			Ind. Cydsa Bayer, S.A.	
			Petr. Rio Tercero	
46	2929.10.30#	isocyanates	Nitroclor	grant
47	2934.20.05#	n.ter.butyl-2/ben-sul.	Govt. Mexico	grant
			Quimica Organica de Mex.	
48	3205.00.20	carmine	Govt. Peru	grant
			Asoc. de cochinilla	
			Universal Foods Corp.	
			Biocon	
49	3606.90.60	combustible materials	Govt. Colombia	grant
50	3823.90.25#	chemical mixtures	Aceto Corporation	grant
51	3906.90.50	acrylic polymers	Govt. Colombia	grant

52	5608.90.23#	hammocks	Govt. Mexico Hamacas El Aguacate	grant
53	6204.39.60#	silk women's jackets	Govt. Thailand	grant
54	6204.49.10#	silk women's dresses	Govt. Thailand	grant
55	6911.10.41	steins, candy box*	Minex, Ltd. Poland Con. Brasileiro de Ceram.	grant
56	6911.10.45	mugs and steins*	Minex, Ltd. Poland Con. Brasileiro de Ceram.	grant
57	6912.00.41	steins, decanters, etc.	Con. Brasileiro de Ceram.	grant
58	7013.21.50	crystal glasses, over $5*	Govt. Mexico Vitrocrisa Kristal Crisa Corporation Con. Brasileiro de Ceram. Minex, Ltd. Poland Turkiye Sise ve Cam Fab.	grant
59	7013.31.50	crystal tablewr, over $5*	Govt. Mexico Vitrocrisa Kristal Crisa Corporation Con. Brasileiro de Ceram. Minex, Ltd. Poland Turkiye Sise ve Cam Fab.	grant
60	7013.91.50	crystal items, over $5	Govt. Mexico Vitrocrisa Kristal Crisa Corporation Con. Brasileiro de Ceram.	grant
61	7202.11.50	ferromanganese	Govt. Peru	deny
62	7202.92.00	ferrovanadium	Govt. Argentina	deny

63	7318.15.80	screws	Universal Company	deny
64	7801.10.00	unwrought lead	Govt. Mexico Met-Mex Penoles, S.A	grant
65	7801.99.90	unwrought lead	Govt. Mexico Met-Mex Penoles, S.A.	grant
66	7901.11.00	unwrought zinc	Govt. Mexico Cia. Autland	grant
67	7901.12.50	unwrought zinc	Govt. Mexico Met-Mex Penoles, S.A.	grant
68	8111.00.45	unwrought manganese	Soc. Brasileira de Elet.	deny
69	8533.10.00	carbon resistors	Govt. Mexico Cia. Gen. de Electronica	grant
70	8703.10.50#	golf carts*	Melex U.S.A.	grant
71	8714.92.50	wheel spokes	Govt. Peru	grant
72	9608.10.00	ball point pens	Govt. Peru Wearever de Mexico	grant

2. Requests for the Removal of Items from the List of GSP items, and Country Specified (if any)

CASE #	HTS	Description	Petitioner	Action Taken
73	2005.90.55	Sweet capsicum peppers	Cherokee Products Co. Del Mar Food Products Co. Draper-King Cole, Inc. Dunbar Foods Corp. Moody Dunbar, Inc.	deny

			Furman Food In	
			M cini P cki g Co	
			G L M etta In	
			M ti ll Canning Co	
			S tic y F ods C rp	
74	2843 21 00	ilv r nit t	Ames G ldsmith C rp	deny
			M t M tallu gi l	
75	2916 39 15	ibuprof n (Indi)	Ethyl C rpo ti n	grant
76	3817 10 00	line r alkylben e e	Vi ta Chemic l Company	gr t
77	8481 80 10	ti e d tube v lve	Bridg port Piedm t Co	d y
78	8481 80 90	tire and tube v lve	B idg port Piedmont Co	d ny
79	8481 90 10	valve parts	Bridg port Piedm t C	deny
80	8481 90 90	v lve parts	B idg port Piedmo t Co	de y
81	8516 90 60	gl ss pot	Kimble Gla Inc	d y

3. Requests to Waive the Competitive Need Limits on a Country and Product Specific Basis

CASE #	HTS	Description(Country)	Petitioner	Action Taken
12	1602 41 20	canned hams(Pol d)	Animex Ltd	g nt
87	2935 00 31	nti infect ulf (Yug slavi)	Pliv I L	gr nt
89	4015 11 00	urgical glov (Mal y i)	Baxter Inc	deny
107	8517 10 00	teleph n sets(Mal y i)	Thoms n Elec	gr t
108	8520 20 00	n we i g mach (M l y i)	Thomson Elec	gra t
109	8527 11 11	radio-tape ts(Mal y i)	Thomson Elec	g t

4. WAIVER REQUESTS FOR WHICH NO RECOMMENDATION IS BEING PROVIDED AT THIS TIME

CASE #	HTS	Description(Country)	Petitioner
38	2917 37 00	dimethyl t r phth l te	Govt Mexi
			P trocel S A
66	7901 11 00	unwr ught inc(M xi)	Govt M xi o
			Ci Autland22
82	0802 90 15	p cans(M xic)	G vt M xico
			Ind de Nu
83	0804 50 40	guav s mangoe (Mexic)	Govt Mexico
			Con prod Hor
84	2005 20 00 20	potato hips(Mexico)	Govt M xi o
			P psico Inc
85	2529 22 00	flu rspar(Mexico)	Govt Mexic
			Aimcor S A
86	2836 92 00	tr ntium ca b (M xic)	Govt M i
			Sal Y Oxid
			Com Min V l
88	3907 60 00	polyethyl n ter (M xic)	Govt M xi
			P troc l S A
90	4409 10 40	wood molding (M xi)	Govt M xi o
			Cal-State Lumb
91	4818 40 40	nitary napkin (Maxi o)	Govt M xic
			Conver y M q
92	7202 11 10	f rromang e e(Mexic)	Govt Mexico
			Cia Autland

93	7202.19.50	ferromanganese(Mexico)	Govt. Mexico
			Cia. Autland
94	8414.59.80	fans(Mexico)	Govt. Mexico
			Comair Rotron
95	8418.10.00	refrigerators(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
96	8418.21.00	refrigerators(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
97	8418.22.00	refrigerators(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
98	8418.29.00	refrigerators(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
99	8418.30.00	freezers(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
100	8418.40.00	freezers(Mexico)	Govt. Mexico
			Whirlpool Corp.
			Vitromatic
101	8475.20.00	mach. to mfr. glass(Mexico)	Govt. Mexico
			Anchor Corp.
			Fab. Maq.
102	8504.10.00	lamp ballasts(Mexico)	Govt. Mexico

			Elec. Bal. Co.
103	8504.32.00	transformers(Mexico)	Govt. Mexico
			Westinghouse
			Op. Maq. Juarez
104	8505.19 00	magnets(Mexico)	Govt. Mexico
			General Motors
105	8507.90.40	batteries(Mexico)	Govt. Mexico
			Aislantes Leon
106	8511.10.00	spark plugs(Mexico)	Govt. Mexico
			Bujias Mex.
110	8536.69.00	plugs and sockets(Mexico)	Govt. Mexico
			Labinal Elect.
111	8536.90.00	electrical appar.(Mexico)	Govt. Mexico
			Labinal Elect.
112	8544.30.00	ignition wire(Mexico)	Govt. Mexico
			Ser. Condumex
			Cond. Monterrey
112	8544.30.00	ignition wire(Philippines)	Govt. Philipp.
113	8544.51.40	conductors(Mexico)	Govt. Mexico
			ACS Industries
114	8708.70.80	road wheels(Mexico)	Govt. Mexico
			Kelsey Hayes
115	8708.99.50	veh. accessories(Mexico)	Govt. Mexico
			Gabriel de Mex.
116	9401.90.10	veh. seat parts(Mexico)	Govt. Mexico
			General Motors
117	9503.70.80	toys(Mexico)	Govt. Mexico

			Mattel, Inc.
			Tonka Corp.
118	9503.90.60	toys(Mexico)	Govt. Mexico
			Mattel Inc.
			Tonka Corp.

5. The products below were not produced in the United States on January 3, 1985 and are granted a waiver of the competitive need percentage limit (Section 504(d) of the Trade Act of 1974) on the following items

CASE #	HTS	Description(Country)	Petitioner
4	0406.10.00	chongos(Mexico)	Govt. Mexico
			Dulces Reg. Tres Reyes
43	2924.29.45	arom. amides(Mexico)	Govt. Mexico
			Ciba-Geigy
48	3205.00.10	carmine(Peru)	Govt. Peru
			Warner-Jenkinson Co.
			Association de cochinilla
109	8527.11.11	radio-tape comb.(Malaysia)	Thomson Co.

BILLING CODE 3190-01-C

II. Announcement of 1991 GSP Annual Review

Notice is hereby given that, in order to be considered in the 1991 GSP Annual Review, all petitions to modify the list of articles eligible for duty-free treatment under the GSP and requests to review the GSP status of any beneficiary developing country must be received by the GSP Information Center no later than 5:00 p.m., Tuesday, June 4, 1991. Due to the recent addition of Czechoslovakia to the list of eligible countries under the GSP, the Government of Czechoslovakia and Czechoslovakian exporters will be granted an extension of this deadline to Tuesday, July 2, 1991. Petitions submitted after the appropriate deadline will not be considered for review and will be returned to the petitoner. The GSP provides for the duty-free importation of qualifying articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974, as amended, and has been implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

1. 1991 GSP Annual Review

Interested parties or foreign governments may submit petitions (1) to design additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; (3) to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in subsections 502(b) or 502(c) of the Act (19 U.S. 2662 (b) and (c)); and (4) to otherwise modify GSP coverage.

2. Identification of Product Requests With Respect to the Harmonized System Tariff Nomenclature

The Harmonized Tariff System nomenclature (HTS) was implemented by the United States on January 1, 1989, and replaces the previous Tariff Schedules of the United States (TSUS) nomenclature. Certain changes in the information required in petitions are necessary as a result of the change to the HTS nomenclature. All product-related petitions must identify the product(s) of interest in terms of the HTS and include a detailed description of the product or products of interest. The petition should also identify the former TSUS headings for the HTS products contained in the petition and provide the petition history for those TSUS products. Trade data for the last three years should be provided in the HTS categories. Where the conversion to the new nomenclature makes this difficult, HTS estimates can be provided along with the relevant TSUS data. The method used to arrive at HTS estimates should also be described. Finally, those petitions which are being submitted, in the view of the petitioner, as a result of a change in a product's GSP status solely due to the conversion from the TSUS to the HTS should indicate this on the first page of the petition. A change in status could include the addition or removal of GSP eligibility for a product, changes in a country's eligibility due to competitive need exclusions or its eligibility for redesignation, as well as other changed circumstances.

3. Submission of Petitions and Requests

Petitions and requests to modify GSP treatment should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. All such submissions must conform with regulations codified in 15 CFR part 2007. These regulations are also printed in "A Guide to the U.S. Generalized System of Preferences (GSP)" (October 1988), along with a model petition. Information submitted will be subject to public inspection by appointment only with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Petitions and requests must be submitted in fourteen copies in English. If the petition or request contains business confidential information, fourteen copies of a nonconfidential version of the submission along with fourteen copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Prospective petitioners and requestors are strongly advised to review the GSP regulations published in the Federal Register on Tuesday, February 11, 1986 (51 FR 5035). Prospective petitioners and requestors are reminded that submissions that do not provide all information required by section 2007.1 of the GSP regulations will not be accepted for review except upon a detailed showing in the submission that the petitioner or requestor made a good faith effort to obtain the information required. This requirement will be strictly enforced. In cases where the request has been reviewed previously, petitioners should cite new information concerning the issues examined that would support a reexamination, as cited in 15 CFR 2007.1(a)(4). Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in section 2007.1(c). A model petition format is available from the GSP Information Center and is included in the publication "A Guide to the U.S. Generalized System of Preferences" (October 1988). Prospective petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties submitting petitions that request modifications with respect to specific articles should list on the first page of the petition the following information: (1) The requested action; (2) the classification of the article(s) of interest in the HTS; and (3), if applicable, the beneficiary country(ies) of interest. Questions about the preparation of petitions and requests should be directed to the staff of the GSP Information Center. The phone number of the center is (202) 395-6971.

Notice of petitions and requests accepted for review will be published in the Federal Register on or about Monday, July 15, 1991. The notice will also provide information concerning the opportunity for interested parties to comment on requests accepted for review through public hearings and written submissions. Any modifications to the GSP resulting from the 1991 GSP Annual Review will be announced on or about April 1, 1992 and will take effect on July 1, 1992.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 91-10600 Filed 5-1-91; 8:45 am]

BILLING CODE 3190-01-M

Advisory Committee for Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting and determination of closing of meeting.

SUMMARY: The meeting of the Advisory Committee for Trade Policy and Negotiations (ACTPN) to be held Thursday, May 16, 1991 in Washington, DC, from 1:30 p.m. to 4:30 p.m., will include the development, review and

discussion of current issues which influence the trade policy of the United States. Pursuant to section 2155(f)(2) of title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

ADDRESSES: 600 17th Street NW. Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Mollie Van Heuven, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 91-10506 Filed 5-2-91; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended April 26, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47516.

Date filed: April 26, 1991.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 483 (Cargo Rates from Angola).

Proposed Effective Date: May 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 91-10502 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 26, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47514.

Date filed: April 25, 1991.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 23, 1991.

Description: Application of F.S. Air Service, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, requests authority to engage in interstate scheduled air transportation of persons, property and freight: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 91-10503 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Fitness Determination of Interflight, Inc. d/b/a Dulles Express

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 91-4-52, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Interflight, Inc. d/b/a/ Dulles Express is fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 14, 1991.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2337.

Dated: April 29, 1991.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 91-10465 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

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 that the newly formed Federal Aviation Administration Aviation Rulemaking Advisory Committee will conduct its first meeting. The meeting will be held to organize the committee into subcommittees and to assign tasks to those subcommittees.

DATES: The committee meeting will be held on May 23, 1991, at 8:30 a.m.; the subcommittee meetings will be held at specific times to be scheduled on May 24, 1991, beginning at 9 a.m.

ADDRESSES: The meetings will be held at the Holiday Inn-Inner Harbor, 301 W. Lombard Street, Baltimore, MD.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Meeting Coordinator, Office of Rulemaking (ARM-1), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9683.

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 Rulemkaing Advisory Committee to be held on May 23, 1991, followed by subcommittee meetings on May 24, 1991. The agenda for the committee meeting will include opening remarks and an overview of the committee's activities, presentation of the committee chair and vice chair, identification of subcommittees, presentation of subcommittee chairs, assignment of the initial tasks that the subcommittees will be asked to undertake, and review of committee procedures. The agenda for the subcommittee meetings will include subcommittee organization, discussion and clarification of assigned tasks, and establishment of working groups to perform the tasks they have been assigned.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements on or before May 17, 1991, to present oral statements at the meeting. Written statements (75 copies) may be presented to the committee at any time through the meeting coordinator. Arrangements may be made by contacting the meeting coordinator listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC, on April 29, 1991.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 91-10486 Filed 5-2-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 26, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Opinion Survey of Taxpayers Contacted by the EP/EO Examination Program.

Description: The data collected will be used to evaluate the level of satisfaction of taxpayers contacted by the IRS EP/EO Examination Program, to identify possible areas of program improvement, and thereby improve the effectiveness of EP/EO activities.

Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Response: 20 minutes.

Frequency of Response: One-time only survey.

Estimated Total Reporting Burden: 1,333 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 91-10487 Filed 5-2-91; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 29, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0092.

Form Number: 1041 and related Schedules D, J, and K-1.

Type of Review: Revision.

Title: U.S. Fiduciary Income Tax Return; Capital Gains and Losses; Trust Allocation of an Accumulation Distribution; Beneficiary's Share of Income, Deductions, Credits, etc.

Description: Internal Revenue Code section 6012 requires that an annual income tax return be filed for estates and trusts. Data is used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.

Respondents: Individuals or households, businesses or other for-profit.

Estimated Number of Respondents: 2,500,000.

Estimated Burden Hours Per Response/Recordkeeping:

	Form 1041	Schedule D
Recordkeeping	2 hrs., 11 mins.	46 mins.
Learning about the law or the form.	2 hrs., 37 mins.	36 mins.
Preparing the form.	2 hrs., 22 mins.	1 hr., 9 mins.
Copying, assembling, and sending the form to IRS.	35 mins.	35 mins.

	Schedule J	Schedule K-1
Recordkeeping	1 hr., 58 mins.	2 hrs., 11 mins.
Learning about the law or the form.	23 mins.	35 mins.
Preparing the form.	1 hr., 2 mins.	34 mins.
Copying, assembling, and sending the form to IRS.	35 mins.	20 mins.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 28,934,663 hours.

OMB Number: 1545-0745.

Form Number: None.

Type of Review: Extension.

Title: Floor Stocks Credits or Refunds and Consumer Credits or Refunds With Respect to Certain Tax-Repealed Articles; Excise Tax on Heavy Trucks.

Description: LR-27-83 requires sellers of trucks, trailers and semi-trailers, and tractors to maintain records of the gross vehicle weights of articles sold to verify taxability.

Respondents: Businesses or other for-profit.

Estimated Number of Recordkeepers: 4,100.

Estimated Burden Hours Per Recordkeeper: 2 hours, 4 minutes.

Frequency of Response: Other (recordkeeping).

Estimated Total Reporting Burden: 4,140 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91-10488 Filed 5-2-91; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 29, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed

and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0168.

Form Number: IRS Form 4361.

Type of Review: Extension.

Title: Application for Exemption from Self-Employment Tax for Use of Ministers, Members of Religious Orders and Christian Science Practitioners.

Description: Form 4361 is used by ministers, members of religious orders, or Christian Science Practitioners to file for an exemption from self-employment on certain earnings and to acceptance of certain public insurance benefits.

Respondents: Individuals or households.

Estimated Nubmer of Respondents/Recordkeepers: 10,270.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 minutes.

Learning about the law or the form—19 minutes.

Preparing the form—16 minutes.

Copying, assembling, and sending the form to the IRS—17 minutes.

Frequency of Response: One-time.

Estimated Total Reporting/Recordkeeping Burden: 10,065 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91-10489 Filed 5-2-91; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

Chisholm Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Chisholm Federal Savings Association, Kingfisher, Oklahoma, on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10466 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Cimarron Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Cimarron Federal Savings Association, Muskogee, Oklahoma, on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10467 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Metropolitan Federal Savings and Loan Association, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Metropolitan Federal Savings and Loan Association, F.A., on Apriil 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10468 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Prospect Park Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Prospect Park Federal Savings Bank, West Paterson, New Jersey, on April 18, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10469 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Chisholm Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Chisholm Federal Savings and Loan Association, Kingfisher, Oklahoma, OTS No. 8518, on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10470 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Cimarron Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Cimarron Federal Savings and Loan Association, Muskogee, Oklahoma, OTS No. 08511, on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10471 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Imperial Federal Savings Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Imperial Federal Savings Association, San Diego, California ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10472 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Metropolitan Federal Bank, a Federal Savings Bank Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Metropolitan Federal Bank, a Federal Savings Bank, Nashville, Tennessee, OTS No. 5271, on April 19, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10473 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Prospect Park Savings Bank, SLA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Prospect Park Savings Bank, SLA, West Paterson, New Jersey (OTS No. 4188), on April 18, 1991.

Dated: April 29, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-10474 Filed 5-2-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 88
Friday, May 3, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 8, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed modifications to the criteria for the tiered pricing structure for check collection services. (Proposed earlier for public comment; Docket No. R-0712)
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 1, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-10601 Filed 5-1-91; 11:24 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM:

TIME AND DATE: Approximately 10:30 a.m., Wednesday, May 8, 1991, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 1, 1991

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-10602 Filed 5-1-91; 11:24 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 19146, April 25, 1991.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, May 1, 1991.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Proposed purchase of computers and relocation of a data center within the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 1, 1991

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-10691 Filed 5-1-91; 3:54 pm]

BILLING CODE 6210-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 6, 1991.

A closed meeting will be held on Tuesday, May 7, 1991, at 2:30 p.m. An open meeting will be held on Thursday, May 9, 1991, at 10:30 a.m., in Room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10), and 17 CFR 200.402(a) (4), (8), (9)(i), and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 7, 1991, at 2:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Formal order of investigation.

The subject matter of the open meeting scheduled for Thursday, May 9, 1991, at 10:30 a.m., will be:

1. Consideration of whether to issue a release soliciting information and comments with respect to American Depositary Receipts ("ADRs"). The proposed solicitation of information and comments would be part of a review by the Commission of the marketplace for the regulations relating to ADRs. For further information, please contact Anita T. Klein or Paul M. Dudek at (202) 272-3246.
2. Consideration of whether to issue a second Automation Review Policy statement that sets forth the Commission's views concerning: (1) The nature of the independent reviews that the self-regulatory organizations ("SROs") are encouraged to obtain with respect to their automated trading and information dissemination systems; (2) the contents of SROs' annual reports on major systems changes and a process for provision of notifications of material systems changes; and (3) notifications of significant systems problems. In addition, the Policy Statement requests comment on establishing a process to explore the development of generally accepted standards for authomated systems of regulated entities with respect to computer audits, security and capacity. For further information, please contact Eugene A. Lopez at (202) 272-2828.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 272-2400.

Dated: May 1, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-10629 Filed 5-1-91; 1:47 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 56, No. 86
Friday, May 3, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3779-1]

Amendments to Standards of Performance for New Stationary Sources; Reporting Requirements

Correction

In rule document 90-29111 beginning on page 51378 in the issue of Thursday, December 13, 1990, make the following corrections:

§ 60.465 [Corrected]

1. On page 51384, in the first column, in § 60.465(c), in the fifth line, "atmospheric" should read "atmosphere".

§ 60.495 [Corrected]

2. On the same page, in the second column, in § 60.495(c)(2), in the third line, "incinerator" should read "incineration".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Targeted Training Grants; Correction

Correction

In notice document 91-9342 appearing on page 16347 in the issue of Monday, April 22, 1991, in the second column, under *Region X*, in the third line, "111" should read "1111".

BILLING CODE 1505-0

federal register

Friday
May 3, 1991

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Fair Housing and Equal Opportunity

Notice of Funding Availability for Fair Housing Assistance Program in Fiscal Year 1991

DEPARTMENT OF HOUSING AND 'PBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-91-3213; FR-2953-N-01]

Funding Availability for Fair Housing Assistance Program, Non-Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA) for FY 1991.

DATE: The actual Application Due Date will be specified in the application kit. Applicants will have at least 30 days after the application kit becomes available to prepare and submit their proposals. No application received after the closing date will be considered.

SUMMARY: This NOFA announces HUD's funding for FY 1991 of the Fair Housing Assistance Program (FHAP). Applications are solicited for Capacity Building and Incentive Funding only. Contributions agencies that are eligible for complaint processing and training support are not required to submit an application. In the body of this document is information concerning the purpose of the NOFA and information regarding eligibility, available amounts, selection criteria and information processing, including how to apply and how selections will be made.

FOR FURTHER INFORMATION CONTACT: Lauretta A. Dixon, Branch Chief, Fair Housing Assistance Program (FHAP), Programs Division, Office of Fair Housing Enforcement and section 3 Compliance, room 5218, 451 Seventh Street, SW., Washington, DC 20410-2000. Telephone: (202) 708-0455 (V and TDD). (This is not a toll-free number.) Application kits will automatically be sent to eligible State and local fair housing agencies by the Regional Office with geographic responsibility for such agency. Requests for application kits may also be made by telephone from the number listed above.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

Information collection requirements contained in this notice were submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been approved and assigned OMB control number 2529-0005.

Purpose and Substantive Description

I. Authority

The Fair Housing Act (42 U.S.C. 3601-19), ("the Act") prohibits discrimination in the sale or rental of housing, in residential real-estate related transactions, in the provision of brokerage services, and in other housing-related practices. Discrimination is prohibited on the basis of race, color, religion, sex, familial status, handicap, or national origin. Section 810(f) of the Act provides that, "Whenever a complaint alleges a discriminatory housing practice (A) within the jurisdiction of a State or local public agency; and (B) as to which such agency has been certified by the Secretary (for the referral of complaints of discriminatory housing practices), the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint." Section 817 of the Act provides, among other things, that the Secretary may utilize the services of State and local agencies charged with the administration of the State and local Fair Housing laws, and "may reimburse such agencies and their employees for services rendered to assist him in carrying out" the Fair Housing Act. The FHAP was authorized by Congress to provide HUD with the resources to enhance the fair housing enforcement capabilities of State and local civil rights agencies. This announcement of solicitation for capacity building and incentive funding under the Fair Housing Assistance Program (FHAP) is issued in accordance with these authorities and 24 CFR part 111.

The FHAP was redesigned in 1989 to replace the administrative funding system of competitive and noncompetitive funding with a single non-competitive funding approach. On May 9, 1989, HUD published a final rule (54 FR 20094) implementing the redesigned FHAP. This comprehensive approach gives recipients an increased ability to plan a long-term program that is more suitable to their fair housing enforcement needs and gives HUD the ability to improve administration of the FHAP. The purpose of the funding is to provide support for capacity building, complaint processing, training, technical assistance, data and information systems, and other fair housing projects. The intent of the program is to build a coordinated intergovernmental effort to further fair housing and to encourage States and localities to assume a greater share of the responsibility for administering their fair housing laws.

II. Allocation Amounts

(a) Scope: A total of $6.3 million is available under this NOFA. Applications are solicited for capacity building and incentive funding as described at 24 CFR Section 111.105.

(b) Funding of Capacity Building Agencies: Under 24 CFR 111.105(a), HUD will give $50,000 to each capacity building agency (an agency in the first two years of participation in FHAP) which submits an acceptable application.

(c) Funding of Contributions Agencies: Under 24 CFR 111.105(a), agencies which have received two years of awards for capacity building (Contributions Agencies) are eligible to receive training funds, complaint processing funds and, for those agencies meeting the additional incentive criteria in 24 CFR 111.113 and section III.(a)(6) specified below, incentive funds.

(1) Training: Each Contribution Agency will receive $4,000 to support participation of no fewer than 4 persons in HUD-sponsored or HUD-approved fair housing training. These funds are intended to support attendance at HUD-sponsored training at national and regional training sites. These monies may also be used to support additional in-house training by agencies for agency-specific problems, and for training of staff unable to attend national or regional training, subject to the approval of the HUD Government Technical Representative.

(2) Complaint processing funds: Contributions agencies will receive support for complaint processing based solely on the number of dual-filed housing discrimination complaints actually processed by them during the twelve month period beginning October 1, 1989 and ending September 30, 1990. (See 24 CFR 111.105(b).) (A dual-filed complaint is a complaint which has been docketed at both HUD and the agency.) The unit reimbursement level will be $800 per complaint.

(3) Incentive funds: A contributions agency that meets all of the criteria for incentive funds set forth in 24 CFR 111.113 and in section III.(a)(6) below may apply for incentive funds, describing those projects that would benefit its jurisdiction. The amount of funds awarded to an agency will be based on the population of the jurisdiction served by the agency, and on the projects proposed and the cost of implementing those projects. HUD will use 1990 U.S. census estimates to determine a jurisdiction's population. Population figures for counties will exclude population figures for

substantially equivalent cities within those counties. The maximum amount of funds based on population ranges is as follows:

Population range	Maximum amount
Fewer than 100,000	$30,000
100,000 to 499,999	40,000
500,000 to 999,999	50,000
1,000,000 to 3,999,999	65,000
4,000,000 to 9,999,999	80,000
10,000,000 to 14,999,999	95,000
15,000,000 and above	110,000

III. Eligibility

(a) Agencies

(1) Interested agencies are urged to review 24 CFR parts 111 and 115 and the information in this announcement to determine eligibility to apply.

(2) An agency is not eligible for capacity building and incentive funding at the same time.

(3) Contributions agencies that are eligible for complaint processing and training support are not required to submit an application.

(4) To be eligible to apply for funds under the FHAP, an agency first must meet the criteria prescribed in 24 CFR 111.107. Specifically:

(A) The State or local agency must be certified as a substantially equivalent agency under 24 CFR 115.6 (including an agency grandfathered for the referral of complaints under 24 CFR 115.6(d); or must have entered into an agreement for interim referrals under 24 CFR 115.11 after the date of enactment of the Fair Housing Amendments Act of 1988 (see CFR 115.11).

(B) The agency must have executed a written Memorandum of Understanding with HUD which, at a minimum, describes the working relationship to be in force between the agency and HUD. An agreement for interim referral of complaints in accordance with 24 CFR 115.11 may constitute such a Memorandum of Understanding.

(C) The agency must demonstrate to HUD that the agency has acceptable procedures for cooperation with other FHAP-funded agencies having concurrent jurisdiction.

(D) The agency must not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing. Budget and staff reductions occasioned by legislative action outside the control of the agency will not, alone, result in a determination of ineligibility. However, HUD will take such actions into consideration in assessing the ongoing viability of an agency's fair housing program; and

(E) The agency must participate in training sponsored by HUD and designed in consultation with HUD staff and agency representatives to provide uniform skills and technical knowledge.

(6) In addition to the criteria in section (5), above, an applicant for incentive funds must meet the following additional criteria:

(A) The agency must have processed a minimum number of dual-filed complaints during the period from October 1, 1989 through September 30, 1990. The following separate minimum numbers have been established for States and localities:

Population Range	Minimum Number of Dual Filed Complaints
Localities:	
Less than 1,000,000	10
1,000,000 to 4,999,999	15
5,000,000 and above	25
States:	
Less than 5,000,000	20
5,000,000 to 14,999,999	25
15,000,000 and above	50

(i) To be considered dual-filed, a complaint must be cognizable under the Federal Fair Housing Act and accepted by the Regional office as meeting the processing requirements under the cooperative agreement in effect during that time period.

(ii) For the purpose of determining eligibility for incentive funding, the number of dual filed complaints may include cases closed under contract for investigation undertaken by an agency grandfathered for the referral of complaints if: (1) The complaint involves allegations of discrimination based on familial status or handicap; and (2) the complaint also involves allegations of discrimination based on race, color, religion, sex or national origin. Cases involving discrimination solely on the basis of familial status or handicap are not counted for the purpose of determining eligibility for incentive funding.

(iii) For the purposes of paragraph (ii), above, a case will be considered to be closed under contract if it is assigned to a contracting agency for investigation and accepted by the Regional Office for payment under the familial status and handicap contract.

(B) The agency must have engaged in comprehensive and thorough investigative activities relative to complaints dual-filed with HUD, as determined by HUD based on its most recent annual performance evaluation under 24 CFR Part 115 and through monitoring thereafter, for the period from October 1, 1989 through September 30, 1990;

(C) The agency must demonstrate (as certified by the head of the agency) that during the agency's most recently concluded fiscal year, a minimum of 20 percent of funds spent by the agency for fair housing activities was from non-Federal sources.

(D) The agency must have performed satisfactorily in the timely submission of vouchers. A voucher is not submitted timely if it is received in the Regional office, as evidenced by the date stamped thereon, after the close of business of the fifteenth day after the date stipulated in the funding instrument for a recipient's submission of the voucher.

(E) The agency must have completed administrative processing of complaints in a timely manner. A complaint will be considered timely processed if an agency processed it within 100 days.

(b) Eligible Activities

(1) The primary purpose of capacity building and incentive funds is to support activities that produce increased awareness of fair housing rights and remedies. All activities proposed for funding must address, or have ultimate relevance to, matters affecting fair housing that are cognizable under the Fair Housing Act (42 U.S.C. 3601–3619). These activities include, but are not limited to, the following:

(A) Activities designed to develop and implement outreach efforts to heighten public awareness of all forms of housing discrimination prohibited under the Fair Housing Act and to increase public awareness of fair housing rights and responsibilities.

(B) Activities designed to create, modify, or improve local, regional, or national information systems concerned with fair housing matters.

(C) Activities designed to improve an agency's capability to ensure fair housing through new or redirected approaches to the agency's internal structure or compliance techniques.

(D) Activities to develop and conduct a testing or auditing program for specific protected classes or special market areas for fair housing administrative enforcement or litigation.

(E) Activities designed to identify new or subtle practices of housing discrimination and to implement programs to eliminate such practices.

(F) Activities designed to address violence and intimidation affecting equal housing opportunity. These activities may include education, technical assistance, or the development of programs for prevention and response.

(G) Activities designed to coordinate fair housing enforcement efforts of governmental enforcement agencies with various community resources which have an impact on the prevention or elimination of discriminatory housing practices.

(H) Technical assistance activities to enable agencies to work with private fair housing groups, educational institutions, the real estate industry, and other private and governmental entities to eliminate or prevent housing discrimination.

(I) Activities to provide services to aggrieved individuals, consistent with rights and remedies under applicable Federal, State, and local laws prohibiting discrimination in housing.

(J) Affirmative marketing activities to inform persons of housing opportunities with respect to government-assisted housing and the private housing market.

(K) Activities designed to improve investigations of systemic discrimination for further processing by State and local agencies, HUD, or the Department of Justice.

(L) Fair housing training for enforcement agency staff.

(M) Activities designed to create, modify, or improve an agency's complaint information and monitoring capacity, to assure that its system is compatible with HUD's for internal monitoring of fair housing complaint activity.

(N) Activities designed to achieve substantial equivalency certification (e.g., amending relevant laws).

IV. Selection Criteria

(a) General Instructions Governing Applications for Assistance

(1) Each application for capacity building or incentive funds must include:

(A) A description of the applicant agency's proposed activities and objectives. Applicants who receive funding under the Education and Outreach Initiative of the Fair Housing Initiatives Program (FHIP) in FY 1991 will not be able to use FHAP funding to support the same activities funded under FHIP. (To promote applicant awareness of FHIP funded activities being conducted by other agencies within the same jurisdiction or geographical area, HUD will provide a listing in the application kit of all agencies and organizations selected for funding under the FHIP. This will help ensure that any of the activities to be funded under FHIP in the same jurisdiction or geographic area will not be duplicated by activities funded under this NOFA.)

(B) A schedule for completion and estimated cost of each proposed activity.

(C) For all capacity building applicants, information to justify the amount of funds requested, including the need for the activities proposed and the number of fair housing complaints processed during the previous fiscal year.

(b) Certification

(1) The applicant must certify that:

(A) The submission of the application is authorized under State or local law (as applicable), and the applicant possesses the legal authority to carry out the activities proposed in the application.

(B) The agency will adhere to a written agreement (Memorandum of Understanding or Interim Agreement) governing all fair housing referral activity and complaint processing between the agency and the appropriate HUD Regional Office.

(C) An applicant for incentive funds must also certify, on the basis of the supporting documentation submitted, that 20 percent of the funds spent by the agency for fair housing activities in the agency's most recently concluded fiscal year were from non-Federal sources.

(c) To receive capacity building or incentive funding, applicants must submit all information required in the FHAP application kit. The amount and method of determining an eligible agency's capacity building or incentive funding will be included in the application kit. Contributions agencies that are eligible for funding to support training and complaint processing activities will automatically be sent a Cooperative Agreement and are not required to submit an application. The agreement will include the allotment for training and case processing support. With respect to agencies eligible for incentive funds, the amount approved also will be included in the agreement. (Approved by OMB under control number 2529–0005.)

Application Process

(a) Application kits will automatically be sent to eligible State and local fair housing agencies by the Regional Office with geographic responsibility for such agency. Requests for application kits may also be made by telephone, (202) 708–0455.

(b) Completed applications are to be submitted to the Regional Office in which the applying agency is located. Addresses will be included in the application kit.

(c) An application for funding under this notice must be submitted by the date specified in the application kit. Applicants will have at least 30 days after the application kit becomes available to prepare and submit their proposals. No application received after the closing date will be considered.

(d) Negotiations: After submission of the application, but before the award, HUD may require that applicants participate in negotiations and submit application revisions resulting from those negotiations. HUD expects to make awards within four weeks after negotiations are successfully completed.

(e) Notification: An application for funding will be considered approved as of the date of HUD's written offer to the applicant to enter into a cooperative agreement.

(f) Type of Funding Instrument: Applicants will be funded under fixed-price Cooperative Agreements.

Checklist of Application Submission Requirements

A checklist for applicants to follow will be included in the application kit.

Corrections to Deficient Applications

(a) Applicants will be given an opportunity to cure nonsubstantive, technical deficiencies in their applications. Applications for capacity building and incentive funding will be reviewed upon receipt for completeness and conformity with 24 CFR part 111. With respect to any applications for funding in which the responsible HUD Regional Office has found deficiencies, the Regional Office will notify the applicant in writing of the deficiencies found. The applicant must, within 14 days of receipt of notification from the Regional Office, correct the deficiency or supply the additional information that the Regional Office requests. HUD will consider an applicant's failure to respond appropriately within the 14-day period as an abandonment of the application.

The kinds of technical deficiencies which can be cured after the submission date for applications has passed relate to items that (1) are not necessary for HUD review under the selection criteria/ranking factors; and (2) cannot be submitted, after the application due date has expired, to improve the substantive quality of the proposal.

(b) Appeal: If the applicant is notified by the Regional Office that, notwithstanding its attempt to correct the deficiency or supply the requested information, the applicant has failed to do so in the determination of the Regional Office, the applicant may appeal this determination to the Assistant Secretary for Fair Housing and Equal Opportunity.

Other Matters

Lobbying Activities—Prohibition and Disclosure

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (Pub. L. 100–121) and the implementing regulations at 55 FR 6736 (February 26, 1990). These authorities generally prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Additionally, a recipient must file a disclosure if it has made or agreed to make any payment with nonappropriated funds that would be prohibited if paid with appropriated funds.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this NOFA will not have potential significant impact on family formation maintenance, and general well being and, therefore, is not subject to review under the order. The NOFA, insofar as it funds the fair housing enforcement activities of State and local agencies, will assist families who are the victims of discriminatory housing practices.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to State and local fair housing agencies, none of its provisions will have an effect on the relationship of the States or their jurisdictions with the Federal government.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20419.

The Catalog of Federal Domestic Assistance program number is 14,401.

Authority: Fair Housing Act (42 U.S.C. 3601–19); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 19, 1991.

Leonora L. Guarraia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 91–10457 Filed 5–2–91; 8:45 am]

BILLING CODE 4210-28-M

federal register

Friday
Ma 3 1991

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 15 et al.

Federal Acquisition Regulation; Preproduction Startup Costs, Multiyear Contracting, and Contractor Acquisition of ADPE; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15 and 52

[FAR Case 90-67]

Federal Acquisition Regulation (FAR); *Preproduction Startup Costs*

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: FAR sections 15.804-6, 15.804-8, and 52.215 are revised to address preproduction, startup, and other nonrecurring costs. These revisions eliminate the need for numerous versions of component level provisions by providing standard language for use governmentwide.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 2, 1991 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405.

Please cite FAR Case 90-67 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR Case 90-67. For information pertaining to this case, contact Jeremy Olson at (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Background

The Secretary of Defense directed that the Defense Federal Acquisition Regulation Supplement (DFARS) be streamlined and rewritten as part of the Defense Management Review (DMR) Regulatory Reform initiative. This initiative entails deletion of some DFARS language, consolidation of DFARS language, movement of DFARS language to the FAR, redefinition of policies and procedures, and editing and rewrite of the total DFARS.

These particular revisions eliminate the need for numerous versions of component level provisions by providing standard language for use governmentwide.

B. Regulatory Flexibility Act

The proposed changes are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive fixed-price basis and certified cost or pricing data are not submitted. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 US.C. 610 (FAR Case 90-67) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of informaton from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 15 and 52

Government procurement.

Dated: April 25, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 15 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 15 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.804-6 is amended to revise paragraph (f) to read as follows:

15.804-6 Procedural requirements.

* * * * *

(f) Preproduction and startup costs include costs such as preproduction engineering, special tooling, special plant rearrangement, training programs, and such nonrecurring costs as initial rework, initial spoilage, and pilot runs. Since an offeror may propose a price which does not include all preproduction and startup or other nonrecurring costs for the purpose of obtaining the first production contract and for gaining an advantage over competitors in negotiations for future acquisitions, it is important to know whether the offeror intends to absorb any portion of these costs or whether the offeror plans to recover them in connection with subsequent pricing actions under the proposed or future contracts. When these costs may be a significant factor in an acquisition, the contracting officer shall require that the offeror provide

(1) An estimate of total preproduction and startup costs,

(2) The extent to which these costs are included in the proposed price, and

(3) The intent to absorb, or plan for recovery of, any remaining costs.

This information could be useful in determining the lowest overall cost to the Government. If a successful offeror has indicated an intent to absorb any portion of these costs, the contracting officer may request a breakdown of these costs. The contract shall expressly provide that such portion will not be charged to the Government in any other action.

* * * * *

3. Section 15.804-8 is amended to revise the title and to add paragraph (X) to read as follows:

15.804-8 Solicitation provision and contract clauses.

* * * * *

(X) The contracting officer shall insert a provision substantially the same as the provision at 52.215-XX, Preproduction, Startup and Other Nonrecurring Costs, in solicitations when such costs are expected to be a significant factor in an acquisition.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.215-XX is added to read as follows:

52.215-XX Preproduction, startup, and other nonrecurring costs.

As prescribed in 15.804-8, insert in solicitations a provision substantially as follows:

Preproduction, Startup, and Other Nonrecurring Costs (Date)

In accordance with FAR 15.804-6(f), the offeror must submit the information requested below. The Government will consider the information provided below in the evaluation of proposals:

Estimated total of nonrecurring costs: $_____

Nonrecurring costs included in proposed price: $_____

Nonrecurring costs, not included in the proposed price, that the offeror intends to absorb: $_____

Nonrecurring costs, not included in the proposed price, that the offeror intends to recover from the Government: $_____

The offeror agrees to accept a clause in any resulting contract that the nonrecurring costs not included in the proposed price that the offeror intends to absorb will not be charged to the Government in any other action.

(End of provision)

[FR Doc. 91-10386 Filed 5-2-91; 8:45 am]

BILLING CODE 6820-34-M

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48 CFR Part 31

[FAR Case 91-17]

Federal Acquisition Regulation (FAR); Contractor Acquisition of ADPE

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are amending FAR 31.205-2 to raise two dollar thresholds from $500,000 to $1,000,000. Raising the dollar thresholds from $500,000 to $1,000,000 will reduce Government in-plant reviews of ADPE and contractor data requirements to justify leasing ADPE, resulting in reduced resource requirements for both the Government and the contractor.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 2, 1991 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405.

Please cite FAR Case 91-17 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 91-17. For information pertaining to this case, call Mr. Jeremy Olson at (202) 501-3221.

SUPPLEMENTARY INFORMATION:

A. Background

As part of the Councils' initiative to streamline regulations and reduce contractor oversight, we have reviewed all regulatory dollar thresholds. The language at FAR 31.205-2 requires contractors to annually support decisions to retain or change ADPE capability. Raising the dollar thresholds from $500,000 to $1,000,000 will reduce Government in-plant reviews of ADPE and contractor data requirements to justify leasing ADPE, resulting in reduced resource requirements for both the Government and the contractor.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive fixed-price basis and certified cost or pricing data are not obtained, nor do the cost principles at part 31 apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601 (FAR Case 91-17) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 25, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205-2 [Amended]

2. Section 31.205-2 is amended in paragraphs (b)(2)(iii)(B) and (d)(3) by removing the figure "$500,000" and inserting in its place "$1,000,000".

[FR Doc. 91-10384 Filed 5-2-91; 8:45 am]

BILLING CODE 6820-34-M

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48 CFR Parts 17 and 52

[FAR Case 91-18]

Federal Acquisition Regulation (FAR); Multiyear Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering proposed revisions to FAR part 17 and corresponding coverage in part 52 to provide special provisions for use in multiyear contracts whereas the FAR now requires contracting officers to develop provisions for use in multiyear solicitations and contracts on an as needed basis. The intent of these changes is to reduce the administrative burden on contracting officers by supplying needed provisions and clauses that were required but not provided.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 2, 1991 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405.

Please cite FAR Case 91-18 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 91-18. For information pertaining to this case, call Ms. Jeritta Parnell at (202) 501-4082.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 17.103-2 is amended and FAR 17.105(a) is amended and subparagraphs (3) through (8) are added along with corresponding provisions and clauses to subpart 52.217. References in FAR 17.103-3(e)(4) and 17.103-4(d)(2) are changed. Amendments to FAR 17.103-1(d)(3) and to the clauses at 52.217-1 and 52.217-2 include substituting the term "cancellation ceiling clause of this contract" for the term "schedule." The

proposed additions to the prescriptions in FAR 17.105(a) (3) through (8) are intended to provide special provisions for use in multiyear contracts whereas the FAR now requires contracting officers to develop provisions for use in multiyear solicitations and contracts on an as needed basis. FAR 17.103–2 (b) through (e) and (h) through (j), and 17.104–4(b)(8) are deleted because the coverage duplicates the proposed new coverage provided in the new provisions and clauses.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely implements in the FAR the procedures currently included in military service supplements. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 610 (FAR Case 91–18) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 17 and 52

Government procurement.

Dated: April 25, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 17 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 17 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 17—SPECIAL CONTRACTING METHODS

17.103–1 [Amended]

2. Section 17.103–1 is amended in paragraph (d)(3) by removing the word "schedule" in the last sentence of the paragraph and inserting in its place the words " 'Cancellation Ceiling' clause of this contract".

17.103–2 [Amended]

3. Section 17.103–2 is amended by removing paragraphs (b) through (e) and (h) through (j), and redesignating paragraphs (f), (g), and (k) through (o) as (b), (c), and (d) through (h), respectively.

17.103–3 [Amended]

4. Section 17.103–3 is amended in the last line of paragraph (e)(4) by removing the citation "17.103–2(n))" and inserting in its place "17.103–2(f))".

17.103–4 [Amended]

5. Section 17.103–4 is amended in paragraph (d)(2) by removing the citation "17.103–2(c)(1)" and inserting in its place "17.105(a)(4)".

17.104–4 [Amended]

6. Section 17.104–4 is amended by removing paragraph (b)(8) and redesignating paragraph (b)(9) as (b)(8).

7. Section 17.105 is amended by revising paragraph (a) introductory text and paragraph (a)(2), and by adding paragraphs (a) (3) through (8) to read as follows:

17.105 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the following provisions and clauses in solicitations and contracts when a multiyear contract or a multiyear modified-requirements contract is contemplated:

* * * * *

(2) The clause at 52.217–2, Cancellation of Items. If a multiyear modified requirements contract is to be awarded for more than one program year, insert the clause with its Alternate I.

(3) The clause at 52.217–10, Cancellation Ceiling, with the cancellation ceiling expressed on a percentage or dollar basis. If a multiyear modified requirements contract is awarded for more than one program year, insert the clause with its Alternate I.

(4) The provision at 52.217–11, Submission of Multiyear Prices, when previous acquisitions of the item have been made with competition and prices are to be submitted for the total requirements of the first program year, or for the total multiyear requirements or both. Insert Alternate I when the price is to be submitted only for the total multiyear requirements and prices on a single-year basis will not be considered because competition after the first program year would be impracticable and it is necessary to prevent a first program year "buy-in".

(5) The provision at 52.217–12, Submission of Prices—First Program Year, when previous acquisitions for the item have been made without competition, a first program year "buy-in" is not anticipated, and prices are to be submitted for the first program year requirements and may also be submitted for the total multiyear requirements.

(6) The provision at 52.217–13, Multiyear Unit Pricing, when the unit price of each item in the multiyear requirement shall be the same for all program years (level unit price). (See 16.203 for the use of an economic price adjustment clause which might affect the level unit price.)

(7) The provision at 52.217–14, Reduction of Multiyear Requirements, when the Government determines before award that only the first program year requirements are needed and offers may be evaluated and award made solely on the basis of the price offered on that year's requirements.

(8) The provision at 52.217–15, Minimum Award Under Multiyear Procedure, when award will not be made on less than the first program year requirements.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.217–1 [Amended]

8. Section 52.217–1 is amended in the third sentence of paragraph (a) of the clause by removing the word "Schedule" and inserting in its place " 'Cancellation Ceiling' clause of this contract".

§ 52.217–2 [Amended]

9. Section 52.217–2 is amended in the second sentence of paragraphs (a) and (e) of the clause, and the second sentence of Alternate I(a) by removing the word "Schedule" and inserting in its place " 'Cancellation Ceiling' clause of this contract"; paragraph (c) of the clause, is amended by removing the words "specified in the Schedule".

10. Sections 52.217–10 through 52.217–15 are proposed to be added to read as follows:

52.217–10 Cancellation Ceiling.

As prescribed in 17.105(a)(3), insert the following clause:

Cancellation Ceiling (Date)

The following cancellation ceiling(s) and date(s)/time period(s) for notification of availability or nonavailability of funds apply to this contract:

Program Year(s) Cancellation Ceiling Notification Date/Time Period

(End of clause)

Alternate I (Date). As prescribed in 17.105(a)(3), add the following to the basic clause:

Any anticipated significant changes in the Best Estimated Quantity for the succeeding program year will be provided by *(insert applicble date(s)/time period(s).*

52.217-11 Submission of Multiyear Prices.

As prescribed at 17.105(a)(4), insert the following provision:

Submission of Multiyear Prices (Date)

Offerors shall submit a price(s) for *(insert the total multiyear requirement, the total requirements of the first program year, or both).*

(End of provision)

Alternate I (Date). As prescribed in 17.105(a)(4), add the following to the basic provision:

Prices on a single-year basis will not be considered. If only one offer on the multiyear requirements is received that is both responsive and from a responsible offeror, the Government reserves the right to cancel the solicitation and resolicit on a single-year basis by whatever procedures are then appropriate.

52.217-12 Submission of Prices—First Program Year.

As prescribed at 17.105(a)(5), insert the following provision:

Submission of Prices—First Program Year (Date)

Offerors shall submit a price(s) for the first program year requirements and prices may be submitted for the total multiyear requirements. An offer on only the multiyear requirements will be considered ineligible for award.

If only one offer on the multiyear requirements is received that is both responsive and from a responsible offeror, the Government reserves the right to disregard the offer on the multiyear requirements and make an award only for the first program year requirements.

(End of provision)

52.217-13 Multiyear Unit Prices.

As prescribed at 17.105(a)(6), insert the following provision:

Multiyear Unit Prices (Date)

Unit prices submitted for each item in the total multiyear requirement shall be the same for all program years (level unit price).

(End of provision)

52.217-14 Reduction of Multiyear Requirements.

As prescribed in 17.105(a)(7), insert the following provision:

Reduction of Multiyear Requirements (Date)

In the event the Government determines prior to award that only the first program year requirements are needed, the Government may evaluate offers and make award solely on that year's requirements. Offers to cover the total multiyear requirements will not be considered.

(End of provision)

52.217-15 Minimum Award Under Multiyear Procedure.

As prescribed at 17.105(a)(8), insert the following provision:

Minimum Award Under Multiyear Procedure (Date)

Award under this solicitation will not be made for less than the first program year requirements.

(End of provision)

[FR Doc. 91-10385 Filed 5-2-91; 8:45 am]

BILLING CODE 6820-34-M

federal register

Friday
May 3 1991

Part IV

Department of Justice

Bureau of Prisons

28 CFR Part 522

Control, Custody, Care, Treatment and Instruction of Inmates; Admission and Orientation Program; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 522

Control, Custody, Care, Treatment and Instruction of Inmates; Admission and Orientation Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is updating its rule on the Admission and Orientation Program in order to make minor editorial changes. The intent of these changes is to improve the organization and clarity of the regulations, to maintain consistency in terminology, and to incorporate appropriate references to current Bureau policy.

EFFECTIVE DATE: May 3, 1991.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is updating its rule on the Admission and Orientation Program in order to make minor editorial amendments. A final rule on this subject was published in the **Federal Register** December 4, 1981 (46 FR 59507). There is no change in the intent of the regulation. A summary of the specific changes follows.

Orientation materials prepared by the Bureau for an inmate are more accurately described as handouts, and references to a pamphlet or a handbook are either removed or revised accordingly. The provision that staff shall develop such written orientation materials to supplement lectures and discussions is removed from § 552.40 and placed instead in the more appropriate § 552.41. The provisions in former § 552.41(c) are redesignated as paragraph (d) to make room for the above change and are reworded for the sake of clarity. Provisions in former § 552.42 (c) and (d) for inmate participation in program activities are consolidated in a new paragraph (c) in order to remove redundant regulatory text. Provisions in redesignated § 522.42(d) for telephone calls by newly committed inmates are amended by including a reference to existing Bureau regulations on the use of telephones by inmates Finally, the phrase "A&O Program" is used consistently throughout the regulation, the word "Pre-trial" is revised as "Pretrial", and the phrase "inmate central file" in redesignated § 522.42(f) is revised to read "inmate's central file".

Because these changes pose no additional restrictions and are editorial in nature, the Bureau finds good cause for exemption from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 522

Prisoners.

Dated: April 26, 1991.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter B of 28 CFR chapter V is amended as set forth below:

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 522—ADMISSION TO INSTITUTION

1. The authority citation for 28 CFR part 522 is revised to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161-4166 (Repealed as to offenses occurring on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

§ 522.40 [Amended]

2. In § 522.40, paragraph (a) introductory text is amended by revising, in the last sentence, the phrase "admission and orientation program" to read "A&O Program", paragraph (b) is removed, and paragraph (c) is redesignated as new paragraph (b) and amended by revising the word "Pre-trial" to read "Pretrial".

3. In § 522.41, paragraph (c) is redesignated as paragraph (d) and revised, and a new paragraph (c) is added to read as follows:

§ 522.41 Responsibility.

* * * * *

(c) Staff shall develop written orientation materials to supplement lectures and discussions.

(d) A staff member involved in the A&O Program who believes that an inmate is experiencing significant emotional stress shall notify the A&O staff coordinator so that the inmate may be offered appropriate assistance.

§ 522.42 [Amended]

4. In § 522.42:

a. Paragraph (c) is removed and paragraphs (d) through (g) are redesignated as paragraphs (c) through (f);

b. Newly redesignated paragraph (c) is amended by revising the first sentence to read as follows: "The A&O staff coordinator is to ensure that the A&O Program provides a full schedule of activities in which each newly committed inmate may participate.";

c. Newly redesignated paragraph (d) is amended by revising the phrase "or collect long distance phone calls during the admission process" to read "or long distance phone calls during the admission process, in accordance with the provisions in part 540, subpart I of this chapter";

d. Newly redesignated paragraph (e) is amended by revising, in the heading, the phrase "*admission and orientation program*" to read "*A&O Program*" and by revising, in the text, the phrase "A&O program" to read "A&O Program"; and

e. Newly redesignated paragraph (f) is amended by revising, in the first sentence, the word "handbook" to read "handouts" and the phrase "admission and orientation program" to read "A&O Program", and by revising, in the last sentence, the phrase "inmate central file" to read "inmate's central file".

[FR Doc. 91-10499 Filed 5-2-91; 8:45 am]

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federal register

Friday
May 3, 1991

Part V

The President

Proclamation 6286—National Day To Commemorate the 200th Anniversary of the Polish Constitution of May 3, 1791

Federal Register
Vol. 56, No. 86
Friday, May 3, 1991

Presidential Documents

Title 3—

The President

Proclamation 6286 of May 1, 1991

National Day To Commemorate the 200th Anniversary of the Polish Constitution of May 3, 1791

By the President of the United States of America

A Proclamation

On May 3, 1791, declaring their love of "national independence and freedom over life itself," brave Polish patriots adopted a national constitution for their homeland. This document was a resounding declaration of Poles' desire for liberty and self-government—and it was a bold challenge to the foreign powers that had invaded and partitioned their country less than 20 years before.

One of the first written national constitutions in the world, the Polish Constitution of May 3, 1791, was modeled after our own. Even through the most difficult periods in Poland's history, it has remained a great and cherished symbol of the Polish people's devotion to democratic ideals.

We Americans gladly join in celebrating the 200th anniversary of this historic document because we are united with the Polish people by strong ties of kinship and culture and by a mutual love of liberty. These special bonds were affirmed in the "Declaration on Relations between the United States of America and the Republic of Poland," which President Lech Walesa and I signed on March 20, 1991.

Poles were among the first immigrants to come to these shores in search of freedom and opportunity, and they and their descendants have served and enriched our Nation in countless ways. Since the great Polish heroes Tadeusz Kosciuszko and Kazimierz Pulaski helped to secure the Independence of our fledgling Republic, millions of other men and women of Polish extraction have likewise labored and sacrificed to help ensure the success of America's bold experiment in self-government, always inspiring others by their unshakable faith in God and in the promise of liberty under law.

In Poland, that faith has been tested by decades of often brutal repression. During the late 18th century Poland again fell prey to the expansionist aims of neighboring empires. Early in this century Poland enjoyed only a brief period of independence before being invaded by Nazi Germany and the Soviet Union in 1939. Nevertheless, despite decades of foreign domination and the declaration of martial law as recently as 1981, the people of Poland have held fast to their dream of freedom and self-determination.

Today the faith, courage, and tenacity of the Polish people are finally being rewarded. During the past 2 years the Poles have thrown off the heavy yoke of communism and under a new, democratically elected government have begun working to break the cycle of impoverishment and decline imposed by nearly half a century of totalitarian rule.

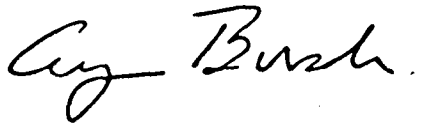
The United States wholeheartedly supports the Poles' courageous efforts to establish a free market economy and stable democratic rule in their country. Those efforts have required difficult decisions by the Polish leadership and great sacrifices by all Poles, and the United States has acted to assist Poland's historic transition in many ways.

The United States is proud to stand by our Polish friends as they work to transform their triumph over tyranny into lasting freedom and prosperity. Today we know that the promise of the Polish Constitution of May 3, 1791, is being fulfilled. On the occasion of its 200th anniversary, we salute and congratulate the courageous people of Poland, who have proved, once again, that "Poland is not lost while Poles still live."

The Congress, by House Joint Resolution 669 (Public Law 101-532), has designated May 3, 1991, as a day of commemoration of the 200th anniversary of the Polish Constitution of May 3, 1791, and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim May 3, 1991, as a day of commemoration of the 200th anniversary of the adoption of the Polish Constitution of May 3, 1791. I call upon all Americans to observe this day with appropriate ceremonies and activities.

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



[FR Doc. 91-10723
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